

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1739/Bang/2025
Assessment Year : 2011-12

M/s. Bhuwalka Pipes Pvt. Ltd. SOLUS 8 th Floor, E&G No.2, 1 st Cross, JC Road Bengaluru 560 027 Karnataka PAN NO :AABCB7778E	Vs.	DCIT Circle 2(1)(1) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Mr. Joseph Varghese, A.R.
Respondent by	:	Sri Balusamy N., D.R.

Date of Hearing	:	06.01.2026
Date of Pronouncement	:	06.01.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of the Id. CIT(A)/NFAC dated 10.1.2025 vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1072078366(1) passed for the assessment year 2011-12 u/s 250 of the Income Tax Act, 1961 (in short “the Act”).

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

1. The order of the Commissioner of Income-tax (Appeals), NFAC, Delhi passed under section 250 of the Income Tax Act dated 10/01/2025 for Assessment Year 2011-12 is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.
2. The learned Commissioner of Income-tax (Appeals) is not justified in law in not following directions of the Hon'ble Karnataka High Court in the appellant's own case in ITA No. 162 of 2020 dated 06.03.2023 on the facts and circumstances of the case.
3. The learned Commissioner of Income-tax (Appeals) is not justified in law and on facts in holding that there is no provision under the Act to file an appeal under section 246A against the assessment order which was already travelled upto Income Tax Tribunal and decided on favour of the Revenue on the facts and circumstances of the case.
4. The learned Commissioner of Income-tax (Appeals) is not justified in law and on facts in not condoning the delay in filing the appeal of 5 years 165 days on the facts and circumstances of the case,
5. The learned Commissioner of Income-tax (Appeals) failed to appreciate that there is sufficient cause for delaying the filing the appeal by 5 years 165 days on the facts and circumstances of the case.
6. The order passed by the learned Commissioner of Income-tax (Appeals) is in violation of the principles of natural justice in not providing the appellant adequate opportunity to the appellant to file submissions on the facts and circumstances of the case.
7. The learned Commissioner of Income-tax (Appeals) failed to adjudicate the issues on merits of the matter with respect to the additions made in the assessment order passed under section 143(3) of the Act on the facts and circumstances of the case.
8. The appellant denies itself liable to be assessed at a sum of Rs. 5,87,97,980/- as assessed by the learned Assessing officer and modified by the order passed under section 154 of the Act dated 30.09.2014 based on the mistake in assessment order on the facts and circumstances of the case.
9. The appellant craves leave of this Hon'ble Tribunal, to add, alter, delete, amend or substitute any or all of the above grounds of appeal as may be necessary at the time of hearing.
10. For these and other grounds that may be urged at the time of hearing of appeal, the appellant prays that the appeal may be allowed for the advancement of substantial cause of justice and equity.

3. The only contention in this case raised before us is that the ld. CIT(A)/NFAC had passed the appellate order on 10.1.2025 dismissing the appeal of the assessee by not condoning the delay in filing the appeal without considering the direction by the Hon'ble High Court of Karnataka in assessee's own case for the same assessment year 2011-12 in IT Appeal No.162 of 2020 dated 6.3.2023.

4. Before us, the ld. A.R. of the assessee vehemently submitted that the assessee subsequent to the final order passed by the Hon'ble High Court in ITA No.162 of 2020 dated 6.3.2023 approached the jurisdictional assessing officer intimating about the direction of Hon'ble High Court. The AO suggested the assessee to file a letter to the ld. Addl. CIT, Range-1(1) intimating about the said final order passed by the Hon'ble High Court. In view of the same, the assessee filed a letter dated 6.10.2023 before the ld. Addl. CIT, Range -1(1) intimating about the final order passed by the Hon'ble High Court. [Placed at pages 29-36 of the PB-1]

4.1 The ld. A.R. of the assessee further submitted that the order of the Hon'ble High Court of Karnataka dated 6.3.2023 in ITA No.162 of 2020 was not brought to the notice of ld. CIT(A)/NFAC due to genuine inadvertence. In fact, the assessee had approached the Circle office and was informed to provide the circle office with the copy of the judgement. However, it appears that the same was not communicated by the circle office. Having submitted a copy to the circle office, the assessee genuinely believed that very responsibility to intimate the department of the judgement dated 6.3.2023 was discharged. Lastly, the ld. A.R. submitted that the issue in dispute may be restored to the file of ld. CIT(A)/NFAC to adhere to the direction given by the Hon'ble High Court in ITA No 162/2020 dated 06/03/2023.

5. The Id. D.R. on the other hand, has no objection whatsoever if the mater is remanded back to the file of Id. CIT(A)/NFAC with a direction to follow the directions as given by the Hon'ble High Court.

6. We have heard the rival submissions and perused the materials available on record. On going through the order of Hon'ble High Court in the case of assessee for the A.Y 2011-12 in ITA No.162 of 2020, dated 6.3.2023, we take a note of the fact that Hon'ble High Court had categorically observed that since the appeal on main assessment order is pending before the Id. CIT(A)/NFAC for consideration and accordingly directed the Id. CIT(A)/NFAC to consider the documents upon which the assessee relied while disposing of the appeal, wholly uninfluenced by the order passed by the ITAT. The relevant observations of the Hon'ble High Court are reproduced below for ease of reference: -

“5. Shri Sanmathi submitted that the orders of the AO, CIT(A) and ITAT have arisen out of the assessee's application filed under section 154 of the Act. The assessee's appeal on the main assessment order is pending consideration before the CIT(A). Therefore, the issue can be considered on merits by the CIT(A). Hence, this appeal does not merit any consideration. Accordingly, he prayed for dismissal of the appeal.

6. Ms. Lakshmi Menon did not dispute the facts stated by Shri Sanmathi and submitted that assessee would be satisfied if CIT(A) is directed to consider the appeal on merits by considering the agreements placed before the Assessing Authority and other supporting evidence. The said submission is just and fair.

7. Since the appeal on main assessment order is pending before the CIT(A) for consideration, in our opinion, ends of justice would be met by directing CIT(A) to consider the documents upon which the assessee relies, while disposing of the appeal, wholly uninfluenced by the orders passed by the ITAT. Ordered accordingly.”

6.1 We are of the considered opinion that judicial discipline requires that the decision of the higher authority should be followed meticulously and accordingly we direct the Id. CIT(A)/NFAC to pass

an order in accordance with the direction of the Hon'ble High Court of Karnataka in ITA No.162 of 2020 dated 6.3.2023 and decide in accordance with law. It is ordered accordingly.

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

Order pronounced in the open court on 6th Jan, 2026

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 6th Jan, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.