

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपील सं. / ITA No.24/Agr/2022
(निर्धारणवर्ष / Assessment Year: 2016-17)

JCIT (OSD)/ DCIT Circle 2(1)(1) Agra – 282 002	बनाम/ Vs.	M/s NIL Infrastructures Pvt. Ltd. Sikandra, Opp. Kamayani Hospital Babarpur, Agra – 282 007
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AACCN-6405-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	None
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Shailendra Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	11-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	11-02-2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by revenue for Assessment Year (AY) 2016-17 arises out of an order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 01-11-2021 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 29-12-2018. At the time of hearing, none appeared for assessee despite notice and accordingly, the case was proceeded with the able assistance of Ld. Sr. DR. After due consideration of case records, the appeal is disposed-off as under.

2. It could be seen that the assessee failed to respond to various queries raised by Ld. AO during the course of assessment proceedings. Consequently, Ld. AO added Long Term Borrowings as the income of the assessee and disallowed 15% of construction and other expenses and finalized the assessment at Rs.14.15 Crores. The major borrowings were from DMI Finance Pvt. Ltd.

3. The Ld. CIT(A), upon due consideration of assessee's reply, rendered a factual finding that as per the order of Hon'ble NCLT, M/s Alchemist Company took over all the rights, titles and interests etc. of all loans given by M/s DMI Finance Pvt. Ltd. to the assessee. Therefore, the genuineness of borrowings stood established. The adhoc disallowance of expenses was also deleted. Aggrieved, the revenue is in further appeal before us.

4. The factual findings as rendered by Ld. CIT(A) remain unrebutted before us. When the borrowings of M/s DMI Finance Pvt. Ltd. has been taken over by other entity as per NCLT order, the genuineness of the borrowings could not be doubted. The adhoc disallowance as made by Ld. AO is also without any basis. There is no finding as to how excessive expenditure has been claimed by the assessee. Therefore, the adjudication of Ld. CIT(A) could not be faulted with.

5. The appeal stands dismissed.

Order pronounced on 11th February, 2025.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

Dated: 11-02-2025

Mks