

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.1071/Mum/2026 to 1080/Mum/2026  
(Assessment Year :2011-12 to 2018-19)**

EMI Transmission Limited Unit 1B, A Wing, 9 <sup>th</sup> Floor, Times Square Andheri Kurla Road Marol, Andheri East Marol Naka, Mumbai-400 059	Vs.	DCIT, Central Circle- 8(1), Mumbai
<b>PAN/GIR No.AACE1095J</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Madhur Agrawal a/w. Shri Ravikant Pathak
Revenue by	Smt. Amrita Singh, CIT DR
<b>Date of Hearing</b>	<b>25/06/2026</b>
<b>Date of Pronouncement</b>	<b>01/07/2026</b>

**आदेश / O R D E R**

**PER BENCH:**

The aforesaid bunch of appeals have been preferred by the assessee against the separate orders passed by the Ld. Commissioner of Income Tax (Appeals) for Assessment Years 2011-12 to 2018-19, whereby various additions made by the Assessing Officer have been sustained. Since a common

preliminary issue, arising out of subsequent developments under the provisions of the IBC, goes to the very root of the maintainability and survivability of all these appeals, the same were heard together and are being disposed of by way of this consolidated order. At the outset itself, the Ld. Counsel submitted that during the pendency of these appeals, events of considerable legal significance have intervened, which have fundamentally altered the legal character of the Corporate Debtor and have rendered adjudication of the issues on merits wholly academic. It was, therefore, urged that before embarking upon the individual additions made in the respective assessment years, it would be necessary to examine the legal consequences flowing from the proceedings undertaken under the IBC and the orders passed by the NCLT, as the answer to that issue would determine whether any effective adjudication now survives in these appeals.

2. The sequence of events, emerging from the material placed before us, assumes considerable significance. It transpires that an application under Section 7 of the IBC came to be admitted by the NCLT vide order dated 11.04.2019, whereupon the Corporate Insolvency Resolution Process commenced against the assessee company. Consequent thereto, an Interim Resolution Professional was appointed, who subsequently continued as the Resolution Professional, and public announcement inviting claims from the

stakeholders was issued in accordance with the statutory provisions. Simultaneously, expressions of interest were invited from prospective resolution applicants with the avowed object of exploring the possibility of revival of the Corporate Debtor through an approved resolution plan. However, despite completion of the process contemplated under the statute and despite extension of the prescribed timelines, no viable or feasible resolution plan could be received capable of approval by the Committee of Creditors ("CoC"). Consequently, the very objective with which the Corporate Insolvency Resolution Process had commenced could not be achieved.

3. It was pointed out that, in view of the failure of the Corporate Insolvency Resolution Process, the CoC, in its commercial wisdom, resolved in its meeting held on 02.01.2020 to liquidate the Corporate Debtor in terms of Section 33 of the IBC. Acting upon the said recommendation, the NCLT, vide order dated 14.08.2020, directed commencement of liquidation proceedings and appointed the Resolution Professional as the Liquidator under Section 34 of the IBC for carrying out the liquidation process in accordance with the statutory framework. Thus, from the said date, the Corporate Debtor ceased to remain under its erstwhile management and all further affairs of the company came to be administered by the Liquidator under the supervision of

the Adjudicating Authority. It is also not in dispute that the liquidation proceedings thereafter continued strictly in accordance with the provisions of the IBC and the Regulations framed thereunder.

4. At this stage, our attention was invited to the statutory scheme governing liquidation under the IBC. The Ld. Counsel submitted that the legislative framework does not contemplate liquidation merely by way of piecemeal sale of individual assets. On the contrary, Regulation 39C specifically enables the CoC, while recommending liquidation under Section 33, to recommend exploration of sale of the Corporate Debtor as a going concern in terms of Regulation 32(e) or sale of its business as a going concern under Regulation 32(f) of the Liquidation Process Regulations. Thus, sale of a Corporate Debtor as a going concern is itself a statutorily recognised mode of liquidation engrafted by the legislature with the objective of preserving commercially viable enterprises, ensuring value maximisation and enabling continuity of business wherever feasible. The significance of these provisions, according to the Ld. Counsel, lies in the fact that the legislative intent is not merely to realise the assets of the Corporate Debtor but also, wherever possible, to preserve the business as a functional commercial undertaking through a statutory transfer under the supervision of the Adjudicating Authority.

5. Proceeding further, it was pointed out that in furtherance of the aforesaid statutory objective, the Liquidator issued an e-auction process information document and public notice dated 19.10.2022 inviting bids for sale of the Corporate Debtor as a going concern. The auction documents themselves expressly stipulated that the sale was being undertaken in terms of Regulation 32(e) of the Liquidation Process Regulations and not by way of sale of isolated assets. Pursuant thereto, the e-auction process was conducted, wherein M/s L7 Hi-Tech Private Limited emerged as the successful bidder by offering a consideration of Rs.6.60 crores. The entire sale consideration was thereafter deposited with the Liquidator within the prescribed time and the sale stood confirmed in favour of the successful bidder in accordance with the procedure prescribed under the IBC. Thus, what ultimately came to be transferred was not merely certain assets of the company but the Corporate Debtor itself as a going concern under the statutory mechanism contemplated by the IBC.

6. It was further submitted that after completion of the e-auction, the successful bidder approached the NCLT seeking appropriate consequential reliefs arising out of the sale of the Corporate Debtor as a going concern. One of the principal prayers made before the Adjudicating Authority was that the

successful bidder having acquired the Corporate Debtor through a statutory sale conducted by the Liquidator under the supervision of the NCLT, the company should be permitted to continue its business free from liabilities, claims, investigations, proceedings and encumbrances relating to the period prior to the transfer, such liabilities being required to be dealt with by the Liquidator in accordance with the waterfall mechanism prescribed under Section 53 of the IBC. It was also pointed out before the NCLT that unless such consequential protection is granted, the very object underlying sale of a Corporate Debtor as a going concern would stand substantially frustrated, as no prudent purchaser would come forward to acquire a commercially distressed undertaking if it were simultaneously exposed to indeterminate liabilities pertaining to the erstwhile management.

7. A perusal of the orders passed by the NCLT, copies whereof have been placed before us, reveals that the Adjudicating Authority examined the entire liquidation process, the statutory framework governing sale of the Corporate Debtor as a going concern and the terms and conditions incorporated in the e-auction documents. Vide its detailed order dated 08.12.2023, the NCLT noticed that the successful bidder had deposited the entire sale consideration and had acquired the Corporate Debtor as a going concern through the statutory

process contemplated under the IBC. The NCLT further took note of the conditions contained in the auction documents and the legal consequences flowing from such transfer while considering the various reliefs sought by the successful bidder. Subsequently, upon being satisfied that the liquidation process had been completed in accordance with law and the sale proceeds had been dealt with under the statutory mechanism, the NCLT, vide its order dated 15.05.2024, directed closure of the liquidation proceedings. Thus, the entire process commencing from initiation of the Corporate Insolvency Resolution Process, liquidation of the Corporate Debtor, sale as a going concern and eventual closure of liquidation stands duly supervised and culminated through judicial orders passed by the competent Adjudicating Authority.

8. The Ld. Counsel, drawing strength from the aforesaid factual developments, submitted that these subsequent events have completely altered the legal landscape in which the present appeals are required to be examined. According to him, the additions impugned before us pertain to assessment years much prior to commencement of the Corporate Insolvency Resolution Process and indisputably relate to the period when the affairs of the company were under the control of its erstwhile promoters and management. However, after completion of the statutory liquidation process and

transfer of the Corporate Debtor as a going concern pursuant to the orders of the NCLT, the company now represents an altogether different commercial entity under a new management, and the legal consequences flowing from the completed proceedings under the IBC cannot be ignored while adjudicating these appeals. It was, therefore, urged that before examining the merits of the individual additions made by the Assessing Officer, this preliminary issue deserves adjudication, as the same goes to the very maintainability of the present appeals in their existing form.

9. Per contra, the Ld. DR strongly relied upon the orders of the authorities below. It was submitted that the additions made by the Assessing Officer have been confirmed by the Ld. CIT(A) on merits and merely because subsequent proceedings have taken place under the IBC, the tax liability determined under the Income Tax Act does not automatically stand obliterated. According to the Ld. DR, the issues involved in the present appeals deserve adjudication on merits independently of the proceedings before the NCLT and the statutory provisions governing assessment under the Income Tax Act continue to operate in their own field. He, therefore, submitted that the appeals should be decided on merits in accordance with the findings recorded by the lower authorities.

10. We have carefully considered the rival submissions, perused the material placed before us and have also gone through the various orders passed by the NCLT, the relevant provisions of the IBC, the Liquidation Process Regulations and the judicial precedents relied upon by both the sides. In our considered opinion, the issue which first falls for our consideration is not the sustainability of the individual additions made for the respective assessment years, but the legal effect of the subsequent developments which have admittedly taken place under the IBC after filing of the present appeals. The answer to this issue, in our view, would necessarily determine whether any effective adjudication on the merits of the additions now survives against the Corporate Debtor in its present form. It is, therefore, appropriate to first examine the statutory framework, the findings recorded by the NCLT and the legal consequences flowing therefrom before advertent to the merits of the additions challenged in these appeals.

11. A careful consideration of the rival submissions, read in conjunction with the material brought on record, persuades us to observe that the controversy before us is no longer confined to the correctness of the additions made by the Assessing Officer for the respective assessment years. The subsequent developments brought about under the IBC have

introduced a jurisdictional facet which necessarily requires determination at the threshold. Once it is demonstrated that the Corporate Debtor has undergone liquidation and has thereafter been transferred as a going concern pursuant to judicial orders passed by the NCLT, the legal consequences flowing from such statutory process cannot remain divorced from the adjudication under the Income Tax Act. The issue, therefore, is not whether the additions originally made by the Assessing Officer were justified on merits, but whether, in the wake of the completed liquidation process and the subsequent transfer of the Corporate Debtor, any effective adjudication on those additions now survives against the Corporate Debtor in its present form.

12. Before examining the legal implications flowing from the judicial precedents cited before us, it would be apposite to first advert to the findings recorded by the NCLT itself. A bare perusal of the order dated 08.12.2023 reveals that the Adjudicating Authority undertook a detailed examination of the entire liquidation process commencing from the sale of the Corporate Debtor as a going concern, the terms incorporated in the e-auction process information document, the rights flowing in favour of the successful bidder and the statutory consequences envisaged under the IBC. The NCLT specifically noticed that the successful bidder had deposited the entire sale consideration of Rs.6.60 crores and had

acquired the Corporate Debtor through a statutory sale conducted by the Liquidator in accordance with the provisions of the IBC and the Regulations framed thereunder. The Adjudicating Authority further recorded that the sale had not been effected by way of transfer of isolated assets but of the Corporate Debtor itself as a going concern, a mode of liquidation expressly recognised under the statutory framework.

13. Equally significant are the consequential directions issued by the NCLT while allowing the application preferred by the successful bidder. The Adjudicating Authority accepted the contention that the liabilities pertaining to the period anterior to the transfer date were liable to be addressed only within the liquidation mechanism and in accordance with the waterfall provided under Section 53 of the IBC. Consequently, while approving the restructuring of the shareholding and permitting the successful bidder to take over the Corporate Debtor, the NCLT directed, in substance, that the successful bidder would not be saddled with liabilities pertaining to the period prior to the transfer and that investigations, inquiries, assessments, notices or other proceedings relatable to the pre transfer period shall not continue against the Corporate Debtor or its successors and assigns after the transfer date. These directions are not in the nature of incidental observations but constitute an integral part of the operative

relief granted by the competent Adjudicating Authority while effectuating the statutory sale of the Corporate Debtor as a going concern.

14. The importance of the aforesaid directions becomes even more apparent when the subsequent order dated 15.05.2024 is read in conjunction therewith. The said order records that the liquidation process had been completed in accordance with the statutory mandate; the sale consideration realised from the successful bidder had been appropriated in terms of Section 53 of the IBC; and all steps required to be undertaken by the Liquidator had attained completion. Being satisfied that the liquidation estate stood fully administered, the NCLT directed closure of the liquidation proceedings. Thus, the entire statutory process commencing from admission of the Corporate Insolvency Resolution Process, liquidation of the Corporate Debtor, sale as a going concern and eventual closure of liquidation has culminated in judicial orders passed by the Adjudicating Authority, all of which admittedly continue to hold the field.

15. Another aspect which assumes significance is that the record placed before us does not indicate that any of the aforesaid orders passed by the NCLT have either been stayed, modified or reversed by any appellate forum. Equally, no material has been brought on record by the Revenue to

demonstrate that the findings recorded by the Adjudicating Authority have ceased to operate or have otherwise lost their binding efficacy. So long as the orders passed by the competent forum under the IBC continue to subsist, the legal consequences flowing therefrom cannot be ignored while exercising appellate jurisdiction under the Income Tax Act. The Tribunal, while deciding appeals under the Income Tax Act, undoubtedly exercises jurisdiction within the four corners of that enactment; however, it cannot proceed on an assumption contrary to judicial orders validly passed under another special statute governing the legal status of the Corporate Debtor.

16. The statutory framework itself fortifies the aforesaid conclusion. Regulation 39C enables the CoC, while recommending liquidation under Section 33 of the IBC, to recommend exploration of sale of the Corporate Debtor as a going concern under Regulation 32(e) or sale of its business as a going concern under Regulation 32(f). These provisions are not merely enabling in character but embody the legislative policy of preserving viable commercial enterprises even during liquidation. Unlike a conventional liquidation where assets are realised piecemeal, a sale as a going concern contemplates continuity of the business itself, thereby preserving employment, commercial relationships and enterprise value. Simultaneously, the liabilities of the

Corporate Debtor are channelled through the statutory distribution mechanism prescribed under Section 53. The scheme thus maintains a careful balance between value maximisation on the one hand and orderly settlement of claims on the other.

17. It is in this statutory backdrop that the judicial precedents relied upon by the Ld. Counsel require to be appreciated. Though rendered in different factual settings, the decisions of the Hon'ble Supreme Court in **Ghanshyam Mishra & Sons Pvt. Ltd vs. Edelweiss Asset Reconstruction Co. Ltd. [2021] 126 taxmann.com 132 (SC)** the judgments relied upon from the High Courts, as also the decisions of various Benches of the Tribunal including RVR Enterprises, Orient Spa Pvt. Ltd. and other authorities cited before us, consistently recognise that once proceedings under the IBC attain finality through orders of the competent Adjudicating Authority, the legal consequences flowing therefrom cannot be diluted by independent proceedings under other enactments in a manner which would defeat the statutory framework. The ratio emerging from these decisions is not that tax liabilities stand extinguished by judicial fiat; rather, it is that the enforcement and treatment of such liabilities must necessarily conform to the statutory mechanism envisaged under the IBC once the process undertaken thereunder has attained finality.

18. Applying the aforesaid principles to the facts before us, we find that the present case stands on a particularly strong footing. Here, the Corporate Debtor has not merely undergone liquidation; the liquidation proceedings have culminated in a successful sale as a going concern, the sale has received judicial approval, consequential directions have been issued by the NCLT, the sale consideration has already been distributed in accordance with Section 53 and finally the liquidation proceedings themselves have been formally closed. Thus, the legal transformation of the Corporate Debtor is not founded merely on theoretical propositions flowing from the statute but upon completed judicial proceedings whose legal consequences continue to govern the rights and obligations of all stakeholders.

19. Another feature which cannot be overlooked is that the assessments giving rise to the present appeals relate entirely to a period much prior to commencement of the Corporate Insolvency Resolution Process. The alleged tax liabilities sought to be adjudicated are, therefore, referable to the affairs of the company when it was under the control and management of the erstwhile promoters. The present management has stepped into the company only by virtue of a statutory acquisition effected through the liquidation mechanism. To insist upon continuation of appellate

proceedings against the Corporate Debtor, notwithstanding the completed statutory process under the IBC, would amount to overlooking the very legal transformation recognised by the Adjudicating Authority while approving the sale as a going concern.

20. We are, therefore, of the considered opinion that the subsequent developments under the IBC are neither collateral nor incidental to the controversy before us. On the contrary, they strike at the very enforceability of any adjudication that may now be rendered against the Corporate Debtor. Before examining the individual additions on merits, it thus becomes imperative to determine the legal effect of these subsequent events, for if the statutory consequences flowing from the completed liquidation process have eclipsed the enforceability of any further adjudication against the Corporate Debtor in its present form, any discussion on the merits of the additions would remain merely academic. It is in this backdrop that we now proceed to examine whether, in the peculiar facts of the present case, these appeals continue to survive for adjudication or have, by reason of the subsequent statutory developments, become incapable of yielding any effective relief.

21. Having examined the factual matrix, the statutory framework and the orders passed by the NCLT, we shall now

advert to the legal effect of these subsequent developments on the maintainability of the present appeals. The undisputed chronology demonstrates that the Corporate Debtor has undergone the entire statutory process contemplated under the IBC commencing from admission of the Corporate Insolvency Resolution Process, followed by liquidation under Section 33, sale as a going concern through the mechanism recognised under Regulation 32(e) read with Regulation 39C, judicial approval of the consequential reliefs by the NCLT, distribution of the sale proceeds in accordance with Section 53 and, finally, closure of the liquidation proceedings by the competent Adjudicating Authority. These are not merely supervening events occurring during the pendency of the appeals but constitute statutory developments which have fundamentally altered the legal character and commercial identity of the Corporate Debtor. Consequently, the adjudication of the present appeals cannot proceed by treating the Corporate Debtor as though it continues to exist in the same legal and commercial position in which it stood when the impugned assessments came to be framed.

22. We also find merit in the contention of the Ld. Counsel that the liabilities forming the subject matter of the present appeals admittedly pertain to the period when the affairs of the company were under the control and management of its erstwhile promoters. The additions made by the Assessing

Officer relate to assessment years much prior to commencement of the proceedings under the IBC and, therefore, arise entirely out of transactions and events attributable to the previous management. After completion of the statutory liquidation process, the successful bidder has stepped into the shoes of the Corporate Debtor only by virtue of a judicially supervised acquisition as a going concern. The foundation upon which such transfer rests is that the liabilities of the Corporate Debtor are to be dealt with within the statutory framework of the IBC itself. To continue adjudication against the Corporate Debtor in respect of pre transfer liabilities, notwithstanding the completed liquidation process and the specific directions issued by the NCLT, would not only overlook the statutory consequences flowing from the IBC but would also render the judicial orders passed by the Adjudicating Authority largely otiose.

23. The ratio emerging from the judicial precedents relied upon before us also leads to the same conclusion. What consistently emerges from the decisions of the Hon'ble Supreme Court, the High Courts and the various Benches of the Tribunal is that once proceedings under the IBC attain finality, the rights and liabilities of the stakeholders stand regulated by the statutory consequences flowing from that process and such consequences cannot thereafter be ignored while exercising jurisdiction under another enactment. These

decisions do not proceed on the premise that tax liabilities stand obliterated as a matter of course; rather, they recognise that after completion of the process under the IBC, the manner in which such liabilities are to be enforced must necessarily conform to the statutory framework of the IBC and the judicial orders passed thereunder. It is this underlying principle which, in our considered opinion, governs the controversy before us.

24. In the present case, the significance of the orders passed by the NCLT assumes even greater importance because the Adjudicating Authority has not merely approved the sale of the Corporate Debtor as a going concern but has also granted consequential reliefs recognising the legal incidents flowing from such transfer. As noticed hereinabove, the NCLT has categorically accepted the position that liabilities pertaining to the period prior to the transfer are to be addressed within the liquidation process and has further directed that investigations, inquiries, assessments, notices and proceedings relating to the pre transfer period shall not continue against the Corporate Debtor or its successors after the transfer date. These directions constitute an integral part of the operative orders passed by the competent forum exercising jurisdiction under the IBC. Admittedly, neither the validity of these orders nor the findings recorded therein has been displaced before any higher judicial forum. In the

absence of any material demonstrating that these orders have ceased to operate, this Tribunal cannot ignore the legal consequences flowing therefrom while exercising appellate jurisdiction under the Income Tax Act.

25. Another aspect which fortifies the aforesaid conclusion is that no material has been placed before us to indicate that the Revenue had challenged the aforesaid orders of the NCLT or had obtained any order staying their operation. Equally, nothing has been brought on record to show that the statutory consequences flowing from the completed liquidation proceedings stand diluted in any manner. In such circumstances, the Tribunal is required to proceed on the basis of the legal position obtaining on the date of adjudication and not on the basis of the position which existed when the appeals were originally instituted. Judicial notice cannot be shut out from subsequent statutory developments which have a direct bearing on the relief that can effectively be granted in appellate proceedings.

26. Having regard to the entirety of the facts and circumstances discussed hereinabove, we are of the considered opinion that any adjudication on the merits of the additions made by the Assessing Officer would, in the peculiar facts of the present case, remain purely academic. The enforceability of such adjudication against the Corporate

Debtor stands eclipsed by reason of the completed statutory process under the IBC and the judicial orders passed by the NCLT governing the legal status of the Corporate Debtor after its transfer as a going concern. It is well settled that judicial forums do not decide academic or hypothetical controversies divorced from any effective relief capable of implementation. Since the subsequent statutory developments have fundamentally altered the substratum on which these appeals originally rested, no fruitful purpose would now be served by embarking upon an examination of the individual additions on merits.

27. At the same time, we consider it appropriate to clarify that the consequence flowing from the present order is confined to the Corporate Debtor which has undergone liquidation and has thereafter been transferred as a going concern pursuant to the orders of the NCLT. Nothing stated herein shall be construed as expressing any opinion on the maintainability of any independent proceedings which the Revenue may otherwise be entitled to initiate or continue against the erstwhile promoters, directors, key managerial personnel or any other persons who may independently incur liability under the provisions of the Income Tax Act or any other applicable law. Needless to clarify, if any such proceedings are otherwise permissible in law, the Revenue shall be at liberty to pursue the same in accordance with law and such

proceedings shall be adjudicated on their own merits, uninfluenced by any observation contained in the present order.

28. In view of the foregoing discussion, and having regard to the subsequent developments which have taken place under the IBC culminating in the sale of the Corporate Debtor as a going concern and closure of the liquidation proceedings by the NCLT, we hold that no effective adjudication now survives in these appeals against the Corporate Debtor in its present form. Consequently, without expressing any opinion on the merits of the additions made for the respective assessment years, all the appeals are held to have become infructuous and are disposed of accordingly, subject to the clarification contained in the preceding paragraph.

**29. In the result, all the appeals filed by the assessee are disposed of as infructuous in the terms indicated above.**

Order pronounced on 1<sup>st</sup> July, 2026.

**Sd/-**  
**(GIRISH AGRAWAL)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai; Dated 01/07/2026  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**