

INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH "DB": AGRA
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
(Through virtual hearing)

ITA No. 99/AGR/2025
(Assessment Year: 2012-13)

ACIT, Range-1, Faridabad	Vs.	Chitavalasah Jute Mills Ltd, 73-74, 201, Sheetala House, Nehru Place, New Delhi
(Appellant)		(Respondent)
		PAN: AACCC6834D

Assessee by :	None
Revenue by:	Shri Sukesh Kumar Jain, CIT DR
Date of Hearing	15/09/2025
Date of pronouncement	04/12/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No. 99/AGR/2025 for AY 2012-13, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] dated 31.12.2024 against the order of assessment passed u/s 271D of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 25.02.2015 by the Assessing Officer, Addl. CIT, Range-1, Faridabad (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal:-

"1. That the CIT(A) has erred on facta and in law in deleting the addition of Rs. 11,90,27,242/- made by the AO on account of sundry creditors without appreciating the fact that the assessee has failed to furnish any evidences regarding genuineness of creditors (both fresh and carried over) during the assessment proceedings as well as appellate proceedings.

2. That the CIT(A) has erred on facts and in law in deleting the addition of Rs. 13,90,285/- as no details or break-up has been provided regarding these component of finance charges (expenses) except that these are the interest on fixed deposits to public (both on annual and cumulative).

3. That the appellant craves leave to add or delete or alter or modify any one or more ground(s) of appeal during the appellate proceedings.

4. That the order of the CIT(A) being erroneous in law and on facts deserved to be set aside and that of the order of the Assessing Officer deserved to be restored.”

3. None appeared on behalf of the assessee.

4. We have heard the Id DR and perused the material available on record. The return of income for AY 2012-13 was filed by the assessee on 29.09.2000 declaring total income at Rs. Nil. The assessment proceedings was completed ex parte u/s 144 r.w.s. 143(3) of the Act due to non compliance on the part of the assessee for various notices and summons issued, wherein the following additions were made:-

- a. Addition on account of sundry creditors at 40% on ad hoc basis due to non verification:- 11,90,27,242/-
- b. Disallowance of interest:- 99,69,661/-
- c. Disallowances of depreciation- 67,84,622/-
- d. Disallowance of other expenses:- 12,76,916/-

5. The Id CIT(A) granted partial relief to the assessee in the first round. The assessee preferred appeal before this Tribunal. The Tribunal in the first round restored the matter back to the file of the Id CIT(A). In the second round of proceedings, the assessee furnished all the additional evidences before the Id CIT(A). Remand reports were sought for from the Id AO. The Id AO in the remand report objected to admission of additional evidences and did not give

any comment on merits. The Id AO in the remand report admitted the fact that the factory premises at Vizag was shut down but observed that , that cannot be reason not to file documentary evidences at the time of assessment proceedings. The assessee filed rejoinder to the said remand report before the Id CIT(A) and prayed for admission of all the additional evidences submitted as it would be relevant and crucial for adjudication of the disputes raised before the Id CIT(A). The assessee also filed detailed written submission before the Id CIT(A) which fact is mentioned in Para 9.3 of the order of the Id CIT(A) at page 30. The Id CIT(A) in page 38 of his order has noted that Id AO issued notices to the assessee on 28-03-2024 during the remand proceedings and sought details which were duly furnished on 02-04-2024 by the assessee. Thereafter, the remand report was submitted to the Id AO on 05-08-2024 without making any enquiry on the evidences submitted by the assessee and by merely objecting to the admission of additional evidences. The Id CIT(A) also took note of the fact that the Tribunal in the first round had clearly directed the additional evidences filed by the assessee to be examined. The Id CIT(A) admitted the entire additional evidences furnished by the assessee in consonance with the direction of the Tribunal and proceeded to examine the same on its own in respect of each of the additions made by observing as under:-

"10.6. Ground No 2: *That the AO was wrong in disallowing creditors of Rs 119027242 (40% of the total creditors) on estimate basis without any evidence and verification.*

From the financials of the assessee filed during the course of appellate proceedings, it is found that the current liabilities of the assessee were at Rs. 301827254/- including interest accrued but not due on loans at Rs. 4259148/-. The balance figure stands at Rs.297568106/-. The Assessing Officer in his order u/s 144 dated 25.02.2015 disallowed @ 40% of this amount being Rs 11,90,27,242. I am in agreement with the submissions of the assessee that most of the amounts of sundry creditor balance has remained unchanged as compared to the last year, However, in the first round before the learned Commissioner, the learned CIT(A) sustained the addition of Rs 49,72,098,

being fresh loans. The Hon'ble ITAT, has, among other issues, remanded this point also for fresh adjudication.

I am inclined to accept the contention of the assessee that no ad-hoc disallowance can be made in respect of sundry creditors which includes the above figure of Rs 49,72,098. This contention is acceptable in addition to the fact that many items of the sundry creditor remained unchanged vis a vis the earlier previous year. I am also inclined to agree to the contention of the assessee that the Assessing Officer has not specified whether the addition has been made under section 68 or section 41 of the Income-tax Act. The Assessing Officer also did not make any inquiry with respect to the above figure of Rs 49,72,098.

The appellant has submitted a number of case laws, in respect of ad-hoc addition as well as non-specification of the provisions of the Act under which the addition was made. Further, as it is clear from the audited financials of the assessee, the impugned amount belongs to current year expenses. There is no material before the First Appellate Authority to take an adverse view against the appellant on this ground.

Therefore, the addition of Rs 11,90,27,242 is being **deleted**.

10.7 Ground No 3: That the A.O. was wrong in disallowing interest of Rs.99,69,661/- starting non- verification while the case was completed u/s 144. From the details on record, it is seen that the Finance Charge of Rs 99,69,661 comprise the following:

Sl No	Item	Amount (Rs)	Amount (Rs)
1	Interest on Cash Credit Account		8579376
2	Interest on Fixed Deposits		1390285
	Annual	471520	
	Cumulative	918765	
3	Total		9969661

The assessee has made details submissions on this issue. The extract from its submissions dated 16.12.2024 is as follows:

This ground relates to disallowance of Finance Charges amounting to Rs. 9969661/-.

Finance Charges includes the following:

Interest on Cash Credit Account 8579376/

Interest on Fixed Deposits:

<i>Annual</i>	<i>471520/</i>
<i>On cumulative</i>	<i>918765/ 1390285/</i>
	<i>Total 9969661/-</i>

Ld AO in assessment order has not mentioned anything for disallowing the entire sum of finance expenses.

Sirs, as far as the interest on cash credit account (working capital loan) is concerned, the interest amount is automatically debited to the account of the borrower, it is not required to be paid separately. As far as Section 43B is concerned, the interest payment to Banks are allowable on the basis of actual payment. In the present case the same was not paid, thus treatment as per section 43B is warranted.

Regarding interest on fixed deposits, we bring to your kind notice that the company accepted fixed deposits from public, the same is clearly reflected in balance sheet on Schedule 4 at page no. 27 of PB. The deposits were of two kinds, one the interest to be paid from time to time and the others cumulative. The interest is provided on both deposits. As far as the provisions of Section 43B are concerned, those do not apply on this kind of payment of interest. It is therefore, requested to allow the interest on fixed deposits at Rs 1390285/-.

From the above, admittedly, the amount of interest being Rs 85,79,376 'warrants treatment under section 43B.'

It is also seen from the Paper Book, page number 77 that during the assessment proceedings for the assessment year 2011-12, the assessee in its own submissions dated 21.02.2014 had conceded that 'interest on working capital loan' is required to be added back.

On the basis of the above discussion, the amount of 85,79,376 is therefore, liable to be disallowed and the addition made is sustained. The remaining component of finance charges being interest on fixed deposit to public is not covered under section 43B. Hence, the assessee gets a relief of Rs 13,90,285.

10.8 Ground No 4: That the A.O. was wrong in disallowing depreciation of Rs.6784622 /- stating non- verification while the case was completed u/s 144.

From the submissions made by the assessee, particularly, Page No. 14 of PB, it is seen that depreciation amounting to Rs.6784622 /- has already been disallowed by appellant and the depreciation as per Income Tax Act, 1961 was

claimed at Rs.1495775/-. This action of the AO is without any basis and therefore, the above addition of Rs 67,84,622/- is deleted.

10.9 Ground No 5: Because the A.O. was wrong in disallowing other expenses of Rs.12,76,916/-stating 'want of verification'.

From the submissions made by the assessee during the appellate proceedings, the above item comprises the following, the remarks against each of them is given in column 3 of the table:

<i>Sl No</i>	<i>Item</i>	<i>Amount (Rs)</i>	<i>Remarks of CIT(A)</i>
<i>1</i>	<i>Other Expenses</i>	<i>43,71,996</i>	<i>Being considered below</i>
<i>2</i>	<i>Employment Cost</i>	<i>9,77,440</i>	<i>The amount is low compared to the earlier year and the Assessing Officer has not brought any material in the assessment proceedings or the remand proceedings, why this sum should be disallowed.</i>
<i>3</i>	<i>Finance Charges</i>	<i>99,69,661</i>	<i>Already considered in ground no 4. A double addition has been made.</i>

As per details submitted by the appellant, the amount of Rs 43,71,996 comprise of Rates and Taxes, Legal Expenses (law charges) and other petty expenses. The appellant, it is seen, has already disallowed the expenditure debited on rate and taxes in its computation of income. However, as regards legal expenses amounting to Rs 13,27,918, it has just mentioned in its submissions, "regarding law charges, we have already submitted that there was a lot of litigation due to lock out and all these expenses were incurred for defending the interest of the appellant company." The above statement is a very general one. The appellant has not specified anything about the litigation, i.e, the relevant forum(s) before whom the litigations were instituted, whether the appellant was the litigant or the respondent, particulars of counsels engaged, whether TDS effected from counsel fees, etc. In absence of any such details, relief cannot be given to the assessee on this point. Therefore, addition to the extent of Rs 12,76,916 is sustained."

6. The Id DR before us prayed for restoration of this appeal to the file of Id AO on the ground that Id AO was not provided sufficient opportunity by the Id CIT(A) to examine the evidences filed by the assessee, but we find that Id AO in the instant case had chosen not to examine the evidences in the remand proceedings. Hence no purpose would be served in restoring this appeal to the file of the Id AO for examination of evidences as the said evidences have been duly examined by the Id CIT(A) himself. The Id CIT(A) deleted the addition by giving the aforesaid findings in Para 10.6 and 10.7 of his order which are reproduced supra. None of the aforesaid factual findings of the Id CIT(A) appeals in Para 10.6 and 10.7 could be controverted by the revenue before us by furnishing contrary evidences on record. Hence, we do not find any infirmity in the order of the Id CIT(A) in granting relief to the assessee. Accordingly, grounds raised by the revenue are dismissed.

7. In the result the appeal of the revenue is dismissed.

Order pronounced in the open court on 04/12/2025.

-Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 04/12/2025
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi