Meena

IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO.7 OF 2017
WITH
TAX APPEAL NO.8 OF 2017
WITH
TAX APPEAL NO.9 OF 2019
WITH
TAX APPEAL NO.8 OF 2019

THE PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL), BENGALURU. ···Appellant

VS

MUKTAR MINERALS PVT. LTD. ...Respondent

Ms Amira Abdul Razaq, Standing Counsel for the Appellant.

Mr Pavithran A.V., Advocate for the Respondent.

CORAM: M.S. SONAK &
BHARAT P. DESHPANDE,JJ.

DATE: 29th AUGUST,2023

P.C.:

1. Heard Ms Razaq, learned Standing Counsel for the Income Tax Department and Mr Pavithran, learned Counsel for the respondent.

2. These tax appeals have been instituted by the Revenue. During the pendency of these tax appeals, admittedly, the respondent- Company has gone into liquidation. The National Company Law Tribunal (NCLT) by its order dated 05/05/2021 has imposed a moratorium under Section 14 of the Insolvency and Bankruptcy Code (IBC).

3. Ms Raqaz points out that the liquidator, by his communication dated 28/03/2023 has admitted the claim of the Revenue to the extent of ₹32,11,68,909/-before the NCLT in the proceedings under the IBC.

4. Considering the provisions of IBC and the decisions of the Hon'ble Supreme Court in the case of **Principal Commissioner of Income-tax v/s. Monnet Ispat & Energy Ltd** ([2019]107 taxmann.com 481 (SC)), **New Delhi Municipal Council v/s. Minosha India Ltd** ([2022]138 taxmann.com 73(SC)) and the decision of the Delhi High Court in **Pr. Commissioner of Income Tax-6 New Delhi v/s. Monnet Ispat & Energy Ltd.** ([2017] ibclaw.in 08 HC), it would be appropriate to dispose of these appeals by granting liberty to the parties/liquidator to seek revival depending upon the order that the NCLT shall eventually make in the liquidation proceedings.

5. This was the precise course of action adopted by the Delhi High Court in the case of **Monnet Ispat and Energy Ltd.**(supra). Ms Razaq also placed for consideration of this Court a decision of ITAT in **Pratibha Industries Ltd v/s. Deputy Commissioner of Income-tax** ([2022] 142 taxmann.com 295 (Mumbai - Trib.)), wherein in similar circumstances, a similar approach was adopted. The appeals were disposed of with liberty to the parties/liquidator to seek recall or revival as and when the occasion arises.

6. Ms Razaq also referred to the provisions of Section 60(6) of IBC in the context of the exclusion of the moratorium period for the purposes of limitations.

7. Accordingly, all these appeals are disposed of with liberty to the parties/liquidator to seek revival depending upon the orders made by the

NCLT in the proceedings for the liquidation of the respondent-Company.

BHARAT P. DESHPANDE,J. **M. S. SONAK, J.**

MEENA VISHAL BHOIR
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