

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**  
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य एवं श्री संजय अवस्थी, लेखा सदस्य के समक्ष  
[Before Shri Pradip Kumar Choubey, Judicial Member & Shri Sanjay Awasthi, Accountant Member]

**I.T.A. No. 575/Kol/2024**  
**Assessment Year: 2016-17**

Thiess India Pvt. Ltd.  (PAN: AACCT 4559 J)	Vs.	ACIT, Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	11.02.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	11.03.2025
For the assessee / निर्धारिती की ओर से	Shri M. R. Sahu, A. R
For the revenue / राजस्व की ओर से	Shri Sailen Samadder, Addl. CIT Sr. D.R

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the “Ld. CIT(A)”) dated 25.01.2024 for the AY 2016-17.

2. Brief facts of the case of the assessee are that the assessee had filed its return of income for AY 2016-17 declaring total loss income of Rs. 4,47,42,623/- and book profit [-under loss 43,262/- u/s 115JB of the Act ]. The case of the assessee was selected for

scrutiny, notices u/s 143(2) of the Act was served. After considering the facts of the case the AO concluded the assessment proceedings, determining total asset income of Rs. 26,64,660/- with an addition of Rs. 4,74,07,328/- and levied tax thereof at Rs. 10,53,621/-.

3. The said order has been challenged by the assessee before the Ld. CIT(A). The Ld. CIT(A) has partly allowed the appeal of the assessee thereby observing that the assessee failed to discharge its burden to establish that these expenses are laid out or expanded wholly and exclusively for the purpose of business.

Being aggrieved and dissatisfied, the present appeal has been preferred by the assessee.

4. The ld. Counsel of the assessee instead of arguing into the merit of the case submitted that the assessee has to be given an opportunity to place all the materials / documents before the Ld. CIT(A) as the order has been passed behind the back of the assessee. The ld. Counsel filed a petition to this extent before us.

5. The Ld. D.R though supports the impugned order but did not raise any objection in sending the case back to the file of Ld. CIT(A).

6. We have gone through the order passed by the Ld. CIT(A) and find that during the proceedings, the details were called for in support of grounds of appeal, the assessee gave a generic response without getting into the purpose and relevance expenses incurred in relation to business activity. The Ld. CIT(A) has observed that in the absence of details it is found unnecessary and imprudent to disbelieve the order of AO and its findings. Before us, the prayer of the assessee is that the assessee has to be given an opportunity by remitting the case to the file of Ld. CIT(A). In this context, the ld. Counsel for the assessee filed written petition which is as follows:

*“Dated 16.08.2024*

*To*

*Hon’ble Members*

*Income Tax Appellate Tribunal*

*Kolkata Bench, Bench-B*

*Kolkata*

*Sub: Submission of documents filed before the Ld. CIT(A)-NFAC, Delhi for grant of adjournment on the date of hearing 22/01/2024 and Ld. CIT(A) order dated 25.01.2024 was passed Ex-party without granting adjournment: Request for remand to Ld. CIT(A)-regarding.*

*Ref: M/s Thiess India Pvt. Ltd. (PAN No. AAACCT 4559J) AY 2016-17, ITA No. 575/Kol/2024 Bench-B,*

*Dear Sir,*

*With due respect and humble submission, we would like to draw your kind attention to the following facts:*

- 1. Before the Ld. CIT(A)-NFAC, Delhi, adjournment of hearing application dated 22.01.2024 was E-filed vide Acknowledgment No. 909711220124 for grant of adjournment of hearing fixed on 22.01.2024 (copy enclosed)*
- 2. It is also submitted that on the date of hearing fixed on 22.01.2024, Central Govt. declared half day closing till 2.30 PM throughout India on the occasion of "Ram Lalla Pran Pratishtha".*
- 3. Ld. CIT(A)-NFAC, Delhi without considering the adjournment applications filed on 22.01.2024 passed the appeal order dated 25.01.2024 against the assessee with the observation that generic response was filed in support of the grounds of appeal.*
- 4. Against the Ld. CIT(A) order, appeal was filed before the Tribunal on 18.03.2024 in ITA NO. 575/Kol/2024, raising grounds of appeal to remand of the matter to the Ld. CIT(A) for fresh opportunity of hearing.*
- 5. **HUMBLE PRAYER BEFORE THE TRIBUNAL TO REMAND THE MATTER TO Ld. CIT(A) FOR FRESH OPPORTUNITY OF HEARING:***

*In view of the above facts including that of documentary evidences towards adjournments of hearing application filed on 22.01.2024, it is humbly prayed before the Tribunal to remand of the matter to Ld. CIT(A) for grant of fresh opportunity of hearing."*

- 7. Going over the submission as well as the petition filed by the assessee, we are inclined to give an opportunity to the assessee to place his case before the Ld. CIT(A). The appeal of the assessee is restored to the file of Ld. CIT(A) and the Ld. CIT(A) is directed to pass a afresh order after hearing the assessee.*

In the result, the appeal of assessee is allowed for statistical purposes.

Order is pronounced in the open court on 11<sup>th</sup> March, 2025

Sd/-

Sd/-

(Sanjay Awasthi/संजय अवस्थी)  
Accountant Member/लेखा सदस्य

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)  
Judicial Member/न्यायिक सदस्य

Dated: 11<sup>th</sup> March, 2025

*SM, Sr. PS*

Copy of the order forwarded to:

1. Appellant- Thiess India Pvt. Ltd., C/o, CA M.R Sahu, House No. 651, 1<sup>st</sup> Floor, Sector-10A, Gurgaon-122001
2. Respondent – ACIT, Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata