

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "बी", कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH: KOLKATA**  
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य एवं श्री राकेश मिश्र, लेखा सदस्य के समक्ष  
[Before Shri Pradip Kumar Choubey, Judicial Member & Shri Rakesh Mishra, Accountant Member]

**I.T.A. No. 2362/Kol/2024**  
**Assessment Year: 2017-18**

Kool Kidz Products Ltd.  (PAN: AAACO 3379 H)	Vs.	ITO, Ward-4(4), Kolkata
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	17.04.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	28.04.2025
For the assessee / निर्धारिती की ओर से	Shri P. J. Bhide, FCA
For the revenue / राजस्व की ओर से	Shri Sailen Samadder, Addl. CIT Sr. D.R

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

This is the appeal preferred by the assessee against the order of Commissioner of Income Tax (Appeal)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 04.07.2024 for AY 2017-18.

2. It appears from the report of the registry that the appeal has been filed after a delay of 83 days for this the assessee has filed condonation petition, the relevant portion of the affidavit is as follows-

*“9. That it appears that the Appellate Authority issued Notices and mailed the same to the Petitioner’s email address. The last of such notice was issued on 28.06.2024, fixing the date of hearing on 03.07.2024. At the relevant time. The Petitioner was shifting its office premises together, with its records.*

*10. That in such process, on or about 30.09.2024, the Staff of the Petitioner noticed the above facts and especially passing off the order by the CIT(Appeals) on 04.07.2024. During the month of October, 2024, the Public Holidays on account of Mahatma Gandhi’s Birthday, Puja Holidays, Kalipuja & Diwali, most of the petitioner’s staff were on leave during the period.*

*11. That only ion the first week of November, 2023, the office of the petitioner started functioning fully and in the course of which, on or about 1<sup>st</sup> November, 2024, the above Appellate Order was noticed and thereafter, the Petitioner took steps for submissions of the Appeal to the Ld. Income Tax Appellate Tribunal. Such Appeal was submitted on 25.11.2024 which is within time of 60 days from the date of noticing of CIT(Appeal’s) Order. In case, however, it is held that the period of 60 days was over by reckoning from the date of receipt of the order, the delay in submitting the appeal, on the above facts, be kindly condoned.*

*Prayer*

*12. That the Petitioner has not gained any advantage by delaying the submission of this Appeal.*

*13. That therefore, the Petitioner prays that the delay in submissions of this Appeal be kindly condoned and the Appeal be admitted and adjudicated.”*

On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee is that the assessee is a public limited company filed its return of income for AY 2017-18 declaring total income of Rs. 18,00,789/-. The case of the assessee was selected for scrutiny u/s 143(3), notice u/s 142(1) was issued. The show cause notice has also been issued to the assessee and in response to the same the assessee filed reply with documents. The AO on examination of the bank statement and certificate received from the banks observed that the assessee company has failed to explain the source of cash of Rs. 16,35,000/-. Accordingly, it has

ben added u/s 68 read with Section 115BBE of the Act. The AO has further found that on examination of ITR and CBEC data from ITS details, it reveals that the assessee company has shown purchase as per ITR to the tune of Rs. 3,26,06,654/- and purchase shown as per Profit and loss account to the tune of Rs. 2,18,89,693/-. The AO has further found that on perusal of CBEC data it is observed that the assessee company had purchased imported toys to the tune of Rs. 2,26,08,668/-. Hence there is a discrepancy in the purchase to the tune of Rs. 99,97,986/-. Accordingly, the same has been added to the income of the assessee considered as undisclosed income. The AO has further found that on examination of audited accounts for FY 2016-17 the assessee company had incurred expenses in clearing and forwarding charges, freight on import consignment, advertisement and sales promotion expenses, legal and promotion charges and rent, licence fee and warehouse charges but the assessee company failed to furnish any supporting evidence in this respect as a result of which the AO has added an amount of Rs. 55,69,068/- u/s 40(a)(ia) of the Act.

4. Aggrieved by the said order the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed as there was non-compliance on behalf of the assessee.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

5. The Ld. Counsel instead of arguing into the merit of the case has only prayed that the appeal of the assessee be restored into the file of Ld. CIT(A) for fresh decision after giving an opportunity to the assessee to place its case before the Ld. CIT(A). The submission of the Ld. Counsel of the assessee is that the assessee could not appear before the Ld. CIT(A) as no notice has been served to the assessee.

6. Contrary to that the Ld. D.R supports the impugned order but did not raise any objection in restoring the appeal of the assessee before the Ld. CIT(A).

7. We have gone through the order passed by the Ld. CIT(A) and find that there was non-compliance on behalf of the assessee as a result of which, the Ld. CIT(A) has

confirmed the order passed by the AO. There is no denying to this fact that there was no discussion on the merit of the case. Keeping in view the submission made by the assessee, considering the order passed by the Ld. CIT(A), we are inclined to restore the matter back to the file of Ld. CIT(A) for fresh decision after hearing the assessee. The assessee is also directed to place its case before the Ld. CIT(A) without taking any adjournment on frivolous ground. Accordingly, the order passed by the AO confirmed by the Ld. CIT(A) is hereby set aside.

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

Order is pronounced in the open court on 28<sup>th</sup> April, 2025

Sd/-

Sd/-

(Rakesh Mishra /राकेश मिश्र)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 28<sup>th</sup> April, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Kool Kidz Products Limited, 23, Pankaj Mullick Sarani, Ballygunje, Kolkata-700019
2. Respondent – ITO, Ward-4(4), 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