

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI  
BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 4976/Del/2024  
(Assessment Year: 2016-17)

Income Tax Officer, Ward-10(1), Delhi	Vs.	Goverdhan Transport Company Pvt. Ltd, B/2, Tyagi Vihar, Nangloi, Delhi
(Appellant)		(Respondent)
		<b>PAN: AADCG0663R</b>

Assessee by :	Ms. Rano Jain, Adv Shri Pranshu Singhal, CA Ms. Mansi Jain, Adv
Revenue by:	Shri Rajesh Kumar Dhanesta, Sr. DR
Date of Hearing	03/12/2025
Date of pronouncement	09/01/2026

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.4976/Del/2024 for AY 2016-17, arises out of the order of the Id National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2024-25/1068175548(1) dated 30.08.2024 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 27.12.2018 by the Assessing Officer, ADCIT, Circle-10(1), New Delhi (hereinafter referred to as 'Id. AO').
2. The only issue to be decided in this appeal is as to whether the Learned CIT(A) was justified in deleting the disallowance of executive remuneration under section 37(1) of the Act in the sum of Rs 6,98,64,000 in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The return of income for the assessment year 2016-17 was filed by the Assessee Company on 16-10-2016 declaring total income of Rs 34,87,360/-. The company is into the business of transport for running public carriage buses under public-private partnership with the state government. The Assessee was directed to furnish the details of executive remuneration expenses of Rs 6,98,64,000/- by the Learned AO vide notice under section 142(1) of the Act. The Assessee furnished the details before the Learned AO vide letter dated 12-12-2018, stating that the monthly executive remuneration was Rs 58,22,000 and the total sum debited there on was Rs 6,98,64,000 (58,22,000 X 12 months). The Assessee also gave the complete list of employees to whom the executive remuneration was paid. It comprised of 48 employees to whom monthly remuneration was paid. The tax deducted at source on the said remuneration details were also duly furnished by the Assessee in respect of each of those employees in a tabular form. The learned AO again sought for the details of executive remuneration asking for the details of PAN of each of the employees together with their respective designation and responsibility of job assigned to them. These details were duly furnished by the Assessee in a tabular form enclosed in pages 157 to 158 of the paper book comprising of employee number, month of appointment of the employees, employee name, their PAN, their designation, their responsibility of job assigned to them, their gross salary, TDS and net salary. It was also submitted before the learned AO that the executive salary is paid to 48 executive staff who are managing the entire operations of the 111 buses and about 500 odd staff of drivers and technicians. It was also submitted before the learned AO that all the salaries are paid through regular banking channels after due deduction of tax at source.

The Assessee also enclosed the copy of TDS returns vide letter dated 24-12-2018 before the learned AO.

4. The Learned AO issued summons under section 131 of the Act to all the employees. He noticed that most of the summons returned unserved. Further wherever the summons were served, no response was made from the side of the employees. Accordingly, the Learned AO concluded that the validity and genuineness of expenses booked in the name of executive remuneration cannot be established by the assessee. The Learned AO also issued notice under section 133(6) of the Act to all the 48 persons who had received remuneration. In the said notice, the employees were asked to provide the details of remuneration received during the year. Out of 48 notices, 11 returned unserved citing reasons such as 'no such person'; 'no such address found' ; 'left' etc. However, no information was received from any of them who had received the notice. Later the Inspector of income tax attached to the Learned AO was directed to conduct a field inquiry on random basis to find out the details of identity and genuineness of these 48 persons. The inspector made verification of certain employees on random basis and found that none of the employees were found at the given address and in the said address some other persons were staying. Considering all these facts, the Learned AO concluded that assessee could not prove the genuineness of incurrence of expenditure of executive remuneration in the sum of Rs 6,98,64,000/- as meant for the purpose of its business and accordingly proceeded to disallow the same under section 37(1) of the Act in the assessment.

5. The learned CIT(A) noted in para 15 of his order that Assessee owns 111 buses playing at different routes in Delhi under DTC cluster scheme and has staff of around 500 persons engaged in the running of these buses in the form of drivers, conductors, cleaners, etc. The learned

CIT(A) noted that in order to manage this large number of personnel, the Assessee had engaged 48 persons on its roles giving monthly salary. Since these persons have to do mainly the coordination of these drivers, conductors, cleaners, etc, with the buses running on different routes, these persons are not required to have any professional qualifications and that most of these are graduates or even lesser qualified. The learned CIT(A) noted that apart from the executive remuneration paid to 48 employees, the Assessee had also paid salaries and wages to the field workers amounting to Rs. 5,04,31,529/- and both the executive remuneration and salaries and wages are debited in the profit and loss account wherein the Assessee had reported a turnover of around 47 crores. It was explained that all these employees have duly declared the salary income in their return of income and Assessee had deducted the due tax at source out of these payments and all the payments were made through regular banking channels. Based on these, the Learned CIT(A) deleted the disallowance made in the sum of Rs 6,98,64,000/-.

6. The Learned AR before has submitted that in earlier year, the Learned AO disallowed the executive remuneration only in respect of three employees for whom the ITRs could not be filed and the same could not be filed even before the Learned CIT(A) and ultimately the executive remuneration paid to those three employees stood confirmed up to level of CIT(A). The Assessee gracefully accepted the same by not preferring any appeal to this Tribunal. The Learned AR submitted and also made a statement from the bar that those three employees were not paid any executive remuneration during this year. The Learned DR submitted that the Learned CIT(A) had nearly gone by the submissions made by the Assessee and had not met any of the adverse observations made by the Learned AO. No additional documents were also furnished by the Assessee

before the Learned CIT(A) which would enable the Learned CIT(A) to take a divergent stand with that of the Learned AO. The Learned AR drew our attention to entire volume 2 of the paper book comprising of pages 318 to 756 of paper book containing the replies filed by each of the employees enclosing the letter of their appointment, copy of Aadhaar card and PAN card, copy of acknowledgement of income tax returns and copy of Form No. 16. These replies were stated to be filed by the employees in response to notice under section 133(6) of the Act. Hence, it was submitted that no response was filed in response to notice under section 133(6) of the Act before the Learned AO by the 48 employees is factually incorrect. We find that the Learned AO had categorically noted in the assessment order that notice under section 133(6) of the Act stood issued to all the 48 persons and the notices for 11 persons had returned unserved. While this is so, it is not known how those 11 persons could have furnished any response to the notice issued under section 133(6) of the Act before the Learned AO. Similarly, the Learned AO had also noted that the parties to whom notice under section 133(6) of the Act were served did not respond to the same. In these circumstances, the veracity of the documents furnished in the paper book requires factual verification. Hence, in the interest of justice and fair play, we deem it fit and appropriate to restore this entire appeal to the file of Learned AO for de novo adjudication for examination of these evidences furnished in pages 318 to 756 of the paper book to prove the genuineness of executive remuneration and its nexus with the business of the Assessee. Needless to mention that the Assessee be given reasonable opportunity of being heard. With these observations, the grounds raised by the Revenue are allowed for statistical purposes.

7. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 09/01/2026.

-Sd/-

**(C. N. PRASAD)**  
**JUDICIAL MEMBER**

-Sd/-

**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 09/01/2026  
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR  
ITAT, New Delhi