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ORDER SHEET
ITAT/222/2025
IA NO:GA/1/2025, GA/2/2025
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX – 1, KOLKATA
VS
M/S COSMIC FERRO ALLOYS LTD.

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
AND
The Hon'ble JUSTICE UDAY KUMAR
Date: 30th March, 2026.

Appearance:
Mr. Soumen Bhattacharjee, Adv.
Ms. Sukanya Dutta, Adv.
…for the appellant

Mr. S.M. Surana, Adv.
…for the respondent

The Court: Heard learned counsel appearing for either of the parties.

There is a delay of 381 days in filing the appeal. We are satisfied with the explanation offered for not preferring the appeal within time. Therefore, the delay is condoned. The application being GA/1/2025 is allowed.

Learned counsel appearing for the appellant files affidavit of service not only in respect of the respondent/assessee but also in respect of the resolution professional appointed by NCLT under Insolvency and Bankruptcy Code, 2016. Involvement of tax in this matter is only Rs.1,04,31,531/-. However, learned counsel appearing for the appellant suggested the following substantial questions of law:

> "i. Whether the Learned Tribunal has committed substantial error in law by deleting the addition on account Unexplained Cash Credit amounting to Rs.2,36,90,000/- on the basis of the order of NCLT dated 16/01/2018 without appreciating the fact that distribution of assets on account of dues to the Income Tax Department are governed under Section 53(1)(i) of the Insolvency and Bankruptcy Code 2016.
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> ii. Whether the Learned Tribunal has committed substantial error in law by deleting the addition on account of disallowance u/s of Rs.70,00,000/- on the basis of the order of NCLT dated 16/01/2018 without appreciating the fact that distribution of assets on account of dues to the Income Tax Department are governed under Section 53(1)(i) of the Insolvency and Bankruptcy Code, 2016.
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> iii. Whether the order of the Learned Tribunal is perverse, arbitrary, and contrary to the provisions of the Income Tax Act, 1961, and deserves to be set aside.
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> iv. Whether the case is fit for appeal u/s 260A of the Income-tax Act, 1961 on the basis of exceptional clause mentioned in para 3.1.h of CBDT Circular 05/2024 dated 15/03/2024 modified by CBDT Circular 09/2024 dated 17/09/2024."

No one appears for the resolution professional. Mr. Surana appears for the respondent/assessee.

Heard the learned counsel for the appellant and Mr. Surana for the respondent/assessee.

Perused the order of the Tribunal dated 05.04.2024. The order of the Tribunal reads as under:

> "3. Facts in brief are that the assessee company has defaulted in the payment of debts due to City Bank and consequent to which the City Bank had filed an application before NCLT, Kolkata to initiate the proceedings under Corporate Insolvency Resolution Process u/s 7 of Insolvency and Bankruptcy Code, 2016 and accordingly NCLT has passed an order on 16.01.2018 thereby all the existing statutory liabilities to various Govt Deptts. including income tax dept. have been extinguished. The issue has also been decided in assessee's own case in ITA no.2017/Kol/2019 on the basis of the same order of NCLT.
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> 4. The grievance of assessee is that the Ld. CIT(A) has dismissed the appeal as infructuous instead of directing the AO to delete the additions and demand of income tax. In our opinion, once the order has been passed by NCLT under Insolvency and Bankruptcy Code, 2016 under Income Tax Act, all the statutory dues on account of income tax, Sales Tax,/VAT/GST, Excise Duty due to various Govt Departments

> of the Govt are extinguished. Therefore, we find merit in the appeals of the assessee that instead of dismissing the appeals as infructuous, the additions and the Ld. CIT(A) should have deleted the demand. Therefore, accepting the prayers of the assessee, we hereby set aside the order of Ld. CIT(A) and direct the AO to delete the demand raised by the assessee. Consequently all the appeals of the assessee were allowed.
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> 5. In the result, all the appeals of the assessee are allowed."

Following different judgments of this High Court and the Hon'ble Supreme Court, no substantial questions of law can be formulated in this matter.

The appeal and the connected application, being GA/2/2025 are dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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