

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**SHRI DUVVURU RL REDDY, VICE PRESIDENT  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 2070/Kol/2024  
(Assessment Year 2016-2017)**

**Metmagna Projects Private Limited,**

Unit No. 8, 5<sup>th</sup> Floor, Phase I,  
New Alipore Market Complex,  
Block M, New Alipore - 700053  
[PAN: AABCE7799Q]

..... **Appellant**

**vs.**

**Income Tax Officer, Ward 10(2), Kolkata,**

Aayakar Bhawan, P-7, Chowringhee Square,  
Kolkata - 700069

..... **Respondent**

**Appearances by:**

Assessee represented by : None  
Department represented by : Subhro Das, Addl. CIT, Sr. DR

Date of concluding the hearing : 16.06.2025  
Date of pronouncing the order : 24.06.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER**

1. In this case, there is a delay of 153 days of filing of the present appeal for which a petition has been filed as under:

*"1. That the appeal filed against the aggrieved assesment order was disposed of by the Hon'ble CIT(A), NFAC vide an Order dated 08.03.2024, the same was served on the mail of the assessee on 08.03.2024*

*2. That the time for filing of the appeal before the Tribunal expired on 06.07.2024.*

*3. That we engaged the services of an accountant, for the purpose of handling my accounts and my income tax matters.*

*4. That Shri Ranjit Kumar was entrusted with the responsibility of ensuring the accurate preparation and timely submission of my income tax returns and other income tax compliances.*

*5. That I relied on accountant to comply all requirements and obligations related to appellate proceeding u/s 250 of the Income Tax Act, 1961 related to AY 2016-2017.*

6. That as we trusted accountant, he was in full control of income tax login id and password and all compliance related matters.

7. That it came to my knowledge that there was negligence on the part of accountant, which led to non-compliance during appellate proceedings u/s 250 of the Income Tax Act, 1961 and that the dismissal of the case was not even communicated to me.

8. Only recently, when the said accountant left the Job and new accountant was appointed, we came to know about the ex-parte order of Hon'ble CIT (Appeal).

9. In light of above circumstances, the delay in the present case as the circumstances were beyond the control of the assessee.”

Considering the reasons given in the said petition, the delay is hereby condoned and the appeal is admitted for adjudication.

2. This appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), passed by Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, vide order dated 08.03.2024.

2.1 In this case, the Ld. AO passed an order dated 19.11.2018 by adding Rs. 2,99,64,000/- u/s 68 of the Act. The Ld. AO has given a finding that after detailed enquiries the genuineness of the transaction was not proved by the assessee.

2.2 The assessee approached the Ld. CIT(A) who is seen to have given as many as 8 opportunities of hearing without any response from the side of the assessee. Thereafter, the Ld. CIT(A) proceeded to dismiss the appeal of the assessee.

2.3 Aggrieved with this action, the assessee has approached the ITAT with the following grounds:

“1. That the Order passed u/s 250 is bad in law as well as on facts of the case.

2. That the Hon'ble Commissioner of Income Tax (A) erred in law as well as on facts of the case by confirming the addition made by the Ld. Assessing Officer of treating the share capital raised to the tune of Rs.2,99,64,000/- as unexplained cash credit u/s 68 of the Income Tax Act.

3. That the appellant craves to leave, add, amend or adduce any of the grounds of appeal during the course of appellate proceedings.”

3 On the last date of hearing, none appeared on behalf of the assessee but it was decided to proceed ahead with the adjudication since this was the 5<sup>th</sup> effective date of hearing in this matter. The Ld. DR was requested to assist the Bench in this regard.

3.1 We find that while the AO has made detailed enquiries at his level and has come to the conclusion that the impugned amount deserves to be taxed u/s 68 of the Act, it is also evident that the assessee has not been able to make any presentation of facts before the first appellate authority. The Ld. DR took pains to point out the extensive fact finding done by the Ld. AO and has thereafter, prayed that the action of Ld. CIT(A) should be confirmed. Be that as it may, we feel that howsoever compelling the case may appear against the assessee, he still deserves a chance to present the facts before an appropriate appellate forum. Thus, in the interest of substantive justice, we set aside the impugned order and remand this matter back to the file of Ld. CIT(A) for fresh adjudication. Needless to say, while the Ld. CIT(A) would give ample opportunity of being heard the assessee would do well to avail of such opportunities.

4. In result, this appeal is allowed for statistical purposes.

Order pronounced on 24.06.2025

Sd/-  
**(Duvvuru RL Reddy)**  
**Vice President**

Sd/-  
**(Sanjay Awasthi)**  
**Accountant Member**

Dated: 24.06.2025  
AK, Sr. P.S.

*Copy of the order forwarded to:*

1. Metmagna Projects Private Limited
2. Income Tax Officer, Ward 10(2), Kolkata
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches