



\$~69

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% *Date of decision: 16<sup>th</sup> February, 2026*  
+ W.P.(C) 1554/2026, CM APPL. 7567/2026 & CM APPL. 7568/2026

NAYATI HEALTHCARE AND RESEARCH NCR PRIVATE  
LIMITED .....Petitioner

Through: Mr. Giriraj Subramaniam, Ms.  
Aadhya Khanna, & Mr. Aditya  
Sarma, Advs.

versus

ASSESSMENT OFFICER, INCOME TAX DEPARTMENT

.....Respondent

Through: Mr. Shlok Chandra, SSC with Ms.  
Naincy Jain & Ms. Madhavi Shukla,  
JSCs.

**CORAM:**

**HON'BLE MR. JUSTICE DINESH MEHTA**

**HON'BLE MR. JUSTICE VINOD KUMAR**

### **JUDGMENT**

#### **DINESH MEHTA, J. (ORAL)**

1. The instant writ petition is directed against the order under Section 143(3) read with section 144B of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*), whereby an *ex parte* order has been passed on 24.03.2025, and a best judgment assessment made.
2. Mr. Giriraj Subramaniam, learned counsel for the petitioner submitted that on account of certain financial strains/distress, the petitioner/company went into insolvency and by the order dated 05.07.2024 an Interim Resolution Professional (*hereinafter referred to as 'IRP'*) was appointed by the National Company Law Tribunal (*hereinafter referred to as 'NCLT'*) in terms of Section 16 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter*



referred to as 'the Code of 2016') and the petitioner-company was admitted into insolvency.

3. It is further submitted that on 05.08.2024, the National Company Law Appellate Tribunal, Principal Bench, New Delhi (*hereinafter referred to as 'NCLAT'*) passed a stay order, according to which, though the appointment of IRP continued but the period for completion of Corporate Insolvency Resolution Process (*hereinafter referred to as 'CIRP'*) which otherwise is 270 days, as provided under Section 12 of the Code of 2016, came to be seized. And resultantly, though the IRP continued but effectively, the CIRP proceedings came to a standstill.

4. Learned counsel also informed that vide order of the NCLT dated 07.01.2026, the petitioner-company came out of insolvency and, the CIRP proceedings came to be closed.

5. The case setup by the petitioner is, that IRP who was in seisin of the affairs of the petitioner at the relevant time, could not or did not put forth the cause before the Assessing Officer (*hereinafter referred to as 'AO'*), for which, the impugned *ex-parte* order came to be passed. He contended that due to circumstances beyond the control of the present management of the petitioner-company, a best judgment assessment came to be passed by the respondent on 24.03.2025. While highlighting that by way of the impugned *ex-parte* order, the petitioner's income has been assessed at a staggeringly high amount of Rs.232,17,82,426 /- learned counsel submitted that had the petitioner-assessee represented its case/cause, the demand would not have been raised.

6. He argued that the order dated 24.03.2025 is clearly contrary to the principles of natural justice and conceded that may be, the breach is not



attributable to the AO but the facts are clear that the management of the petitioner-company could not take up the matter before the AO, when it was so required.

7. Mr. Shlok Chandra, learned Senior Standing Counsel for the respondent argued that the petitioner should take his remedies against the assessment order before the Appellate Authority and this Court should refrain from interfering in the matter.

8. Having heard learned counsel for the parties and after considering the material available on record, we are of the view that the IRP and the present management of the petitioner-company were *bonafidely* deprived of placing the material before the AO. The IRP continued *de-jure* but could not effectively do so, as he was not having knowledge of facts, transactions and access to the documents whereas, the management was not having legal authority, maybe having acquaintance with the affairs of possession of material and documents. Hence, all factual and legal pleas which could have been taken before the AO were not taken.

9. We are firmly of the opinion that an opportunity of hearing and placing the case before the AO needs to be given to the petitioner, particularly, when the addition(s) which the AO has made, relates to the cost of purchase of the property by the petitioner-company which was not taken into account. And if the cost of acquisition was taken into consideration, the high pitched assessment was perhaps not made. The Appellate Authority may or may not deal with the pleas and documents which were not placed before the AO. Hence, remedy of appeal would be illusory. That apart, the petitioner would be required to or constrained to pay at least 10% of the demand, else its appeal will not be heard. A company which has barely been able to come out of



insolvency will be put to unwarranted financial burden, which can otherwise be avoided.

10. We are, therefore, persuaded to set aside the impugned order dated 24.03.2025 passed by the AO because, the present case falls within the exceptions which have been carved out by Hon'ble the Supreme Court in a catena of judgements.

11. Instant writ petition is thus allowed; the impugned order dated 24.03.2025 is set aside.

12. The AO to issue a fresh/comprehensive notice encompassing the addition(s) he proposes to make (if any). While issuing such notice, the AO shall allow at least 30 days' time to the petitioner to respond and to furnish desired information/document(s). On receipt of the reply/representation and the documents, the AO shall pass a fresh order in accordance with law. And if deemed expedient, he shall provide an audience to the authorised representative of the petitioner-company in accordance with law.

13. Needless to clarify that we have not made any observations or recorded any finding on merit or otherwise of the assessment order dated 24.03.2025. The AO so also the petitioner-company shall be free to take their respective stand.

14. The petition along with all pending applications stands disposed of.

**DINESH MEHTA**  
**(JUDGE)**

**VINOD KUMAR**  
**(JUDGE)**

**FEBRUARY 16, 2026/kk**