

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.492/Chny/2025  
निर्धारण वर्ष/Assessment Year: 2016-17

M/s.Brigge Technologies Pvt. Ltd., No.2/570, Jagannathan Street, Balaiah Garden, Madipakkam, Chennai-600 091.	v.	The ITO, Corporate Ward-1(1), Chennai.
[PAN:AAGCB 1996 B]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri R. Lokesh, CA
प्रत्यर्थी की ओर से /Respondent by	:	Smt. Pushpa Hemachand, JCIT
सुनवाईकीतारीख/Date of Hearing	:	15.04.2025
घोषणाकीतारीख /Date of Pronouncement	:	26.05.2025

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as "the Ld.CIT(A)"), Delhi, dated 15.05.2023 for the Assessment Year (hereinafter referred to as "AY") 2016-17.

2. At the outset, it is noted that there is a delay of more than '568' days in filing of the appeal. The assessee has filed an Affidavit i.e. by



:: 2 ::

Shri Sampath Kumar Jagannathan, Director of the assessee company along with condonation of delay. Perusal of the same reveal that the assessee company was incorporated on 27.01.2015 and has been struck off from the list maintained by ROC/Ministry of Corporate Affairs; and therefore, the officials/accountants who were handling the legal affairs of the assessee-company left it [the company]; and because of which, e-mails/notices/impugned order went unnoticed, and the Ld.AR also pointed out that they later only found that certain notices/orders went to the 'SPAM' account which resulted in the assessee not noticing the existence of the passing of the impugned order passed by the Ld.CIT(A); and by the time the assessee realized that the Ld.CIT(A) has passed the impugned order dated 15.05.2023, already more than '550' days have elapsed. Thereafter, the assessee immediately handed over the relevant papers to the Chartered Accountant who immediately filed appeal before this Tribunal. Thus the delay happened in filing of the appeal and therefore, he prays for condonation of delay stating that it was not deliberate and that assessee doesn't gain from non-filing of appeal on time. The Ld.DR doesn't want us to condone the delay. However, taking note of the fact that the assessee was a startup company which as of now stands struck off from the list of companies by the action of the Registrar of Companies; and the assessee being not aware of the existence of the notices/impugned order of the Ld.CIT(A) passing the ex parte impugned



:: 3 ::

order, resulted in belated filing of appeal before this Tribunal. In the light of the aforesaid discussion, we are of the view that non-filing of appeal before this Tribunal within the time prescribed, can't be termed as deliberate, but unintentional, because the assessee was not aware of the passing of the impugned order; and by the time the appeal was filed before this Tribunal '568' days has lapsed which happened due to various reasons as well as due to technical glitches since impugned order had gone into the 'SPAM' account of the assessee company and therefore, the assessee was in the dark about the appellate proceedings going on against the assessee. Therefore, assessee can't be faulted for the delay and therefore, the delay caused in filing of the appeal is condoned and we proceed with the appeal on merits.

**3.** Brief facts are that the assessee company is a startup company which was incorporated on 27.01.2015 and is noted to be engaged providing technology services. The assessee is noted to have received funds from Angel Investors and in lieu of it the assessee issued 1248 equity shares at a price of Rs.6,000/- per share which according to the assessee was supported by valuation carried out under the Discounted Cash Flow (DCF) method in accordance with Rule 11UA of the Income Tax Rules, 1962 and certified by a qualified Chartered Accountant dated 10.09.2015. The AO rejected the DCF valuation and made an addition of



:: 4 ::

Rs.72,80,326/- u/s.56(2)(viib) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on the ground that shares were issued at a premium exceeding Fair Market Value by passing an assessment order u/s.143(3) dated 20.12.2018.

**4.** Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) wherein he noted that the appeal has been instituted on 19.01.2019 against the assessment order u/s.143(3) dated 20.12.2018 which appeal later got migrated to NFAC and noted that the assessee had filed RoI for AY 2016-17 on 17.10.2016 by returning loss of Rs.36,37,529/- and after selecting the return for limited scrutiny, the assessment was completed on 28.12.2018 had assessed income at Rs.36,42,799/- by making an addition of Rs.72,80,326/- u/s.56(2)(viib) of the Act i.e. 'income from other sources'. However, the Ld.CIT(A) as noted supra have passed ex parte order since assessee didn't respond to his notices issued on three (3) occasions, and thereafter, has confirmed the action of the AO by confirming the addition of Rs.72,80,326/-. Aggrieved by the aforesaid action of the Ld.CIT(A) assessee is before us and has contested the same on various grounds including that the appellate authority has passed the impugned order without hearing the assessee which is in violation of sub-section (6) of section 250 of the Act. The assessee is noted to have raised the following grounds which are reproduced as under:



:: 5 ::

- I. No consideration received for equity shares – only convertible debentures issued.
- II. Assessment made on a struck off company is void ab initio.
- III. Angel Tax provisions withdrawn - FM's commitment to settle legacy cases.
- IV. DCF valuation report prepared by Chartered Accountant – valid and binding, not referred to DVO.
- V. DCF is based on bona fide estimates –can't be rejected by comparing with actuals.
- VI. Funds, received through banking channels – no dividend paid – no claim u/s.10(38) – entire amount utilized for business operations.
- VII. Credible investors – backed by the Chennai Angels Network.
- VIII. Failure to conduct enquiry u/s.133(6) – procedural lapse invalidates assumption u/s.56(2)(viiib).
- IX. Non-resident investment included without segregation – statutory overreach.
- X. No investment in prohibited assets – genuineness established even under amended provisions.
- XI. The appellant is an active business entity – not a shell company
- XII. Factual error in AO's order – No preference shares were issued.

**5.** Having taken note of the aforesaid issues, we are not inclined to get into the merits of the aforesaid grounds, since we find that impugned order of the Ld.CIT(A) is an ex parte order and that too without going into the merits of the case. In this regard, it is noted that the Ld.CIT(A) has given (3) notices to the assessee and finding no response from the assessee has passed ex parte order. The reasons for the assessee for not responding to the notices of the Ld.CIT(A) was because the notices issued by the Ld.CIT(A) went unnoticed, because it went into 'SPAM' e-mail account of the assessee instead of going into in the 'Inbox' which may be due to technical glitches. Be that as it may, since the assessee was dark about the appellate proceedings going on, the assessee was not able to respond to the notices issued by the Ld.CIT(A). Therefore, in the interest of justice and fair play, we set aside the impugned order of the Ld.CIT(A)



ITA No.492/Chny/2025 (AY 2016-17)  
M/s.Brigge Technologies Pvt. Ltd.

:: 6 ::

and restore the appeal back to his file with a direction to adjudicate the grounds of appeal raised by the assessee and the assessee is at liberty to raise all the issues including legal issues before him and file written submissions/relevant documents to substantiate the same and the Ld.CIT(A) to pass orders in accordance with sub-section (6) of section 250 of the Act after hearing the assessee.

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

Order pronounced on the 26<sup>th</sup> day of May, 2025, in Chennai.

**Sd/-**

(एस. आर. रघुनाथा)

**(S.R.RAGHUNATHA)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

(एबी टी. वर्की)

**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26<sup>th</sup> May, 2025.

**TLN**

आदेश की प्रतिलिपि अग्रेषित /**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF