INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCHES, NEW DELHI

BENCH: F

BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER AND SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA Nos. 2471, 2473 to 2475, 3128, 2992/DEL/2011 (निर्धारण वर्ष/Assessment Years: **2004-05 to 2006-07**)		
DCIT CENTRAL CIRCLE-6, ROOM NO. 334, ARA CENTRE, JHANDEWALAN EXTN., NEW DELHI-, DELHI	**Vs.**	**SAHARA AIRLINES LTD.** (NOW KNOWN AS JET LITE (INDIA) LTD.), A- 110, ROAD NO. 5, NH- 8, MAHIPALPUR EXTENSION NEW DELHI-, DELHI
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee:		**AADCS4480L**

ITA No.2167/DEL/2007 **ITA No.776/Del/2009** **ITA No. 2082/Del/2015** (निर्धारण वर्ष/Assessment Years: **1999-2000, 2001-2 & 2007-08**)		
DCIT CENTRAL CIRCLE-6, ROOM NO. 334, ARA CENTRE, JHANDEWALAN EXTN., NEW DELHI-, DELHI	**Vs.**	**SAHARA AIRLINES LTD.** (NOW KNOWN AS JET LITE (INDIA) LTD.), Jet Air House,-13, Community Centre, Yusuf Sarai, NEW DELHI-, DELHI
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee:		**AADCS4480L**

ITA No. 707/LKN/2002 (निर्धारण वर्ष/Assessment Year: **1998-99**)		
DCIT, CENTRAL CIRCLE-1, Lucknow,	**Vs.**	**SAHARA AIRLINES LTD** **Kapoorthala Complex Aliganj,** **Lucknow,**
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**AADCS4480L**

C.O. No.72/LKN/2005 (निर्धारण वर्ष/Assessment Year: **1998-1999**)		
SAHARA AIRLINES LTD **Kapoorthala Complex Aliganj,** **Lucknow,**	**Vs.**	**DCIT,** CENTRAL CIRCLE-1, Lucknow,
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**AADCS4480L**

अपीलार्थी द्वारा/Appellant represented by:	**Shri. K Hauthang, CIT, DR**
प्रत्यर्थी द्वारा/Respondent represented by:	**None**

सुनवाई की तारीख / Date of conclusion of hearing:	**25.09.2026**
घोषणा की तारीख / Date of pronouncement:	**29.09.2026**

आदेश / ORDER

PER SHRI ANUBHAV SHARMA, JUDICIAL MEMBER:

These appeals and cross objection preferred by the Revenue and Assessee against the order of the Ld. Commissioner of Income Tax (Appeals) (hereinafter referred to as the First Appellate Authority or 'the ld. FAA' for short) in appeals filed before him against the orders of the ld. Assessing Officer (hereinafter referred to as the Ld. AO, for short) passed u/s 143(3)/144/271D of the Income-tax Act, 1961 (hereafter referred to as 'the Act'). Further details of the orders of the lower authorities are as under: -

ITA No. & AY	Ld. FAA who passed the appellate order	Appeal No. & Date of order of the Ld. FAA	AO who passed the assessment order & Date of order
707/LKW/2002 1998-99	CIT(A)-III, Lucknow	Appeal No : 125/CC-I, Lkw/2001-02 Dated 10.010.2001	DCIT,CC-1 Dated: 21.09.2001
2167/D/2007 1999-2000	CIT(A)-I New Delhi	Appeal No. 97/06-07 Dated: 06.02.2007	DCIT, CC-1 Dated: 26.03.2002
776/D/2009 1999-2000	CIT(A)-I New Delhi	Appeal No. 211/06-07 Dated: 23.12.2008	ACIT, CC-1 Lucknow 19.10.2004
2082/S/2015 2007-08	CIT(A)-23 New Delhi	Appeal No. 59/10-11 Dated: 28.01.2015	ACIT, CC-6 Delhi 25.05.2010
2471/D/2011 2005-06	CIT(A)-I New Delhi	Appeal No. 66/09-10 Dated: 28.02.2011	ACIT, CC-6 New Delhi 25.07.2008
3128/D/2011 2006-07	CIT(A)-I New Delhi	Appeal No. 191/09-10 Dated: 29.03.2011	ACIT, CC-6 New Delhi 22.07.2009
2992/D/2011 2006-07	CIT(A)-I New Delhi	Appeal No. 192/09-10 Dated: 14.03.2011	ACIT, CC-6 New Delhi 22.07.2009
2475/D/2011 2005-06	CIT(A)-I New Delhi	Appeal No. 205/09-10 Dated: 15.02.2011	Addl. CIT, CC-I New Delhi 29.07.2009
2473/D/2011 2004--05	CIT(A)-I New Delhi	Appeal No. 203/09-10 Dated: 15.02.2011	Addl. CIT, CC-I New Delhi 23.08.2007
2474/D/2011 2004-05	CIT(A)-I New Delhi	Appeal No. 204/09-10 Dated: 15.02.2011	Addl. CIT, CC-I New Delhi 23.08.2007

CO 72/Lkw/2005 1998-99	CIT(A)-III, Lucknow	Appeal No : 125/CC-I, Lkw/2001-02 Dated 10.010.2001	DCIT,CC-1 Dated: 21.09.2001

2. The appeals were heard together as they arising out of factual background and on giving extensive hearing to ld. DR we found that department has primarily challenged the additions on merits. At the time of hearing none has appeared and record shows repeatedly notices have been issued. We are also apprised at bar by ld. DR that some proceedings in NCLT, Mumbai were pending in case of M/s Jet Lite India Ltd. which is also a respondent here having entered in the issue of M/s Sahara Airlines Ltd. in ITA No. 2082/Del/2015.

3. Ld. DR has taken us across the impugned orders of the assessment and has submitted that ld. CIT(A) has passed the impugned orders without appreciating the *modus operandi* of the assesse and the manner in which tax was evaded by introducing false expenditure.

4. It is matter of fact from information available in public domain that Sahara Airlines Ltd., the assessee here, and now after change of name is known as Jet Lite (India) Ltd. w.e.f.15.05.2007 in pursuant to take over of the management of Sahara Airlines Ltd. after purchase of 100% shares of Sahara Airlines Ltd. by Jet Airways(India) Ltd.

5. In State Bank Of India vs The Consortium Of Mr. Murari Lal Jalan, CIVIL APPEAL NOS. 5023-5024 OF 2024, order dated 7 November, 2024 Honb'le Supreme Court records certain details about the fact that the NCLT vide its order dated 20.06.2019 in C.P. 2205 (IB)/ (MB)/ 2019 admitted the application for initiation of Corporate Insolvency Resolution Process (hereinafter, the "CIRP") filed by State Bank of India (hereinafter, "SBI") in respect of Jet Airways (India) Limited (hereinafter, the "Corporate Debtor") in accordance with Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter, the "IBC, 2016"). The total admitted claim of the Financial Creditors was Rs. 7800 Crore (approx.). There is no reference of admitted claim of Operational Creditors, which included the claim of Income Tax Department.

The Hon'ble Supreme Court after hearing the Parties disposed of the Civil Appeal Nos. 5023-5024 of 2024 wherein direction is given to NCLT to take steps to appoint Liquidator. The relevant para of the Judgment is quoted below for the convenience:

> *"186. For all the foregoing reasons, we have reached the conclusion that the impugned order passed by the NCLAT is perverse and unsustainable in law. It has led to further complications. As a result, the appeals succeed and are allowed. The impugned order passed by the NCLAT is set aside.*
>
> *187. In the peculiar and alarming circumstances as discussed in this judgment and also keeping in mind the fact that almost five years have elapsed since the Resolution Plan was duly approved by the NCLAT and*

there being no progress worth the name, we are left with no other option but to invoke our jurisdiction under Article 142 of the Constitution and direct that the Corporate Debtor be taken in Liquidation. The NCLT, Mumbai shall now take appropriate steps for appointment of liquidator and all other necessary formalities for commencement of liquidation of the corporate debtor."

6. There after NCLT Mumbai Bench in IA 3687/2022 in C.P. (IB)/2205(MB)2019 and order dated 26.11.2024 appointed liquidator.

7. We find that, earlier, vide IA No. 2081 of 2020 in CP (IB) No. 2205/MB/2019, order dated 22/06/2021, while dealing with application of Resolution Professional under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (the Code), seeking approval of the Resolution Plan submitted by consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch (Jalan Fritsch Consortium / Resolution Applicant), the Mumbai Bench in its order dated had considered the salient features of the Resolution Plan in para 5, where there is reference of claim of OP (operational creditor) which includes claim of Government, including that of Income Tax Department, and there is apportionment of ₹. 15,000 to each of the Operational Creditors, irrespective of their claim amount. Further in clause V, it was mentioned as follows;

"V. Treatment of Operational Creditors: *a. Liquidation Value – It is stated by the SRA that the net worth of the Corporate Debtor would be insufficient to cover even the debts of the Financial Creditors in full. Therefore, the liquidation value due to the Operational Creditors* *including government dues, taxes or the other creditors or stakeholders (including dues to employee other than workmen)**, is presumed to be NIL.**"*

8. Thus what can be concluded is that in the case of Jet Lite (India), which is successor in interest of Sahara Airlines Ltd., the respondent/appellant here before us, the Corporate Insolvency Resolution Process under IBC commenced on 20.06.2019, and the Corporate Debtor was resolved in terms of Resolution Plan approved by CoC on 17.10.2020 followed by approval of NCLT vide order dated 22.6.2021. However, upon the failure to implement the failure to implement approved resolution plan, on 7.11.2024, the Hon'ble Supreme Court directed the Corporate Debtor to be liquidated, and NCLT passed order for liquidation on 26.11.2024 which are pending.

9. There is nothing before us to conclude that in regard to the claim of department for the AYs involved there is any admitted claim in resolution proceedings or the liquidation proceedings.

10. A co-ordinate bench on which one of us, the Judicial Member was also in quorum, has discussed and determined the issue of validity of assessments subsequent to IBC proceedings and we consider it appropriate to rely the same. The relevant part from it in **ACIT (OSD) versus GAIL Mangalore Petrochemicals Ltd. ITA2843/Del/2024 order dated 08.01.2025 also reported in [2025] 171 taxmann.com 17 (Delhi-Trib)** is reproduced below:-

"12. Ld. AR has drawn attention to the relevant clauses of the Resolution Plan, dealing with the treatment of government/ statutory dues, made available at page 59 to 60 of PB:

> *"4.4. Treatment of Government/ Statutory Dues 4.4.1. Pursuant to the settlement of the Statutory Creditors as per Clause 4,3.5 of Part D above and on Effective Date, all the dues under the provisions of Income Tax Act, 1961, including taxes, duty, penalties, interest, fines, cesses, unpaid tax deducted at source / tax collected at source, whether admitted or not, due or contingent, whether part of above claim of income tax authorities or not, asserted or unasserted, crystallized or uncrystallised, known, or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Closing Date, shall stand extinguished and the Corporate Debtor or Resolution Applicant shall not be liable to pay any amount against such demand.*

4.4.2. All assessments/ appellate or other proceedings pending in case of the Corporate Debtor, on the Effective Date, relating to the period prior to that date, shall stand terminated and all consequential liabilities, if any, stand abated and should be considered to be not payable by the Corporate Debtor in relation to the period prior to the Effective Date and pending on that date shall stand abated and should not be proceeded against. Post the Effective Date, no re-assessment / revision or any other proceedings under the provisions of the Income Tax Act shall be initiated on the Corporate Debtor in relation to period prior to acquisition of control by the Resolution Applicant and any consequential demand should be considered non-existing and as not payable by the Corporate Debtor. Any proceedings which were kept in abeyance in view of the insolvency process or otherwise shall not be revived post the order of NCLT.

4.4.3. Any and all rights and entitlements of the Governmental Authorities including but not limited to the Central government, the State governments any regulatory or local authority or body or any agency or instrumentality thereof, or any other party or entity (under any agreement, lease, licence, approval, consent or permission) whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Effective Date, shall be deemed to be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto."

13. Now what is relevant is that as per the Resolution Plan, the Effective Date shall mean the date of approval of the Resolution Plan by the NCLT and as per the Resolution Plan, the Closing date shall mean 89 (eighty-

nine) days from the Effective Date. Resolution Plan provided for two assurances to the Resolution Applicant (i.e. GAIL) of the Respondent Company:

a) All proceedings under the Act, pending on the date of approval of Resolution Plan by the NCLT (unless otherwise specifically stated/ agreed to/ dealt with in the Resolution Plan), relating to any period prior to that date, shall stand terminated, and all consequential liabilities/ demand, if any, shall stand abated; and

b) All dues under the Act, in relation to any period prior to the Closing date (i.e. 89 days from the date of approval of Resolution Plan by the NCLT) shall stand extinguished and the Respondent Company shall not be liable to pay any amount against such demand. In other words, any dues/ demands raised even subsequent to the date of approval of the Resolution Plan (but within 89 days therefrom) shall also stand extinguished.

14. It is a settled law that once the Resolution Plan has been approved by the NCLT, new claims of the Tax Department cannot be considered. This position has been upheld by the Hon'ble Supreme Court in the case of Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (2021) (13 S.C.R. 737) (SC). The relevant extracts of the Hon'ble Supreme Court judgement are as follows:

> *"86. As discussed hereinabove, one of the principal objects of l&B Code is, providing for revival of the Corporate Debtor and to make it a going concern. I&B Code is a complete Code in itself. Upon admission of petition under Section 1, there are various important duties and functions entrusted to RP and CoC. RP is required to issue a publication inviting claims from all the stakeholders. He is required to collate the said information and submit necessary details in the information memorandum. The resolution applicants submit their plans on the basis of the details provided in the information memorandum. The resolution plans undergo deep scrutiny by RP as well as CoC. In the negotiations that may be held between CoC and the resolution applicant, various modifications may be made so as to ensure, that while paying part of the dues of financial creditors as well as operational creditors and other stakeholders, the Corporate Debtor is revived and is made an on-going concern. After CoC approves the plan, the NCLT is required to arrive at a subjective satisfaction, that the plan conforms to the requirements as are provided in sub-section (2) of Section 30 of the l&B Code. Only thereafter, the NCLT can grant its approval to the plan. It is at this stage, that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders*

involved in the resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable .

CONCLUSION

95. In the result, we answer the questions framed by us as under:

(i) That once a resolution plan is duly approved by the Adjudicating Authority under sub-section (1) of Section 31. the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;

(ii) ...
(iii) Consequently, all the dues including the statutory dues owed to the Central Government, any 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 the period prior to the date on which the NCLT grants its approval under Section 31 could be continued."

(Emphasis supplied)

15. The similar view has been taken by the Hon'ble Supreme Court in the case of Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta and Ors. (2019) (16 S.C.R. 275) (SC). It has been held by the Hon'ble Supreme Court that:

"67. For the same reason, the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/ Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. All claims must be

> *submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, the NCLAT judgment must also be set aside on this count."*
> *[Emphasis supplied)*

16. Ld. AR has drawn our attention to the decision of Hon'ble Delhi High Court in the case of TUF Metallurgical Pvt. Ltd. vs. UOI (W.P.(C) 10528/2022) & connected matter where Hon'ble High Court has also applied the principles laid down by the Hon'ble Supreme Court in the case of Ghanashyam Mishra (supra) and held as follows:
"8. In the present cases, as described above, the admitted factual matrix is that the notices and orders impugned in these writ petitions pertain to the income tax claims of the respondents/revenue pertaining to the period much prior to the date of approval of the Resolution Plan. The impugned notices and orders were issued by the respondents/ revenue admittedly subsequent to the public announcement under Section 15 of the Code regarding CIRP process pertaining to the petitioner/assessee. As noted above, pertaining to the WP(C) 10528/2022, the public announcement under Section 15 of the Code called for submission of claims by 21.01.2019, but the respondents/revenue did not file any claim till that date or even thereafter; it is only subsequent to approval of the Resolution Plan vide order dated 05.11.2019 of the Tribunal, (which order was communicated to respondents/revenue on 02.12.2019) that the respondents/revenue issued the impugned Assessment Order and Demand Notice both dated 12.12.2019. Similarly, in the other writ petition WP(C) 10628/2022, the impugned notices and orders were issued by the respondents/revenue much subsequent to the public announcement dated 30.09.2019 of commencement of CIRP under Section 13 of the Code; vide order dated 21.02.2022, the Tribunal approved the final Resolution Plan and that order was communicated by the petitioner/assessee to the respondents/revenue, calling upon the latter to withdraw the earlier notices, but to no avail.

9. In nutshell, the Resolution Plans qua the petitioners/ assessees having been approved by the National Company Law Tribunal on 05.11.2019 (in WP(C) 10528/2022) and on 21.02.2022 (in WP(C) 10628/2022), the tax claims pertaining to the Assessment Year 2017-18 (in WP(C) 10528/2022) and Assessment Year 2014-15 (in WP(C) 10628/2022) stood extinguished.

10. The argument on behalf of respondents/revenue that being the State exchequer, it cannot be bound by the Resolution Process provisions of the Code has been recorded only to be rejected in view of the above quoted extract from the judgment in the case of Ghanshyam Mishra (supra).''

> *17. The similar view has been taken by the Hon'ble High Court of Calcutta also in the case of Principal Commissioner of Income-tax vs. Subhlabh Steels (P.) Ltd. [2022] 141 taxmann.com 190 (Cal.) (HC).”*

11. In the light of aforesaid discussion we are inclined to dismiss the appeals of department and so of assessee.

Order pronounced in the open court on 29.09.2026

Sd/-	Sd/-
S RIFAUR RAHMAN	**ANUBHAV SHARMA**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Delhi
Dated: 29.09.2026
Rohit, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT DELHI