

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, NAGPUR**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA no.100/NAG/2024**  
(Assessment Year :2007-08)

GEC Infrastructure Co.  
A-15/5,,MIDC Industrial Area,  
Butibori, Nagpur 441 112,  
Maharashtra.  
PAN – AAGFG3541E

..... Appellant

v/s

Income Tax Officer  
Ward-3(4), Nagpur.

..... Respondent

Assessee by :Shri R.K. Ganeriwal.AR  
Revenue by :Shri Surjeet kumar shah.Sr.DR

Date of Hearing –06/10/2025

Date of Order – 07/10/2025

**ORDER**

The assessee has filed the appeal against the order dated 26/12/2023, passed by the CIT(A)/ National Faceless Appeal Centre(NFAC), Delhi, under section 143(3) r/w section 254 and u/sec 250 of the Income Tax Act, 1961 (for short "*the Act*"). The assessee has raised the following grounds of appeal:–

*"1. The order passed by Hon'ble CIT(A) is illegal invalid and bad in law. The Hon'ble CIT(A) erred in sustaining the action of the Ld. AO on total additions of Rs. 41,46,689/- is incorrect unjustifiable, excessive and should be quashed.*

*2. The Hon'ble CIT(A) erred in law and on facts in dismissing the appeal of the appellant. That on facts and in law, the Hon'ble CIP (A) ought to have provided reasonable opportunity of being heard. The Hon'ble CIT(A) ignored the explanation provided by the assessee & statement recorded of creditors during the assessment proceeding and only on the basis of*

*assumption & presumption of the Ld. AO, the Hon'ble CIT(A) erred in sustaining the additions made by Ld. AO of Rs. 41,46,689*

*3. The above grounds of appeal are without prejudice and notwithstanding each other. Any consequential relief, to which the appellant may be entitled under the law in pursuance of the aforesaid grounds of appeal, or otherwise, may thus be granted. The appellant craves leave to add to or alter, by deletion, substitution or otherwise, any or all of the above grounds of appeal and the factual and legal arguments against the addition sustained by the Hon'ble CIT (A) / made by Ld. AO at the time or before the course of appellate proceedings in the interest of natural justice."*

2. The brief facts of the case are that the assessee company has filed the return of income for the assessment year 2007-08 on 31/10/2007, disclosing total income at Rs. nil. Subsequently, the case was selected for scrutiny and notices were issued under section 142(1) of the Income Tax Act, 1961 (for short "*the Act*") along with questionnaire. In compliance, the assessee has filed financial statements, produced the information and documents substantiating the claims in the return of income filed. Whereas, the Assessing Officer, on a perusal of the financial statements and books of account produced by the assessee found outstanding balances in respect of five creditors aggregating to Rs.41,22,264/- and the assessee was called upon to explain the reasons for outstanding balances over due and to substantiate the business transactions with the sundry creditors. The assessee has filed the information and details, Whereas the Assessing Officer was not satisfied with the explanations and made addition of Rs. 41,22,264/- and similarly made other additions and passed the order dated 16/11/2009 under section 143(3) of the Act.

3. On appeal before the learned CIT(A), the learned CIT(A) has confirmed the action of the Assessing Officer. Aggrieved by the order passed by the learned CIT(A), the assessee filed an appeal before the Honble Tribunal, whereas the Tribunal, in ITA no.432/Nag./2014, vide order dated 30/03/2017, has restored the issues to the Assessing Officer. Accordingly, as per the directions of the Hon'ble Tribunal, the Assessing Officer has issued notice under section 142(1) of the Act calling for the confirmation, affidavit, bills and vouchers for the transactions with the creditors. During the assessment proceedings, the assessee in response to the questionnaire dated 09/10/2017 has filed written submissions on 28/11/2017, explaining the transactions of creditors dealt by the Assessing Officer at Para-5.1 to 7 of the order. Further, the Assessing Officer was not satisfied with the explanations of the assessee and has doubted the genuineness of the transactions with the creditors and made addition of outstanding balances of Rs.41,22,264/- and the A.O has also disallowed personal expenditure of Rs.12,000/- and the remuneration paid to partner of Rs.12,427/- and assessed the total income of Rs.41,46,689/- and passed the order dated 26/10/2018 under section 143(3) r/w section 254 of the Act.

4. Aggrieved by the order, the assessee has filed appeal before the learned CIT(A), wherein the learned CIT(A) considered the grounds of appeal, statement of facts, findings of the Assessing Officer, submissions of the assessee, but has confirmed the action of the Assessing Officer and

dismissed the assessee's appeal. Aggrieved by the order of the learned CIT(A), the assessee has filed appeal before the Tribunal.

5. At the time of hearing, the learned Authorised Representative for the assessed (for short "*the learned A.R.*") submitted that the learned CIT(A) has erred in confirming the additions made by the Assessing Officer overlooking the submissions, material evidence and explanations filed before the NFAC appeal proceedings. The learned A.R referred to the Paper Book in respect submissions made on the disputed issue of outstanding balances of the creditors filed before the authorities below. Further, the contentions of the learned A.R. that the learned CIT(A) has not provided the reasonable opportunity of being heard and ignored the explanations provided by the assessee and the statement recorded during the assessment proceedings which has a bearing on the decision making and prayed for granting of opportunity to substantiate the claims. The learned A.R. supported the submissions with the factual Paper Book. Per Contra, The learned Departmental Representative submitted that the learned CIT(A) has dealt with the findings of the Assessing Officer and the Ld.DR relied on the order of the learned CIT(A).

6. Heard the rival contentions and perused the material on record. The sole grievance of the assessee that the learned CIT(A) has erred in not appreciating the material evidences filed before the appellate authorities and has also not provided reasonable opportunity of hearing though the assessee has filed substantial information referred in the

Paper Book and the CIT(A) has provided only two opportunities of hearing and further the learned CIT(A) has not dealt on the submissions filed by the assessee. On a perusal of the learned CIT(A)'s order, the learned CIT(A) has reproduced the findings of the Assessing Officer, statement of facts, grounds of appeal and the written submissions and has confirmed the action of the Assessing Officer without proper findings on the disputed issues. Prima facie, the order of the learned CIT(A) is cryptic and the assessee has raised the ground of appeal that the CIT(A) has overlooked the submissions and has not granted reasonable opportunity of hearing. Therefore, considering the facts, circumstances, the Ld.AR submissions and the principles of natural justice, the assessee should be granted one more opportunity of hearing. Accordingly, the order of the learned CIT(A) is set aside and restore the entire disputed issues to the file of the learned CIT(A) to adjudicate afresh on merits after providing adequate opportunity of hearing to the assessee and the assessee should also co-operate in submitting the information for early disposal of the appeal. And the grounds of appeal of the assessee are allowed for statistical purposes.

7. In the result, the appeal filed by the assessee's is allowed for statistical purposes.

Order pronounced in the open Court on 10-10-2025.

**Sd/-**  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur