

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA No.6863/MUM/2025
(Assessment Year:2018-2019)**

Syntel Private Limited

Unit No.112, Sdf IV, Seepz, Andheri East
Mumbai – 400096. Maharashtra
[PAN: AAACS8305D]

..... **Appellant**
Vs

**Assistant Commissioner of Income Tax
Circle 11(2)(2), Mumbai**

Room No.421, 4th Floor, Aayakar Bhavan,
Maharishi Karve Road, Mumbai – 400 020.
Maharashtra

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Ketan Ved &
Shri Abdul Kadir Jawadwala
For the Respondent/Department : Shri Arun Kanti Datta

Date

Conclusion of hearing : 23.12.2025
Pronouncement of order : 01.01.2026

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 07/08/2025, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the **CIT(A)**'] whereby the Ld. CIT(A) had partly allowed the appeal against the Assessment Order, dated 30/09/2021, passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] for the Assessment Year 2018-2019.
2. The Assessee has raised following grounds of appeal :
 - "1. *The order passed by the learned CIT(A) is ultra vires, illegal, bad in law and contrary to the provisions of the Income-tax Act,*

1961 ["the Act"].

Assessment order passed without issuance of show cause notice – hence bad in law.

2. *The learned CIT(A) erred in not holding the assessment order to be invalid and void ab initio, having been passed by the Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income-tax Officer, National Faceless Assessment Centre, Delhi without issuing a mandatory show cause notice as required under the National Faceless Assessment Scheme, 2019.*

Addition of Rs.33,83,80,861 under normal provisions of the Act.

3. *The learned CIT(A) erred in confirming the addition of Rs.33,83,80,681 made by the Learned AO under the head "Any other amount allowable as deduction under Schedule BP".*
4. *The learned CIT(A) has erred in law and on facts by passing the order without considering the adjournment request duly filed by the Appellant, thereby not granting the Appellant an adequate opportunity of being heard and thus violating the principles of natural justice.*

Addition of Rs.33,83,80,681 to Book Profit under Section 115JB of the Act.

5. *The learned CIT(A) erred in confirming the addition of Rs.33,83,80,681 to the book profit computed under section 115JB of the Act, without appreciating that disallowances under normal provisions do not automatically translate into adjustments under Section 115JB of the Act.*
6. *The learned CIT(A) has erred in law and on facts by passing the order without considering the adjournment request duly filed by the Appellant, thereby not granting the Appellant an adequate opportunity of being heard and thus violating the principles of natural justice.*

Consequential levy of interest under section 234C of the Act

7. *The learned CIT(A) erred in confirming the levy of interest under section 234C of the Act amounting to Rs.14,96,706, without appreciating that such interest is leviable on returned income, not on assessed income.*

Others.”

3. The relevant facts in brief that the Assessee is an Indian private limited company engaged in providing Information Services and Income Tax Enabled Services (ITES). For the Assessment Year 2018-2019 the Assessee filed return of income on 28/11/2018. The case of the Assessee was selected for regular scrutiny and assessment under Section 143(3) read with Section 144B of the Act was framed on the Assessee vide Assessment Order, dated 30/09/2021. The Assessing Officer, inter-alia, made an addition of INR.33,83,80,681/- invoking provisions contained in Section 37 of the Act. The relevant observations of the Assessing Officer are as under:

- "1. The details/documents etc furnished during the course of scrutiny assessment proceedings including the above reply has been perused, the CASS reasons are verified and the following disallowance/additions are made.*
- 2. The submissions of the assessee have been examined. It is observed from ROI of the assessee that he has claimed an amount of Rs.33,83,80,681/- under the head "Any other amount allowable as deduction" in Schedule BP. The assessee in his reply dt 06/04/2021 neither explained nor furnished any documents in support of the amount claimed under the head "Any other amount allowable as deduction" in Schedule BP amounting to Rs.33,83,80,681/-. Further, on perusal of the computation of income, ITR and other information available on record, it is seen that the assessee has not disclosed the details of amount of Rs.33,83,80,681/- that is "Any other amount allowable as deduction" in Schedule BP.*

Hence, the assessee's claim of "Any other amount allowable as deduction" in Schedule BP of Rs.33,83,80,681/- is disallowed and is added to the income of the assessee company u/s.37 of the Income Tax Act."

The Assessing Officer also increased the Book Profit by the aforesaid amount of INR.33,83,80,681/- by computing Book Profit under Section 115JB of the Act.

4. The Assessee preferred the appeal against the Assessment Order before the Learned CIT(A) challenging, inter-alia, the disallowance of INR.33,83,80,681/- made by the Assessing Officer under Section 37 of the Act as well as the enhancement of profits as per Profit and Loss Account by the said amount for the purpose of computing Book Profits under Section 115JB of the Act. The Learned CIT(A) dismissed the grounds raised by the Assessee observing that Assessee had failed to furnish any details/explanation in support of the said ground and therefore, the findings of the Assessing Officer remained un-rebutted.
5. Being aggrieved, the Assessee had now carried the issue in appeal before this Tribunal.
6. The Learned Authorized Representative appearing before us submitted that the amount of INR.33,83,80,861/- comprised of the following:

Sr. No	Particulars	Amount (INR.)	Remarks
1.	Profit on sale of assets	38,33,275	Pertains to the gain arising on the sale of certain assets during the year, which has already been credited to the Profit and Loss Account and being capital in nature is claimed as a deduction under the head Sch – BP ‘Any other amount allowable as deduction’ which will be taxed separately.
2a.	Bonus/commission to employees – INR.32,28,14,619/-	33,45,47,406	Amount incurred during the year and paid on or before the due date of filling the return of income and thus claimed as allowable under the head Sch – BP ‘Any other amount allowable as deduction’ in terms of section 43B
2b.	Awards (Bonus) to employees INR.1,17,32,787/-		
Total		33,83,80,681	

- 6.1. It was submitted that the above said amount of INR.33,45,47,406/-

has been added/disallowed as well as deducted/allowed by from the Business Income in the return of income for the Assessment Year 2018-2019. As a result the same did not have any impact on the computation of income. While the Assessing Officer had taken into consideration the amount deducted/allowed, the amount added/disallowed in the computation of income was not taken into consideration by the Assessing Officer. In support the Learned Authorized Representative for the Assessee provided the following details/explanation in the tabular form:

Particulars	Amount (INR.)	Reference
<u>A. Added/disallowed in the Income-tax Return ['ITR']</u>		
<i>Amount incurred during the year for Bonus and awards and paid on or before due date of filing the return of income – section 43B</i>	<i>33,45,47,405 [forming part of the net disallowance of INR.20,28,64,973 (break-up at Page No.45 of the Paper Book) in the ITR]</i>	<i>Disclosed in ITR under Sch-OI Clause 7j – any other amount not allowable under section 37/under Sch – BP at Sr. 15 'Amount debited to profit and loss account to extent disallowable under section 37 [7k of Part A – OI] – refer page Nos. 31 and 35 of the Paper book) Clause 26(i)(B)(a) of the Tax Audit Report – refer Page No.44 of Paper Book)</i>
<u>B. Deducted/Allowed in the Income-tax return [ITR']</u>		
<i>Amount incurred during the year for Bonus and awards and paid on or before due date of filing the return of income – section 43B</i>	<i>33,45,47,406 [forming part of deduction of INR.33,83,80,681 (break-up at Page No.45 of the Paper book) in the ITR]</i>	<i>Disclosed in ITR under Sch – BP Clause 33 – any other amount allowable as deduction – refer Page No.36 of Paper Book) Clause 26(i)(B)(a) of Tax Audit Report – refer Page No.44 of Paper book)</i>
C. Net impact [A – B]	Nil	

- 6.2. On the strength of the above it was submitted by the Learned Authorized Representative for the Assessee that the disallowance made by the Assessing Officer under Section 37 of the Act should be deleted under normal provisions of the Act and the same should not have been added while computing Book Profits under Section 115JB of the Act. It was further submitted that disallowance made under the normal provisions of the Act cannot, in any case, be mechanically added to the Book Profits under Section 115JB unless they expressly fall within the ambit of the adjustments specified in Explanation 1 to Section 115JB(2) of the Act. The impugned addition/disallowance of INR.33,83,80,681/- did not fall under any of the prescribed adjustment clauses in Explanation 1 to Section 115JB(2) of the Act so as to warrant an addition to Book Profits under Section 115JB of the Act.
7. Per contra Learned Departmental Representative submitted that the Assessee had failed to submit the break-up of the aforesaid amount of INR.33,83,80,681/- in the assessment proceedings or in the appellate proceedings before the Learned CIT(A). Therefore, the authorities below were justified in rejecting the claims/grounds raised by the Assessee. It was further, submitted that the claim made by the Assessee could not be allowed without proper verification by the Assessing Officer.
8. In rejoinder the Learned Authorized Representative for the Assessee submitted that breakup of the amount of INR.33,83,80,681/- formed part of the assessment records. Referring to Schedule BP [*any other amount allowed as deduction*] of the Return of Income for the Assessment Year 2018-2019 and the computation of income, it was submitted that the break-up of the said amount was available with the Assessing Officer. Referring to the relevant extract of the Assessment Order (reproduced in Paragraph 3 above), the Learned Authorized

Representative for the Assessee submitted that the Assessee had submitted details and submissions before the Assessing Officer. However, the query raised by the Assessing Officer was answered from the perspective of Income Computation and Disclosure Standards in absence of specific show-cause notice issued by the Assessing Officer.

9. We have considered the rival submissions and have perused the material on record. Details furnished by the Assessee (including Schedule BP and OI forming part of return of income) prima facie support the contention advanced on behalf of the Assessee that the said amount of INR.33,83,80,681/- has been added/disallowed as well as deducted/allowed by the Assessee from the Business Income for the Assessment Year 2018-2019. Thus, having no impact on the determination of the Business Income. However, the Assessing Officer has not taken into consideration deducted/allowed by the Assessee. During the course of hearing it was submitted by the Learned Departmental Representative that the details furnished by the Assessee required examination/verification. Therefore, taking the same into consideration we remit the issue back to the file of Assessing Officer for denovo adjudication after taking into consideration the breakup/details of amount of INR.33,83,80,681/- and the correspondence explanation offered by the Assessee. It is clarified that the Assessee shall be granted reasonable opportunity of being heard. In terms of the aforesaid disallowance of INR.33,83,80,681/- made by the Assessing Officer under Section 37 of the Act is set aside. Accordingly, Ground No. 3 & 4 raised by the Assessee is allowed for statistical purposes.
10. As regards Ground No.5 raised by the Assessee pertaining to the computation to Book Profit under Section 115JB of the Act is concerned, we deem it appropriate to set aside the issue to computation to Book Profit by the Assessing Officer as we have

already set aside the connected issue raised in Ground No.3 & 4 back to the file of Assessing Officer. Accordingly, Ground No. 5 raised by the Assessee is also allowed for statistical purposes.

11. Since we have disposed off Ground No.3 to 5 as above, Ground No. 1 and 2 are dismissed as having been rendered academic at this stage.
12. Ground No.6 raised by the Assessee is dismissed as not pressed.
13. Ground No.7 raised by the Assessee pertaining to levy of interest under Section 234C of the Act is disposed off as being consequential in nature.
14. In terms of paragraph 9 to 13 above, the present appeal preferred by the Assessee is partly allowed.

Order pronounced on 01.01.2026.

Sd/-
(Jagadish)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 01.01.2026
Milan, LDC

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai