

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.3016/Chny/2024
Assessment Years: 2013-14

Assistant Commissioner of Income
Tax,
Corporate Circle-1(1),
Chennai.

Flextronics Technologies India
Private Limited,
Plot No.3, Phase II SIPCOT Industrial
Park, Sandavellure C Village,
Sriperumbudur Taluk,
Chennai-602 106
[PAN: AAACF5248E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./CO No.5 /Chny/2025
Assessment Years: 2013-14

Flextronics Technologies India Private
Limited,
Plot No.3, Phase II SIPCOT Industrial
Park, Sandavellure C Village,
Sriperumbudur Taluk,
Chennai-602 106
[PAN: AAACF5248E]

Assistant Commissioner of
Income Tax,
Corporate Circle-1(1),
Chennai.

अपीलार्थी की ओर से/ Assessee by

: Mr.P.Lalith Kumar, CA &
Mr.S.Sripal, CA

प्रत्यर्थी की ओर से /Revenue by

: Mr.Nathala Ravi Babu, CIT

सुनवाई की तारीख/Date of Hearing

: 18.09.2025

घोषणा की तारीख /Date of Pronouncement

: 21.11.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

S. No.	Appeal Nos.	AYs	Appel-lant	CIT(A) Order Details	Respondent
A	B	C	D	E	F
1	ITA No. 3016 / Chny / 2024	2013-14	Assistant Commissioner of Income Tax, Corporate Circle-1(1), Chennai.	DIN & Order No.ITBA / APL / S / 250 / 2024-25 / 1067988221 (1) dated 26.08.2024	Flextronics Technologies India Private Limited, Plot No.3, Phase II SIPCOT Industrial Park, Sandavellure C Village, Sriperumbudur Taluk, Chennai-602 106

					[PAN: AAACF5248E]
2	CO-5 / Chny / 2025	2013-14	Flextronics Technologies India Private Limited, Plot No.3, Phase II SIPCOT Industrial Park, Sandavellure C Village, Sriperumbudur Taluk, Chennai-602 106 [PAN: AAACF5248E]	-	Assistant Commissioner of Income Tax, Corporate Circle-1(1), Chennai.

2.0 The Revenue vide ITA No.3016/Chny/2024 is assailing the order of the Ld.CIT(A). The principal argument taken by the Revenue through its ground of appeal are regarding violation of its rights available under Rule-46A of Income Tax Rules. The assessee on its part has through its CO No.5/Chny/2025 has contested the appellate order for upholding the ex-parte order passed u/s 144 of the Act by the Ld.AO.

ITA No.3016/Chny/2024

3.0 We would first take the appeal of the Revenue. The grounds of appeal raised by the Revenue constitute its challenge to the relief given by the Ld.CIT(A) qua both corporate issues as well as legal issues. Thus, grounds of appeal nos. 1 to 7 are concerning corporate issues and grounds of appeal nos. 8 & 9 are concerning the Transfer Pricing Issue. As per the brief factual matrix of the case submitted by the Ld.CIT(DR) Shri Nathala Ravi Babu, the assessee company is engaged in the business of manufacturing of mobile phones and printed circuit board assemblies. The Ld.AO had noted that the assessee had indulged in international transactions with its AEs. Consequently, in terms of CBDT

circulars a reference was made to Ld. Transfer Pricing Officer (TPO) for determination of arm's length price. The Ld.TPO made an adjustment of Rs.14,69,14,706/-. The Ld.AO issued its Draft order u/s 144C(1) dated 19.12.2016 to the assessee with the option to either go to DRP or accept the order. The assessee exercised its option of not going to DRP. Perusal of draft order dated 19.12.2016 clearly evidences that the same was passed ex-parte u/s 144 r.w.s. 144C as the assessee had not submitted any details or provided any clarifications qua explanations demanded by the Ld.AO. Considering assessee's option, the Ld.AO passed its final order on 23.01.2017 repeating all the additions including adjustments made by Ld.TPO. Thus, as against Returned income of nil, assessment was concluded at Rs.6,79,25,170/- which, inter-alia, included TPO adjustments of Rs.14,69,14,706/-. Before the Ld.CIT(A) the assessee contested the impugned order by filing an appeal by 03.03.2017. The Ld.CIT(A), 16-Chennai passed her order dated 26.08.2024 whereby she gave part relief to the assessee.

4.0 It is the case of the Revenue that the assessee had submitted additional evidences before the Ld.CIT(A) which were considered for giving relief but within the meanings of Rule-46A, the Ld.AO was not provided the mandatory opportunity of considering the same. Thus, issue of violation of principles of natural justice has been raised by the appellant Revenue.

5.0 The assessee company has supported the order of Ld.CIT(A). It was contested that the Ld.CIT(A) had called for a remand report which was not submitted by the Ld.AO. It was contended that during the remand proceedings, the assessee had submitted all the requisite details to the Ld.AO and that no blame can be attached on the conduct of the assessee. It was vehemently argued that Revenue cannot raise issue of violation of principles of natural justice as there was non-submission of remand report by the Ld.AO itself. In support of its contentions, the assessee had filed a voluminous paper book containing all correspondences with the lower authorities in respect of the impugned assessment proceedings.

6.0 We have heard the rival submissions in the light of material available on records. It is an undisputed fact on records that the draft assessment order dated 19.12.2016 was passed by the Ld.AO u/s 144 ex-parte given total non-compliance by the assessee. We have noted that originally appeal was filed before the Ld.CIT(A), Bangalore-3 on 03.03.2017. The Ld.CIT(A), Bangalore-3 was an officer who was at the opportune time attending physical appeals. The assessee vide its letter dated 07.09.2018 had requested for admission of additional evidences. Records indicate that DCIT Corporate Circle-2(1), Chennai had issued a letter to the assessee for remand proceedings. This was done as company's registered office was shifted from Bangalore to Tamil Nadu.

The assessee had replied also through its letter dated 15.11.2018 qua the impugned remand proceedings. Subsequently, while the remand / appellate proceedings were pending the assessee's case was assigned to Faceless Appellate Regime. As per facts available on records, the assessee wrote a letter dated 31.08.2021 to the Revenue authorities for assignment of its appeal to a local CIT(A) for physical hearing. Thereafter the appeal was transferred to the Ld.CIT(A), Chennai-16 who passed her order dated 26.08.2024, currently assailed by the Revenue. There is no mention of any remand proceedings, in the impugned order dated 26.08.2024. It is the case of the Revenue that because of shifting of records and the jurisdictions from physical hearing to faceless and back to physical hearing as well as accompanying technical glitches, the Ld.CIT(A), Chennai-16 lost of track pending remand proceedings. We find sufficient force in the arguments of the Ld.CIT(DR) to this effect. Reasonable opportunity of being heard is cornerstone of natural justice and cannot be violated. There is sufficient evidence on records to indicate that the Ld.CIT(A), Chennai-16 was not apparently aware of pending remand proceedings. Needless to say, Revenue's interest of being afforded an opportunity of being heard is stand vitiated. Be that as it may be in the interest of justice, we deem it appropriate to set aside the appellate order and remit the matter back to the Ld.CIT(A) for readjudication of the matter de novo, in accordance with law, and after

giving an opportunity of being heard to the assessee. As discussed above, there are two components of the assessment order being the corporate additions and the transfer pricing adjustments raised by the Revenue through ground of appeals 1 to 7 and 8 to 9 respectively.

7.0 Thus, ground of appeals 1 to 7 raised by the Revenue are remitted back to the Ld.CIT(A) for readjudication of the matter de novo, in accordance with law, and after giving an opportunity of being heard to the assessee and Revenue. The assessee shall be entitled to submit any all or any evidence deemed necessary in support of its claim. Before concluding the appeal, the Ld.CIT(A) shall call for a remand report from the Ld.AO. We have noted that grounds of appeal nos. 8 & 9 are concerning transfer pricing additions. The Ld.CIT(A) has accorded relief to the assessee after recording its views in para 4.8 to para 4.9 from pages 22 to 28 of his order. The Revenue has contested the impugned relief, inter-alia, including on the issue of exclusion of Infosys as a comparable. The Ld.Counsel for the assessee had argued that in its own case for AY-2007-08 to 2009-10 and 2014-15 Infosys was excluded as a comparable. The assessee has also, inter-alia, relied upon judicial precedents as in the case of ISG Nova Soft Technologies of Bangalore tribunal in IT(TP)A No.42/Bang/2018, Cameron Manufactures India Pvt Ltd in ITA No.336/Chny/2018 of this tribunal. Be that as it may be in the interest of justice, we remit ground of appeal nos.8 & 9 of Revenue also,

back to the Ld.CIT(A) for readjudication of the matter de novo, in accordance with law, and after giving an opportunity of being heard to the assessee and Revenue. The assessee shall be entitled to submit any all or any evidence deemed necessary in support of its claim. Before concluding the appeal, the Ld.CIT(A) shall call for a remand report from the Ld.TPO. The Ld.CIT(A) shall pass a speaking order, in accordance with law, considering facts of the case and the judicial precedents cited hereinabove.

8.0 Before parting, it needs to be impressed that considerable time has lapsed in disposal of this case and the matter is hanging fire since 2017. Accordingly, we order that it shall be bounden upon the Ld.CIT(A) to obtain a remand report from the Ld.AO and pass his orders within six months of the passing of this order. He may approach superior authorities for timely compliance by the Ld AO, if required. The Ld DR is also directed to press upon the need for urgency in the matter to concerned Revenue authorities and to ensure timely compliance of this order in public interest.

9.0 In the result, the appeal of the Revenue in ITA No.3016/Chny/2025 is allowed for statistical purposes.

CO No.5 /Chny/2025

10.0 The assessee's CO is in response to appeal of the Revenue in ITA No.3016/Chny/2025. As the same has been allowed for statistical purposes, assessee's CO has become infructuous and hence dismissed.

11.0 In the result, the appeal of the Revenue and assessee are decided as under:-

ITA Nos	Assessment Year	Result
ITA No. 3016 / Chny / 2024	2013-14	Allowed for statistical purposes.
CO-5 / Chny / 2025	2013-14	Dismissed.

Order pronounced on 21st , November-2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 21st , November-2025.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF