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

+ **ITA Nos. 533/2017, 534/2017, 535/2017, 536/2017, 537/2017, 538/2017, 539/2017, 540/2017, 541/2017, 542/2017, 543/2017, 544/2017, 545/2017, 546/2017, 547/2017, 548/2017, 549/2017, 550/2017, 551/2017, 552/2017 & 554/2017**

PR. COMMISSIONER OF INCOME TAX-6,
NEW DELHI

..... Appellant

Through: Mr. Asheesh Jain, Senior Standing
Counsel with Mr. Vikrant A.
Maheshwari, Advocate.

versus

MONNET ISPAT & ENERGY LTD.

..... Respondent

Through: Ms. Anne Mathew, Advocate.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE PRATHIBA M. SINGH

ORDER

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04.09.2017

1. The Court has heard the learned counsel for both parties. The provisions of the Insolvency and Bankruptcy Code, 2016 ('Code') and, in particular, Section 14 thereof has been perused.

2. It appears to the Court that Section 238 of the Code is categorical that the Code will apply, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Section 14(1)(a) of the Code states, *inter alia*, that on the 'insolvency commencement date' the

Adjudicating Authority (AA) shall by order declare moratorium for prohibiting “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.” That the Code will prevail over all other statutes inconsistent therewith has been explained in the recent decision dated 31st August, 2017 of the Supreme Court in Civil Appeal No.8337-8338/2017 (*M/s. Innoventive Industries Ltd. v. ICICI Bank*).

3. In the instant case, the National Company Law Tribunal (NCLT) [which by virtue of Section 5 (1) of the Code is the AA] has by its order dated 18th July 2017 admitted the petition under Section 7 of the Code filed by the State Bank of India against the Respondent Assessee and prohibited, *inter alia*, “the institution of suits or continuation of pending suits or proceedings” against the Respondent. This would include the present appeal by the Income Tax Department (‘Department’) against the order of the Income Tax Appellate Tribunal (‘ITAT’) in respect of the tax liability of the Respondent-Assessee.

4. Mr. Asheesh Jain, learned Senior Standing counsel for the Revenue, points out that unlike some of the earlier insolvency statutes the Code does not envisage permission being sought from the NCLT for continuation of the continuation of pending proceedings against the Respondent in other fora. In the order dated 18th July 2017 is clear that the moratorium continues “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.”

5. Consequently, these appeals are disposed of with liberty to the Appellant-Department to revive them subject to the further orders of the NCLT.

6. Copy of the order be given *dasti* under the signature of the Court Master.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 04, 2017

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