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

+ ITA 485/2024, CM APPL. 52751-52/2024

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-3

.....Appellant

Through: Mr. Sanjay Kumar, SSC with Ms.
Esha, Adv.

versus

ERA INFRA ENGINEERING LTD.Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **10.09.2024**

1. Notice. Although the respondent-assessee is stated to have been placed on advance notice, none has appeared on its behalf when the matter was called. Consequently, let learned counsel appearing for the appellant take steps for service upon the said respondent through all permissible modes including via approved courier service.

2. We take note of the following operative directions which have been framed by the **Income Tax Appellate Tribunal** ["Tribunal"] while dismissing the appeal:-

"5. We find that the revenue vide Ground No. 8 had raised that the assessee is under the clutches of NCLT under Insolvency and Bankruptcy Code 2016. In the order dated 8.5.2018 and 6.12.2018 passed by the NCLT, the Interim Resolution Professional (IRP) is already on record and hence the revenue ought to have preferred this appeal before us by duly impleading the IRP on record. Hence, in view of Section 14 of I & B code there cannot be any continuation of any pending proceedings before this Tribunal. Hence, we deem it fit to dismiss the appeal of the revenue as not maintainable in the present format. However, liberty is given to the IRP to implead himself on behalf of the corporate debtor (assessee herein) by filing a Miscellaneous Application before us, if he so desires, in which event this appeal shall be restored. With these observations, the



appeal of the Revenue is hereby dismissed as not maintainable in the present format.”

3. It is the grievance of the appellant that no liberty was accorded by the Tribunal for it to implead the Interim Resolution Professional and which would have met the ends of justice. Matter requires consideration.

4. List again on 14.10.2024.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

SEPTEMBER 10, 2024/neha