

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH "G" : NEW DELHI)**

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA No. 5909/Del/2025
Asstt. Year : 2018-19

ACIT, CIRCLE 7(1),
New Delhi
ROOM NO. 406, 4TH FLOOR,
C.R. BUILDING,
I.P. ESTATE, NEW DELHI

(Appellant)

vs. DELHI CONTROL DEVICES
PRIVATE LIMITED,
K-185/2, BASEMENT SURYA
PLAZA,
NEW FRIENDS COLONY,
NEW DELHI – 110 065
(PAN: AAACD2208G)

(Respondent)

ASSESSEE by : None

REVENUE by : Shri Manish Gupta, Sr. DR

Date of Hearing	02.03.2026
Date of Pronouncement	02.03.2026

ORDER

PER MAHAVIR SINGH, VP:

This appeal has been filed by the Revenue against the order dated 24.7.2025 passed by the NFAC, Delhi in appeal no. NFAC/2017-18/10333954. Assessment was framed vide order dated 1.3.2024 passed u/s. 147 r.w.s. 144B of the Act relevant for the relevant assessment year 2018-19.

2. The revenue has raised the following grounds of appeal:

1. Whether Ld. CIT(A) has erred in misconstruing the nature and purpose of the reassessment proceedings initiated u/s. 147 of the Act. The reassessment was initiated well before the finalization of the Corporate Insolvency Resolution Process (CIRP), solely for the purpose of correct quantification and crystallization of the tax liability, and not for recovery thereof.
2. Whether Ld. CIT(A) has erred, both in law and on facts, in holding that the reassessment order passed u/s. 147 of the Act, is invalid merely on the ground that the reassessment proceedings were initiated during the pendency of the CIRP under the IBC.
3. Whether Ld. CIT(A) failed to appreciate that the mere pendency of CIRP proceedings does not act as a bar to the initiation or continuation of reassessment proceedings under section 147/148 of the Act, particularly when such proceedings were initiated prior to the approval of the resolution plan under the IBC.
4. Whether the findings of the Ld. CIT(A) are contrary to the provisions of the Income Tax Act, 1961 and the scheme of the IBC, which does not restrict the jurisdiction of the Income Tax Department to assess or reassess income under section 147 during the CIRP, subject to the outcome of the resolution process.
5. Whether Ld. CIT(A) has erred, both in law and on facts, in relying upon the judgement of the Hon'ble Supreme Court in the case of Patanjali Foods Ltd. (formerly known as Ruchi Soya Industries Ltd.), and in holding that the said decision is applicable to the facts of the present case.

6. Whether Ld. CIT(A) to appreciate that the facts and legal context of the Patanjali Foods Ltd. are distinguishable from the present case, and therefore, reliance placed on the same is misplaced and not justified.

3. At the outset, the Ld. Sr. DR stated that revenue has jurisdiction over the income tax proceedings vis-a-vis the finalization of the Corporate Insolvency Resolution Process (CIRP) under Insolvency and Bankruptcy Code. Ld. Sr. DR further stated that Ld. CIT(A) erred in holding that the assessment proceedings cannot be sustained in case the assessee has already been taken over by another company through the approval from NCLT order and the proceedings are for the period prior to the date of NCLT order. For this, he relied upon the decision dated 8.12.2025 of the ITAT, E-Bench, Mumbai in MA No. 79 & 82/Mum/2023 (Arising out of ITA No. 1264 & 1265/Mum/2018) (Ayrs. 2014-15 & 2013-14) in the case of DCIT vs. Mr. Naren Shah Resolution Professional of M/s Jaybharat Textile & Real Estate Ltd. wherein, the Mumbai Bench recalled the order of the Coordinate Bench and restored the main appeals to its original numbers. It was submitted that the ITAT in Revenue's appeals has treated the appeals as non-maintainable as the Form 36 was not amended by the Revenue despite repeated opportunity to incorporate the name of the resolution professional, who was controlling the affairs of the assessee company. It is further submitted that ITAT further relied the judgement of the Hon'ble Supreme Court in the case of Sundaresh Bhatt wherein, it was held that while the Revenue may proceed to assess or determine the tax liability of the corporate debtor, no recovery of such dues can be effected during the subsistence of moratorium under sections 14 or 33(5) of the IBC. It is further submitted that ITAT observed that the claim of the Revenue, like that of any other creditor, is required to be lodged before the Resolution Professional or

Liquidator, as the case may be, to be dealt with in accordance with the mechanism prescribed under Section 53 of the IBC. It was further submitted that ITAT held, “appellate proceedings before the ITAT amount only to determination of tax liability and do not fall within the mischief of the moratorium under section 14 of the IBC. The embargo is restricted to recovery proceedings”, by relying on coordinate bench ruling in Doshion Veolia Water Solution Pvt. Ltd. ITAT, after considered the Revenue’s revised Form No. 36 brought the Corporate Resolution Professional on record and held that there is no impediment in law for recalling the relevant appeals and restoring them to their original numbers for adjudication on merits.

4. None present on behalf of the assessee.

5. Heard the Ld. DR and gone through the facts and circumstances of the case. We find Ld. CIT(A) has discussed the issues in dispute elaborately by observing as under:-

“5. Analysis and Decision

5.1 | have duly considered the grounds of appeal, statement of facts, assessment order, written submission of the appellant and the material placed on record. It is clear from the same that the appellant has not filed its return of income for AY 2018-19, thereafter information was received by the AO in respect of interest income, Contractual receipts, foreign remittances, sale of immovable properties, purchases, bad debts written off etc. and the AO has issued 148 notice on 04.04.2022 for escapement of income. During the assessment proceedings, the appellant has stated before the AO that it has gone through the process of Corporate Insolvency Resolution Plan and NCLT has passed its order on 28.09.2022 in result, the appellant stated that it has been taken over by M/s Statecon Electronics India Ltd. therefore, the appellant has stated that onus of the compliance is on former management of the company. The AO not being satisfied has stated that CIRP process of the assessee was initiated on 15.02.2019, relevant to AY 2019-20 and the order of NCLT Was passed

on 28.09.2022, (relevant to AY 2023-24) thus, the assessment proceedings for AY 2018-19 are independent of CIRP proceedings and both pertains to different period of time. The AO has also noted in para 4.5 that the appellant did not furnish any reply. Accordingly, the AO has made addition of Rs. 6,41,57,490/- on various issues regarding which information was available with him.

5.2 The appellant through statement of facts and its various submissions has submitted that CIRP process of company was completed on 28.09.2022 through order No. IA/380/PB/2021 passed by Principal Bench of the Hon'ble NCLT, New Delhi. The appellant has further stated that after approval of NCLT plan, the assessee company has been taken over by Statecon Electronics India Ltd. and as per the para 9 of the NCLT order, no demand or proceedings can be made against the resulting company. With its submission, the appellant has attached the copy of NCLT order and also reproduced Clause-9 of the said order in its submission. The Clause-9 of the NCLT order is as under:

"The SRA has prayed for the reliefs, waivers and concessions as enumerated under the Resolution Plan approved by the CoC, namely, that from the plan approval date all inquiries, investigation and proceedings, whether civil or criminal suits, claims, disputes, interests, and damages in connection with the Corporate Debtor or the Affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this Resolution Plan, shall stand withdrawn, satisfied and discharged. From the date of approval of the Resolution Plan, the Resolution Applicant shall be legally authorized to seek appropriate orders from respective authorities/courts/ tribunals for renewal of licenses/withdrawal/ dismissal or abetment of the proceedings as the case may be."

The appellant is of the view that in view of the NCLT order, the order of the AO is not justified. Apart from this, the appellant has also stated that they have provided all the information before the AO on the issues raised during the assessment proceedings, however, the AO has passed the order without considering the same. Along with this, they have also submitted the financials of the company signed by the Resolution Professional.

5.3 It is an undisputed fact that the AO has initiated assessment proceedings for Delhi Control Devices Pvt. Ltd. for AY 2018-19 and Delhi Control Devices Pvt. Ltd. has gone through the Insolvency proceedings and the Hon'ble NCLT, Delhi vide its order dated 28.09.2022 has approved the resolution plan submitted by the Statecon Electronics India Ltd, resulting into taking over of the assessee (Delhi Control Devices Pvt Ltd.) by Statecon Electronics India Ltd. The Clause-9 of the NCLT order as reproduced in para 5.2 of this order clearly put an embargo on any new demand or suite on assessee. The clause of the said order even cover the future proceedings for the period before the approval date.

5.4 The issue under consideration regarding assessment proceedings or demand for period prior to order of NCLT is covered in favour of the assessee by various judicial pronouncements including the decision of the Hon'ble Delhi High Court (Jurisdictional High Court). The Hon'ble High Court of Delhi in the case of M. Tech Developers (P.) Ltd. v. National Faceless Assessment Centre, Delhi [2024] 161 taxmann.com 736 (Delhi) has held that once the Resolution Plan is approved, no proceedings for prior period for any recovery of demand can be made. The para 13 and 14 of the said order is as under:

13. In our considered opinion, the purport of Section 31 of the IBC stands Conclusively settled by the Supreme Court in terms of the judgments rendered in Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta [2019] 111 taxmann.com 234/2020] 8 SCC 531 and Ghanashyam Mishra & Sons (P) Ltd. (supra) as was noticed by us in Ireo Fiverriver. We also bear in mind that upon commencement of CIRP, the petition is duly advertised in terms of the provisions made in Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and which would thus constitute due public announcement. The respondents, therefore, cannot sustain the invocation of Section 144B based on their own failure to lodge a claim within the time stipulated.

14. Accordingly, and for all the aforesaid reasons, we allow the instant writ petition and quash the impugned notices dated 27 June 2022, 28 June 2022 and 05 September 2022.

The Hon'ble High Court of Delhi through its Judgment pronounced on: 07 August 2024 W.P.(C) 3498/2022 ASIAN COLOUR COATED ISPAT LIMITED vs. ASSISTANT COMMISSIONER OF INCOME TAX & ANR has again reiterated the similar findings and held that reassessment proceedings in such cases are barred. The relevant para is as under:

22. Viewed in the aforesaid light, it is manifest that it is the view taken by this Court in M Tech Developers, Sree Metaliks and Rishi Ganga Power Corporation which would prevail and lead us to the inevitable conclusion that the reassessment action would not sustain.

The Hon'ble High Court of Bombay in the case of Principal Commissioner of Income-tax, Central v. Patanjali Foods Ltd. [2024] 161 taxmann.com 675 / [2025] 474 ITR 333 (Bom.) on similar issue has held as under:

11 Considering the contentions of the parties, averments in the Petition, the affidavit in reply and the statement of learned ASG:-

(a) issue of notice under section 148 of the Act to petitioner company after the approval of the resolution plan for a period prior to closing is invalid and bad in law, having been issued contrary to the provisions of the Code and the Resolution Plan. Section 31 of the Code provides that the resolution plan which is approved under the Code is binding on the Corporate Debtor, its employees, members, creditors including the Central Government, State Government and any local authority to whom a debt or a statutory due is owned. Further, section 238 of the Code provides that the Code shall have effect notwithstanding anything inconsistent therein contain in any other law for the time being in force. Therefore, the resolution plan approved under section 31 of the Code will be applicable even if the department contends that the same is inconsistent with the provisions of the Act. Hence, proceedings cannot be initiated contrary to the resolution plan. It is to be noted that as per paragraph 3.3.5 of the resolution plan, the value of all dues including income tax dues is treated as nil and is deemed to have been fully discharged and settled for any period prior

to the closing date irrespective of whether final or contingent, whether disputed or undisputed, whether or not the Government authority was aware of such claim. Further para 3.3.3 of the Resolution Plan also provides that all proceedings initiated before any forum by the operational creditors (including the central government) shall stand withdrawn and abated. It is also noted that the Income tax Department had challenged the order of the NCLT approving the resolution plan before the NCLAT, which appeal was rejected on account of delay and, hence, the resolution plan has become final.

(b) The Apex Court in Ghanshyam Mishra & Sons Pvt. Ltd. v/s. Edelweiss Asset Reconstruction Company Ltd (2021) 9 SCC 657 after considering the provisions of the Code has finally concluded in paragraph 102 that all dues including statutory dues owed to the Central Government, 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 a period prior to the date on which the Adjudicating Authority grants its approval under section 31 of the Act could be continued.

(c) Further, section 156A of the Act which has been inserted by the Finance Act, 2022 w.e.f. 1-4-2022 provides that if any amount payable by an assessee for which notice of demand has been issued, is reduced as a result of an order by the Adjudicating authority under the Code, the Assessing Officer shall modify the demand payable in conformity with such order. This section further makes it clear that effect of the resolution plan is required to be given to by the Assessing Officer.

(d) The argument of the revenue that, proceedings under section 148 of the Act initiated for collection of evidence in respect of third parties, ex promoters, etc. is not within the scope and ambit of section 147/ 148 of the Act, as reassessment proceedings under the said section can only be initiated for bringing to tax income which has escaped assessment, is correct. Further, petitioner's present management is ex-facie not aware of the relevant facts in respect of the period sought to be reopened and may well be

incapable of properly participating in reassessment proceedings. In this view of the matter the reassessment proceedings (no matter purpose) would be a futile endeavour.

(e) In so far as the contention / submission of the revenue regarding possible liability of previous management, the Revenue may take Steps are available to them in law to take action, if any, against expromoter, Other third parties, but the same cannot be done by issuing notice Under section 148 of the Act which requires petitioner to file the return of income, and thereafter in response to such notice participate in further proceedings.

(f) In view of the aforesaid, the notice dated 27th February 2021 issued by respondent no.1 under section 148 of the Act, the order dated 6th December 2021, rejecting the objections of petitioner, the assessment order dated 18th February 2022 passed under section 144 r.w.s. 147 of the Act and the penalty notice dated 23rd March, 2022 issued under section 274 r.w.s. 271(1)(c) of the Act for the assessment year 2013-14 are quashed and set aside. (g) Petitioner undertakes to withdraw / apply to withdraw within two weeks the appeal against the order of assessment dated 18th February 2022 filed before the Commissioner of Income Tax(Appeal). Undertaking accepted.

12 Petition disposed.

13 At the same time, we make it clear that if, the revenue wants to take any steps as they proposed to, it may do so in accordance with law.

14 All rights and contentions of the parties are kept open."

3. At the same time we make it clear that if Revenue wants to take any steps as they proposed to, it may do so in accordance with law. We express no opinion.

It is important to mention here that the Hon'ble Apex Court has also dismissed the SLP of the Department in this case vide Principal Commissioner of Income- tax Central v. Patanjali Foods Ltd. [2025] 175 taxmann.com 621 (SC)

5.6 In view of the above judicial pronouncements, it is clear that demand raised by the AO and the assessment proceedings cannot be sustained in case of the assessee which has already been taken over by

another company through the approval from NCLT order and the proceedings are for period prior to the date of the NCLT order. Accordingly, the appeal of the appellant is allowed.”

6. In the background of the aforesaid discussions and upon careful perusing the detailed finding of the Ld. CIT(A), as reproduced above, we note that Ld. CIT(A) has rightly observed that the demand raised by the AO and the assessment proceedings cannot be sustained in case of the assessee which has already been taken over by another company through the approval from NCLT order and the proceedings are for period prior to the date of the NCLT order. Accordingly, we affirm the action of the Ld. CIT(A) and reject the ground raised by the Revenue.

7. In the result, the revenue's appeal is dismissed.

Order pronounced in the Open Court on 02.03.2026.

Sd/-

Sd/-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**(MAHAVIR SINGH)
VICE PRESIDENT**

SRBhatnagar

Date: 05-03-2026

Copy forwarded to: -

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

Assistant Registrar, ITAT,
Delhi Bench