

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM**

**ITA No. 844/Coch/2024
Assessment Year: 2019-20**

Planex Projects and Constructions Pvt. Ltd. Appellant
No. XXV/4, Kerala State Housing Building
Changampuzha Nagar, South Kalamassery 682
[PAN: AAGCP3634A]

vs.

The Income Tax Officer Respondent
Ward-1(1) & TPS, Kozhikode

Appellant by: Smt. Parvathy Ammal, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 21.05.2025
Date of Pronouncement: 27.06.2025

ORDER

Per: Inturi Rama Rao, AM

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-2, Surat [CIT(A)] dated 10.07.2024 for Assessment Year (AY) 2019-20.

2. Brief facts of the case are that the appellant is a company engaged in the business of execution of civil contracts. The return of income for AY 2019-20 was filed on 30.10.2019 declaring Nil income. The same was revised on 06.06.2020 at Nil income. The

said return of income was processed by the CPC u/s. 143(1) of the Income Tax Act, 1961 (the Act) vide intimation dated 22.09.2020 after making adjustment of unpaid GST of Rs. 67,54,054/-.

3. Being aggrieved, an appeal was filed before the CIT(A), who vide the impugned order confirmed the action of the AO.

4. Being aggrieved, the appellant is in appeal before this Tribunal in the present appeal.

5. At the outset we find that there is a delay of 20 days in filing the present appeal. The appellant filed a petition along with an affidavit seeking condonation of delay in filing the appeal, wherein it is stated that the company is not operational and all the staff left service and there was no one to follow up the affairs of the company. Hence, the delay is not willful or deliberate. It is, therefore, prayed that the delay in filing the appeal may be condoned and the appeal may be admitted for adjudication. On a perusal of the averments made in the condonation petition, it is evident that the appellant is prevented by reasonable cause from filing the appeal. Therefore, we condone the delay and admit the appeal for adjudication.

6. The learned counsel for the assessee submits that the amount of GST, which remains unpaid of Rs. 67,54,054/- was not debited to the Profit & Loss A/c. as this item of GST is routed through Balance Sheet. However, the GIST, which remains unpaid on 31.03.2019 is

paid within the due date for filing the return of income and, therefore, no disallowance is called for.

7. On the other hand, the learned Sr. DR, placing reliance on the orders of the lower authorities submits that no interference is called for.

8. We have heard the rival contentions and perused the material available on record. The short issue that arises for our consideration is whether the CPC is justified in making the adjustment of unpaid GST of Rs. 67,54,054/-. Undoubtedly, the GST of R. 67,54,054/- remain unpaid as on 31.03.2019 as per information contained in the Balance Sheet as well as Tax Audit Report. It is the contention of the appellant that the appellant is following the method of accounting whereby the statutory dues collected from the customers are shown as liability in the Balance Sheet without charging to the Profit & Loss A/c. and, therefore, the question of disallowance u/s. 43B of the Act does not arise. It is further submitted that the statutory dues were paid on or before the due date for filing the return of income. We do not agree with the submission. Even the statutory dues collected during the course of business forms part of trading receipts which is liable to be taxed in view of the decision of the Hon'ble Supreme Court in the case of *Chowringhee Sales Bureau Pvt. Ltd. v. CIT* 87 ITR 542. The appellant had not filed any evidence before us to show that the statutory dues were paid before the due date for filing the return of income.

9. On the other hand, the Tax Audit Report, as extracted by the learned CIT(A) in para 5.5 of his order clearly states that the GST liability of Rs. 67,54,054/- remain unpaid on or before the due date for filing the return of income. Thus, it is a clear incorrect claim and the CPC was justified in making the adjustment. We do not find any merit in the appeal filed by the assessee.

10. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 27th June, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th June, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin