

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

**BEFORE JUSTICE (RETD.) C V BHADANG, PRESIDENT &
MS PADMAVATHY S, AM**

**I.T.A. No. 4341/Mum/2025
(Assessment Year: 2018-19)**

Getinge India Private Ltd., E Wing, 9 th Floor, Time Square, Mathuradas Visanji Road, Marol Village, Andheri East, Mumbai-400059. PAN: AADVG4124D	Vs.	DCIT, Circle-5(1)(1), Aayakar Bhavan, M.K. Road, New Marine Lines, Churchgate, Mumbai-400020.
Appellant)	:	Respondent)

Appellant / Assessee by : Shri Niraj Seth & Ninad Patade,
AR

Revenue / Respondent by : Shri Swapnil Choudhary, Sr. DR

Date of Hearing : 19.08.2025

Date of Pronouncement : 28.08.2025

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 02.02.2024

for Assessment Year (AY) 2018-19. The assessee has raised the following the grounds of appeal:

“1. Ground 1: General

1.1 On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the action of the Ld. AO of assessing the total income of Rs. 5,40,99,880 as against the returned income of Rs. 3,77,91,150 as declared in the revised income tax return filed on 29 March 2019 for the captioned assessment year.

2. Ground 2: The Ld. CIT(A) erred in disallowing the provision of gratuity under section 40A(7) of the Act.

2.1 On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the action of the Ld. AO in disallowing amount of Rs. 8,23,852 under section 40A(7) of the Income-tax Act, 1961, in addition to the suo-motu disallowance of Rs. 10,38,117 already offered by the Appellant in the revised return of income.

2.2 The Ld. CIT(A) has erred in not appreciating that the disallowance under section 40A(7) of the Act should be restricted to Rs. 8,23,852/- based on the tax audit report and the Appellant has suo moto disallowed the same, whereas the Appellant has inadvertently disallowed the higher amount of Rs. 10,38,117/-

2.3 The Ld. CIT(A) has erred in not granting the allowance of Rs. 2,14,265 which was erroneously disallowed by the Appellant.

3. Ground 3: Disallowance of management fees and IT cost amounting to Rs. 76,85,446 under normal provisions of the Act.

3.1 On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the action of the Ld. AO in disallowing management fees and IT costs aggregating to Rs. 76,85,446 paid by the Appellant to its associated enterprise, Getinge AB, without duly appreciating that the said expenditure was incurred wholly and exclusively for the purposes of the Appellant's business.

3.2 Further, the Ld. CIT(A) erred in not appreciating that IT expenses were recurring in nature and the same had been allowed to the Appellant on a year-on-year basis.

4. Ground 4: Additions on account of net loss on foreign currency transactions and translation amounting to Rs.63,66,301

4.1 On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the action of the Ld. AO in disallowing the expenditure for net loss on foreign currency transactions and translation amounting to Rs. 63,66,301/-

4.2 The Ld. CIT(A) has failed to appreciate the fact that the said expense is in the nature of revenue and ought to be allowed under section 43AA of the Act.

5. Ground 5: Non-grant of sufficient opportunity of being heard by the Ld. CIT(A).

5.1 On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in passing the order under section 250 of the Act without granting reasonable opportunity of being heard.

5.2 The Ld. CIT(A) has erred in not issuing the hearing notice to the Appellant's updated primary contact details, thereby resulting in non-receipt of the appeal notices and denial of a fair opportunity of hearing.

6. Ground 6: Levy of interest under section 2348 and 234C of the Act

The Ld. CIT(A) has erred in upholding the action of Ld. AO in levying interest under section 2348 and Section 234C of the Act.

7. Ground 7: Initiation of penalty under section 270A of the Act

The Ld. CIT(A) has erred in upholding the action of Ld. AO in initiating the penalty proceedings under section 270A of the Act.

All the above grounds are without prejudice to each other.”

2. The assessee is a domestic company engaged in the business of medical systems, extended care and infection control and involved in import and supply of

medical devices and consumables. The assessee filed the return of income for AY 2018-19 on 29.03.2019 declaring a total income of Rs.3,77,91,950/- under the normal provisions of the Act and Rs.3,92,16,020 under section 115JB of the Act. The case was selected for scrutiny and the statutory notices were duly served on the assessee. The AO completed the assessment under section 143(3) wherein the income was assessed at Rs.5,40,99,880/-. Aggrieved the assessee filed further appeal before the CIT(A). The CIT(A) dismissed the appeal ex-parte since the assessee did not respond to the various notices issued by the CIT(A). The assessee is in appeal before the Tribunal against the order of the CIT(A).

3. There is a delay of 454 days in filing the appeal before the Tribunal and the assessee filed the petition for condoning the delay along with an affidavit. The ld AR submitted that the email id of the employee who was taking care tax matter was initially given in Form 35 and when the said employee has left the organisation the assessee has updated the IT portal with the revised email id. The ld AR further submitted that the CIT(A) however continued send the notice of hearing to the email id of the erstwhile employee due to which the assessee did not know that such notices have been issued and for the same reason did not appear before the CIT(A). The ld AR also submitted that even the appellate order was sent to the old email and when the AO subsequently initiated the penalty proceedings the assessee came to know of the appellate order being passed. Accordingly the ld AR submitted that there is a reasonable cause the delay in filing the appeal before the Tribunal and prayed that the same may be condoned.

4. The ld DR on the other hand vehemently argued that the delay should not be condoned. The ld DR argued that the assessee should have intimated the change of email id to the CIT(A) specifically and the CIT(A) has sent the notices to the email

id as mention in Form 35 since he is not aware of the change in the email id. Accordingly the Id DR submitted that there is no reasonable cause for the delay in filing the appeal before the Tribunal.

5. Having heard both the parties and perused the material on record, we are of the view that there is a reasonable and sufficient cause for the delay in filing the appeal before the Tribunal. Therefore following the Hon'ble Supreme Court decision in the case of Collector, Land Acquisition Vs. MST.Katiji & Ors., (167 ITR 471) (SC) we condone the delay of 454 days in filing the appeal and admit the appeal for adjudication.

6. We heard the parties and perused the material on record. From the perusal of the petition filed for condonation delay and the CIT(A)'s order it is noticed that the assessee did not respond to the notices due to which the CIT(A) has confirmed the additions/disallowances made by the AO without going into the merits of the impugned issues. The Id AR during the course of hearing submitted that the assessee did not respond to the notices for the reason that the notices were sent to the email id of the erstwhile employee and there is no wilful non-compliance on the part of the assessee. The Id AR therefore prayed that the appeal may be remitted back to the CIT(A) for consideration afresh.

7. The Id DR did not raise any specific objection to the said plea of the Id AR.

8. Considering the facts peculiar to the assessee's case we are inclined to give one more opportunity to the assessee to represent the case on merits before the CIT(A). The delay is condoned. Accordingly the appeal is restored back to the CIT(A) with a direction to call for the details as may required for adjudicating the impugned issues on merits and decide in accordance with law. The assessee is

directed to file the documents and evidences as may be called and cooperate with appellate proceedings. It is ordered accordingly.

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

Order pronounced in the open court on 28-08-2025.

Sd/-
(JUSTICE (RETD.) C.V. BHADANG)
President

Sd/-
(PADMAVATHY S)
Accountant Member

**SK, Sr. PS*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai