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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 04.10.2023*

+ **W.P.(C) 13662/2019**

MONNET ISPAT AND ENERGY LIMITED Petitioner
Through: Ms Misha with Mr Prithiviraj Oberoi,
Adv.

versus

ASSISTANT COMMISSIONER OF INCOME TAX,
& ANR. Respondents
Through: Mr Puneet Rai, Sr Standing Counsel
with Mr Ashvini Kumar and Mr
Rishabh Nangia, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE GIRISH KATHPALIA

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM Appl.51254/2023 [*Application filed on behalf of the petitioner seeking substitution of the petitioner*]

1. Issue notice.
 - 1.1 Mr Puneer Rai, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.
2. Mr Rai says that he does not wish to file a reply and therefore the prayer made in the application can be allowed, subject to just exceptions.
3. The substantive prayer made in the application is as follows:

“a) Allow the present application and pass an order substituting the Applicant i.e., JSW Steel Limited in place of



the Petitioner i.e., Monnet Ispat and Energy Limited; and...

4. In support of the prayer, the petitioner has relied upon the order dated 22.06.2023 passed by the National Company Law Tribunal, Mumbai Bench [in short, “NCLT Mumbai”] and the certificate of incorporation pursuant to change of name, issued by the Office of Registrar of Companies.

5. Having regard to the foregoing, the prayer made in the application is allowed.

6. We may also note that in the application, the order dated 30.12.2022 passed by the Commissioner of Income Tax (Appeals) [in short, “CIT(A)”] is alluded to. The operative part of the said order reads as follows:

“7. Since the above stated demand has been deemed to be permanently extinguished, it is nothing but an empty formality to direct the appellant to approach the AO to place on record the proceedings of NCLT which accepted the Resolution Plan in respect of the appellant company. The AO would then proceed to give effect to the said order in terms of the provisions of section 156A of the IT Act. Para 11 of the order of NCLT, as quoted at Para 4 hereinabove, also notes that all litigations and proceedings against the assessee shall stand abated. Accordingly, in view of the above factors, the present appeals are rendered infructuous and are dismissed as such with the direction to the AO to give effect to the order of the NCLT expeditiously.”

7. In view of the said order, we are told that the demand for Assessment Years (AYs) 2005-06 to 2011-12 has been dropped.

7.1 This aspect is relevant perhaps for the purpose of the closure of the writ petition.

8. The application is disposed of, in the terms given above.

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9. Ms Misha, the counsel who appears on behalf of the petitioner, has brought to our notice the order dated 18.07.2017 passed by the NCLT, Mumbai to bring home the fact that the proceedings *qua* AYs 2005-06 to



2011-12 have been dropped.

10. For this purpose, our attention has been brought to paragraph 11 of the said order. For convenience, the same is extracted hereafter:

“11. In view of the same, this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:

I (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 (SARFAESI Act);

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

(II) That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(III) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(IV) That the order of moratorium shall have effect from 18.7.2017 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section. 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

(V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

(VI) That this Bench hereby appoints Mr. Sumit Binani, Room No.6, 4th Floor 24, Commerce House, Ganesh Chandra Avenue, Kolkata 700013, Registration No. IBBI/IPA-001/IP-N00005/2016-2017/10025 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.”



11. This position is not disputed by Mr Rai.
12. Ms Misha says that her instructions are that no appeals have been preferred against the aforesaid order dated 30.12.2022 passed by the CIT(A).
13. Accordingly, the writ petition is disposed of, in terms of paragraph 7 of the CIT(A) order.
14. The interim order dated 24.12.2019 shall stand vacated.
15. Consequently, the pending interlocutory applications are closed.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

OCTOBER 4, 2023/pmc