

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, DELHI**

**BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND MS. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA Nos.1313/Del/2020
(A.Y. 2016-17)**

M/s Fusion Conbuild (P) Limited, 208, Second Floor, Savita Vihar Sikka Mansion LSC Savita Vihar, New Delhi 110095	Vs.	ACIT, Circle -9(2) Delhi 110092
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.: AABCF5804F		
Appellant	..	Respondent

Appellant by :	Dr. Rakesh Gupta, Adv . Sh. Somil Agarwal, Adv.
Respondent by :	Sh. Om Prakash, Sr. DR
Date of Hearing	07.01.2025
Date of Pronouncement	07.01.2025

ORDER

PER MADHUMITA ROY: (JM):

The appeal filed by the assessee is directed against the order dated 24.02.2020 passed by the Ld. CIT(A)-13, Delhi, arising out from the assessment order dated 29.12.2018 under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by ACIT, Circle-9(2) for Assessment Year 2016-17.

2. The assessee before us is subjected to insolvency resolution proceedings under the Insolvency and Bankruptcy Code, 2016 (IBC), a resolution plan whereof was approved by the Committee of Creditors (COC) which was subsequently sanctioned by the Hon'ble National Company Law Tribunal (NCLT), conclusively concluding the insolvency proceedings under Section 31(1) of the IBC by and under its order dated 12.06.2024.

3. The case of the assessee is this that the demand now sought to be enforced by the revenue relate to the period prior to the resolution plan's approval is, therefore, extinguished by the operation of law as already decided by the Hon'ble Apex Court in the case of Ghanashaym Mishra & Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited, reported in (2021) 9 SCC 657 wherein it has been held that all claims, including statutory dues, predating the resolution plan's approval, stand extinguished. Thus, taking into consideration this particular aspect of the matter, the statutory dues, including tax liabilities, pertaining to the period before resolution plan approved cannot survive.

4. It is contended by the Ld. Counsel appearing for the assessee that having regard to this particular aspect of the matter that the demand raised prior to the approval of the resolution plan are extinguished in terms of Section 31(1) of IBC the appeal becomes infructuous. Such submissions made by the ld. AR has not been controverted by the Ld. DR.

5. Having regard to the facts and circumstances of the matter and particularly the judgment passed by the Hon'ble Supreme Court in the case of Ghanashaym Mishra & Sons Private Limited Vs. Edelweiss Asset

Reconstruction Company Limited (supra) we find that the demand raised in the instant appeal pertains to the prior period to the approval of the resolution plan i.e. for Assessment Year 16-17 is extinguished under Section 31(1) of IBC. Thus, as the instant appeal becomes infructuous the same is dismissed as infructuous.

6. The appeal of the assessee is dismissed as infructuous.

Order pronounced in the open court on 07.01.2025

Sd/-
(M. Balaganesh)
ACCOUNTANT MEMBER

Sd/-
(Madhumita Roy)
JUDICIAL MEMBER

Dated 07.01.2025

PS: Rohit

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI