

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.906/Chny/2025
निर्धारणवर्ष/Assessment Year: 2018-19

Osia Impex, No.39, Usman Road, T. Nagar, Chennai-600 017.	v.	The ITO, Non-Corporate Ward-1(6), Chennai.
[PAN: AACFO 1393 C]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.A. Sittrarasu, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms.Gouthami Manivasagam, JCIT
सुनवाईकीतारीख/Date of Hearing	:	24.09.2025
घोषणाकीतारीख /Date of Pronouncement	:	13.10.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Assessing Officer (hereinafter referred to as "the AO"), dated 26.12.2024 passed u/s.144 r.w.s.254 r.w.s.144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. At the outset, it is noted that the assessee had filed Income Tax Returns (ITR) on 25.08.2018 which was processed u/s.143(1) of the Act



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by the CPC dated 13.12.2018. Later, the ITR was selected for scrutiny and order passed by the NFAC/AO on 19.04.2021 wherein certain additions were made which was challenged before the NFAC/CIT(A) who by order dated 20.03.2023 deleted the addition made u/s.68 of the Act of Rs.14,70,092/- and sustained the addition of Rs.32,69,580/- u/s.69 of the Act, by passing the appellate order, which order was challenged before this Tribunal (ITAT); and the Tribunal by order dated 13.09.2023 was pleased to set aside the order of the Ld.CIT(A) and remit the matter back to the file of the AO for deciding the addition made u/s.69A of the Act to the tune of Rs.32,69,580/-. Pursuant to the Tribunal order, the AO/NFAC has passed the impugned order dated 26.12.2024 which order of the AO, the assessee has challenged directly before this Tribunal. Hence, the Ld.DR objected to the assessee filing appeal against the AO's order directly before this Tribunal rather than filing statutory appeal against the assessment order dated 26.12.2024 before the First Appellate Authority i.e. Ld.CIT(A) and not before this Tribunal, which is undisputed the Second Appellate Authority. Realizing the mistake, the Ld.AR of the assessee fairly withdrew the captioned appeal which we allow and therefore, the appeal of the assessee is allowed to be withdrawn, with liberty to file the same before the Ld.CIT(A).

3. Having said so, we note that the right Forum for filing the statutory appeal against the action of the AO would be the Ld.CIT(A)/NFAC. But



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since the assessee has erroneously filed the appeal before this Tribunal, we expect that the Ld.CIT(A) would condone the delay considering the aforesaid events i.e. time consumed in the assessee filing this appeal and disposal of it. In other words, if the assessee files the appeal before the Ld.CIT(A)/NFAC within '30' days after receiving the order of this Tribunal, then in such an event, the question of limitation may not be raised by the Ld.CIT(A).

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

Order pronounced on the 13th day of October, 2025, in Chennai.

Sd/-

(जगदीश)
(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 13th October, 2025.

TLN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF