

## LEGAL UPDATES

### **TELANGANA HC: HC QUASHES PRIOR CLAIMS OF ASSESSMENT NOTICE UNDER SEC. 143(3) OF THE INCOME TAX ACT AFTER APPROVAL OF THE RESOLUTION PLAN**

A Division bench of Telangana HC comprising of Justice Ujjal Bhuyan and Justice Chillakur Sumalatha allowed the corporate debtor's writ seeking quashing of assessment notices by the Income Tax ("IT") Department for the assessment year covered under NCLT's approved resolution plan/the plan. The Petitioner alongside the resolution applicant contended that all earlier dues and actions would be terminated after a resolution plan has been authorised by NCLT and the corporate debtor has complied with its requirements under the plan. The division bench perused the appropriate provisions of IBC and applicable judicial pronouncements thereof. The court further analysed the clauses of the plan that provided that all proceedings proposing to initiate any action against the Debtor which were pending till the NCLT order shall be nullified and no assessment or any such proceedings under the IT Act shall be initiated against the debtor. The resolution plan was finalised and approved by NCLT in July 2018 and the resolution applicant filed an assessment for 2017-2018 in Nov 2018. Pertinently, the assessment was filed before acceptance of the resolution plan. Therefore, the IT department was not within its power to issue an assessment notice against the petitioner and hence IT proceedings are not justifiable. The HC further pointed out that the resolution plan's execution shall not debar the Corporate Debtor from seeking claims against the IT department for set-off or carry forward any incurred losses and subsequent depreciation. Thus, the court held the assessment notices to be utterly unsustainable as the resolution plan from the approval date would triumph over the claims of the IT department and any such claims are liable to be rejected which are outside the purview of the plan and not covered by the resolution plan.