

**IN THE INCOME TAX APPELLATE TRIBUNAL
"NAGPUR" BENCH, NAGPUR
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER
ITA No. 349/NAG/2023 (AY: 2014-15)
ITA No. 350/Nag/2023 (AY: 2015-16)
(Physical hearing)**

Universal Industrial Equipment And Technical Services Pvt. Ltd. CPT Complex, Kamtee Road, Opp. R. C. Church, Near Patni Auto, Maharashtra – 440001. [PAN: AAACU3536C]	Vs	DCIT, Circle – 2, Nagpur Aayakar Bhawan, Room No. 318, 3 rd Floor, Telangkhedi Road, Civil Lines, Nagpur, Maharashtra – 440001.
Appellant / Assessee		Respondent / Revenue

Assessee by	Miss. Veena Agrawal, CA
Revenue by	Shri Surjit Kumar Saha, Sr. DR
Date of hearing	17.02.2026
Date of pronouncement	17.02.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. These two appeals by assessee are directed against the separate orders of Id. CIT(A)/National Faceless Appeal Centre, Delhi, both dated 27.04.2023 for Assessment Year (A.Y.) 2014-15 & 2015-16. In both the appeals the assessee has raised similar grounds of appeal, raising the plea that the assessee has gone under Corporate Insolvency Resolution Process (CIRP) and the claim of Income Tax department was not part of resolution plan approved by resolution professional. With the consent of both the parties both the appeals were clubbed and heard together and are decided by a common order.
2. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that there is delay of 126 days in filing both the appeals. The

delay in filing appeal is neither intentional nor deliberate. The assessee has filed application for condonation of delay which is supported by affidavit of Nitin Shankarrao Rakhunde, Manager Accounts of assessee company. The Id. AR of the assessee submits that the assessee company undergone through Corporate Insolvency Resolution Process (CIRP) and due to change of management, its address and phone numbers on e-portal and in taking timely decision to make various compliances, certain delay occurred. Such delay is neither intentional nor deliberate. The Id. AR for the assessee prayed for condoning the delay in filing both the appeals.

3. On merit, the Id. AR of the assessee submits that in case of assessee the Hon'ble National Company Law Tribunal (NCLT), Mumbai vide its order dated 07.10.2021 passed in CP(IB) No. 2541 of 2019, in the matter of Tata Hitachi Construction Machinery Company Private Limited Vs Universal Industrial Equipment and Technical Services Private Limited, approved the resolution plan of operational creditor vide order dated 07.10.2021, copy of which is placed on record. On the basis of aforesaid record, the Id. AR of the assessee submits that appeal of appellant is liable to be allowed with prayer for direction to assessing officer to modify / revise / cancel or reduce the demand according to section 156A of Income Tax Act. The Id. AR of the assessee also relied upon the decision of Hon'ble Supreme Court in Ghanashyam Mishra & Sons (P) Ltd. vs Edelweiss Asset Reconstruction Co. Ltd. (2021) 126 taxmann.com 132 (SC), wherein it has been held that once resolution plan is approved by adjudicating authority under section

31(1), the claim has provided in resolution plan is final and will be binding on the corporate debtors, its employees, creditors, State Government or local authority including on Central Government. All such claim which was not part of resolution plan stand extinguished and no other person will be entitled to initiate or continue in respect of a claim which is not a part of resolution plan. The Income Tax Department / Revenue has not made any claim before resolution professional, therefore, demand generated on the basis of assessment order which was further subject matter of appeal before Id. CIT(A) is extinguished. To support her submission, the Id. AR of the assessee also relied upon the decision of Surat Tribunal in DCIT vs Sumeet Industries Ltd. (2023) 150 taxmann.com 464 (Surat Trib.).

4. On the other hand, learned Senior Departmental Representative (Id. DR) for the Revenue submits that interest of Revenue may be protected and Revenue may be given liberty to move appropriate application either before Tribunal or before NCLT.
5. In short rejoinder submission, the Id. AR of the assessee submits that once order under section 31(1) of Insolvency and Bankruptcy Code (IBC), 2016 is passed, the claim in resolution plan stand frozen and applicable on all concerned authorities including Income Tax Department, once no such claim was made before resolution professional by assessing officer / Income Tax Department, the order of NCLT is final. The assessing officer has no option except to modify a demand in conformity with the order of NCLT and to pass order under section 156A of Income Tax Act.

6. We have considered the rival submissions of both the parties and have gone through the material placed before us. Firstly, we are considering the plea of condonation of delay in filing the present appeals. We find that before us the Id AR of the assessee vehemently urged that the delay in filing appeal is neither intentional nor deliberate but due to the reasons explained by her. Considering the plea of Id AR of the assessee, we find that delay in filing appeals are not intentional and that the assessee is not going to be benefited by filing appeal belatedly. Hence, considering the principal in law of limitation that when the cause of substantial justice and technical consideration are kept against each other, cause of substantial justice may be preferred. Hence, delay in filing both the appeal is condoned. Now advertent to the merits of the case.
7. We find that assessment was completed in AY 2014-15 on 11.11.2016 and in AY 2015-16 on 12.12.2017. The Id CIT(A) passed order on in both the appeals on 27.04.2023. We find that in the meantime the assessee has undergone through insolvency proceeding wherein order under section 31 was passed by Id NCLT vide order dated 07.10.2021. We find that no claim was made by Income Tax Department before resolution professional. Once no claim made by Revenue Department/ assessing officer before resolution professional, thus on approval of resolution plan in case of corporate debtor (assessee in the present case), all assessments or other liabilities relating to period prior to completion date shall stand terminated and all consequential liabilities would stand abated on passing order by Id. NCLT under section 31(1). We find that on similar set of fact, the Surat

Tribunal in case of DCIT Vs Sumeet Industries Limited (supra) passed the following order.

"6. We have heard both the parties and perused the material available on record. We note that section 14 of the I & B Code, 2016 provides as follows:

"Section 14: Moratorium:

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:-

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002)

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

[Explanation. For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

[(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such

corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified;]

*((3) The provisions of sub-section (1) shall not apply to-
[(0) such transactions, agreements of other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority:]*

(b) a surety in a contract of guarantee to a corporate debtor.]

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

7. Section 14 of 1 & B code, 2016, clearly states that adjudicating authority shall by an order declared moratorium for prohibiting the institutions of suits transferring or disposing by corporate debtor of its assets, an action to foreclose, recover or enforce any security and the recovery of any property by an owner. Section 14 of the 1 & B Code also states that the moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process. Therefore, we note that section 14 of 1 & B code, 2016, is a self-explanatory provision. Hence, we note that the claims including statutory dues owned to the Central Government any State Government, if not part of resolution plan is also extinguished and no proceeding in respect of such dues prior to the date which the adjudicating authority grants its approval under section 31(1) could be continued.

8. We note that Hon'ble High Coun of Telangana in the case of Sirpur Paper Mills Ltd. v. Union of India [2022] 135 taxmann.com 188, held that where NCLT by order had admitted resolution plan in case of corporate debtor, which provided that all assessments or other proceedings relating to period prior to completion date shall stand terminated and all consequential liabilities would stand abated, hence, notices issued by the Income-tax Department: which sought to initiate assessment proceedings under section 143 (3) of Income-tax Act on corporate debtor for a period which was squarely covered by resolution plan as approved by NCLT were wholly unsustainable in law and deserved to be quashed. The findings of the Hon'ble Court is reproduced below.

"95. In the result, we answer the questions framed by us as under :

- (i) That once a resolution plan is duly approved by the Adjudicating Authority under sub-section (1) of section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;
- (ii) ** ** *
- (iii) Consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under section 31 could be continued."

9. From the above findings of Hon`ble High Court of Telangana in the case of *Sirpur Paper Mills Ltd. (supra)*, it is vivid that all claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not a part of the resolution plan. We also note that provisions of section 238 of the IBC which clearly says that provisions of IBC shall have an overriding effect over all other laws. This, if there is any doubt, section 238 IBC makes it abundantly clear that provisions of the IBC would prevail over the Income-tax Act.

10. The Id. Counsel for the assessee has already filed order of Id NCLT dated 20-12-2022 showing the fact that the assessee has been impleaded as Corporate Debtor before the Hon'ble National Company Law Tribunal (NCLT) Ahmedabad by the Financial Creditor. As noted above the said petition has been admitted by NCLT and we find NCLT had declared moratorium u/s.14 of the I & B code and has prohibited continuation of pending suits or proceedings against the assessee including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority, till the completion of the corporate insolvency resolution process or until the Bench approves the resolution plan under sub-section (1) of section 31 of I & B Code. In the order the Id NCLT has already appointed Interim Resolution Professional (IRP). We find that Id IRP had not impleaded himself to represent the assessee-company in the present appeal, hence, in view of section 14 of I & B code there cannot be any continuation of any pending proceedings before this Tribunal.

11. Hence, we deem it fit to dismiss the appeal of the Revenue, as not maintainable in the present format. However, a liberty is given to Revenue to file Miscellaneous Application before us, if the Revenue so desires, at later stage, in which event this appeal shall be restored. With these observations, the appeal of the Revenue is hereby dismissed as not maintainable in the present format.

12. In the result, the appeal filed by the Revenue is dismissed."

8. Considering the aforesaid factual and legal position, we are of the view that all claims, including the tax liabilities for the assessment years under considerations, which were not a part of resolution plan, shall stand extinguished. Thus, both the appeals of assessee are allowed. The Id. Assessing Officer is directed to pass orders under section 156A of Income Tax Act, 1961 in both the years.
9. In the result, both the appeals of assessee are allowed as above.

Order pronounced in open court on 17/02/2026 at the time of hearing

Sd/–

KHETTRA MOHAN ROY
ACCOUNTANT MEMBER

Nagpur: Dated: 17/02/2026
Biswajit

Sd/–

PAWAN SINGH
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

By order

Assistant Registrar
ITAT, Nagpur