

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH  
MUMBAI**

**BEFORE: SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
&  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 3712/MUM/2024  
(Assessment Year : 2014-15)**

Asst. Commissioner of Income Tax 8(2)(1) Room No. 481, Aayakar Bhavan, M.K.Marg, Mumbai-400020.	Vs.	MITC Metals Private Limited 104, Shiv Ashish Complex, Diamond Road Chembur, 400071.
<b>PAN/GIR No. AAKCS7987D</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	None
Revenue by	Smt. Sanyogita Nagpal (CIT DR)
<b>Date of Hearing</b>	<b>19/12/2024</b>
<b>Date of Pronouncement</b>	<b>30/12/2024</b>

**आदेश / ORDER**

**PER SUNIL KUMAR SINGH (J.M):**

1. This appeal has been preferred against the impugned order dated 29.05.2024 passed in Appeal no. NFAC/2013-14/10281617 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-Tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2014-15, wherein learned CIT(A) has declared the assessment order dated 19.05.2023 as void ab-

initio pursuant to the initiation of corporate insolvency resolution process (CIRP) vide order dated 11.03.2019 passed by NCLT u/s.14 of IBC 2016.

2. When the case was taken up for hearing, appellant revenue represented through learned DR, however none responded for respondent assessee/corporate debtor.
3. Learned DR has drawn the attention of the bench that learned CIT(A) has erred in passing the impugned order merely on the ground that corporate insolvency resolution process has been initiated against the respondent/ corporate debtor.
4. We have perused the impugned order dated 29.05.2024 passed by learned CIT(A). Learned CIT(A) has declared the assessment order dated 19.05.2023 as void ab-initio by taking strength from the judgement dated 13.04.2021 of Hon'ble Supreme Court in Ghanashyam Mishra & Sons Pvt. Ltd. V. Edelweiss asset reconstruction company Ltd. passed in civil appeal no. 8129/2019, wherein Hon'ble Supreme Court has held that it is only when the resolution plan is approved by the adjudicating authority u/s. 31(1) of the IBC, the claim provided in the resolution plan shall stand frozen and consequently all other dues shall stand extinguished. In the present case, the resolution plan was approved vide order dated 31.07.2023 passed by the adjudicatory authority.
5. At the very outset, we notice that the grounds raised by the revenue are defective. However, we propose to dispose of the matter on the basis of arguments raised by the learned

department's representative. We notice that the assessment order was passed on 19.05.2023 i.e before the approval of resolution plan by the adjudicatory authority on 31.07.2023. Hon'ble Supreme Court in Sundaresh Bhatt, liquidator of ABC shipyard V. Central board of indirect taxes and customs, vide order dated 26.08.2022 passed in civil appeal no. 7667/2021, held that the Income Tax authorities have limited jurisdiction to assess/determine the quantum of income tax dues but have no authority to initiate recovery of such dues at its own during the period of moratorium in violation of section 14 or 33(5) of the IBC as the case may be. It is thus clear that the assessing officer was not barred from determining the dues merely after the initiation of CIRP on 11.03.2019.

6. It is pertinent to mention that in assessee's own case for A.Y. 2013-14, the co-ordinate bench of this Tribunal vide order dated 03.09.2024 passed in ITA No. 3615/M/2024 has set aside such order passed by learned CIT(A).
7. In view of above, learned CIT(A) has thus erred in treating the assessment order dated 19.05.2023 as void ab-initio which was passed before the approval of resolution plan on 31.07.2023 by the adjudicatory authority. We accordingly set aside the impugned order passed by the learned CIT(A) and restore the matter to the file of learned CIT(A) for adjudicating afresh in accordance with law, although the issue remains only of academic importance in view of aforestated authoritative law.

8. In the result, the appeal filed by the revenue is decided in above terms.

Order pronounced on 30.12.2024.

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SUNIL KUMAR SINGH)**  
**JUDICIAL MEMBER**

Mumbai; Dated 30/12/2024  
Anandi Nambi, *Steno*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**