

# ITAT Dismisses Revenue Appeals Citing NCLAT Moratorium Protection



The Delhi Bench of the Income Tax Appellate Tribunal ([ITAT](#)) has dismissed two appeals filed by the Income Tax Department against **IL&FS Energy Development Company Limited** for Assessment Years 2017-18 and 2018-19.

The Tribunal said the company is under protection of an order passed by the National Company Law Appellate Tribunal (NCLAT) on **October 15, 2018**. The order provided moratorium-like protection against continuation

of any legal proceedings including proceedings before courts and tribunals against the company and other IL&FS group entities.

The Department, during the course of the hearing, sought to keep **the appeals pending** till the conclusion of the insolvency related proceedings before the National Company Law Tribunal (NCLT). The Tribunal did not accept this request.

The ITAT observed that once such protection is in place, the department should first establish and pursue its **claim** in the insolvency/liquidation process. The Tribunal further noted that there was no evidence before it showing that the **Department had filed any claim** relating to the disputed tax issues in those proceedings.

As a result, the Tribunal held that keeping the appeals pending indefinitely **was not justified and dismissed them**.

However, the ITAT granted **liberty** to the Department to seek restoration of the appeals in the future if it obtains any favourable order regarding its claim in the insolvency proceedings that would allow it to pursue the **tax disputes** further.