

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, MUMBAI  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER  
ITA No. 6504/MUM/2025 (AY: 2013-14)  
(Physical hearing)**

Balkan Chemicals Private Limited A/183, MIDC Phase 1, Dombivali (East), Thane, Maharashtra -421 201. <b>[PAN : AAACB1980D]</b>	Vs	ITO – 1(1), Kalyan Mohan Plaza Khadakpada, Kalyan-Dombivali, Maharashtra – 421301.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Jayant R. Bhatt, CA
Revenue by	Shri Layaqat Ali Aafaqui, Sr. DR
Date of Institution	06.10.2025
Date of hearing	12.01.2026
Date of pronouncement	12.01.2026

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER;**

This appeal by assessee is directed against the order of Id. CIT(A)/NFAC dated 17.04.2024 for Assessment Year (AY) 2013-14. The assessee has raised following grounds of appeal:

*"1. Under the facts and circumstances of the case and in law the order passed by the Id. CIT(A) being bad in law on various counts and that the same should be set aside.*

*2. Under the facts and circumstances of the case and in law the order passed by the Id. CIT(A) in violation of natural justice the same should be set aside.*

*3. Under the facts and circumstances of the case and in law the Id. CIT(A) has erred in not condoning the delay and hence the order passed by the Id. CIT(A) be set aside.*

*4. Under the facts and circumstances of the case and in law the Id. CIT(A) has erred in 4 confirming the addition made by the AO amounting to Rs. 20974000/- and that the same be deleted.*

*The appellant craves right to add, amend, alter, modify or substitute any or all of the grounds of appeal at the time of hearing."*

2. Rival submissions of both the parties have been heard and record perused. The Id. Authorized Representative (Id. AR) of the assessee submits that assessment order was passed on 28.03.2016. Against the addition in the assessment order, the assessee filed appeal before Id. CIT(A) on 25.04.2016. The appeal was filed in physical form. In the year 2016, the system of e-appeal (online / electronically) was introduced with effect from 01.03.2016, which was later on extended from 26.05.2016. The Id. CIT(A) dismissed the physical / manual appeal of assessee with the direction to file appeal electronically with condonation of delay vide order dated 03.05.2018, copy of order is placed on record. On receipt of order of Id. CIT(A) dated 03.05.2018, which was received somewhere in third or fourth week of May, 2018, the assessee immediately filed appeal electronically on 31.05.2018. Though, there was no delay in filing such appeal as it was filed as per direction of order of Id. CIT(A). The assessee filed appeal within reasonable time. The assessee also filed an application for condonation of delay. The Id. CIT(A) again dismissed the appeal of assessee vide order dated 17.04.2024 by not condoning the delay. Although, there was no delay in filing said appeal before Id CIT(A). He has ignored the fact that initially the appeal was filed in time and again it was filed as per direction of his predecessor. Order dated 17.04.2024, passed by Id CIT(A) was not communicated either electronically or in physical mode. The Id. CIT(A) rejected the appeal of assessee without giving any show cause notice. As

there was no communication from either through ITBA portal or from office of Id. CIT(A) or NFAC, the assessee approached jurisdictional assessing officer with the request to expedite the matter and filed application dated 26.09.2025. In response to such letter, the jurisdictional assessing officer handed over order of Id. CIT(A). The assessee immediately filed present appeal on 06.10.2025. Thus, order of dismissal of appeal by Id. CITA) was communicated to assessee for the first time only on 26.09.2025. From the date of communication, there is no delay. Yet for abundant caution in explaining the fact, the assessee has filed application for condonation of delay. The assessee in Form-36 has mentioned the date of communication as of 26.09.2025. The Id. AR of the assessee submits that neither there was a delay in filing appeal before Id. CIT(A) nor before the Tribunal. The Id. CIT(A) has not adjudicated the appeal on merit. The assessing officer also passed the assessment order for the want of certain compliance, therefore, matter may be restored back to the file of assessing officer for passing the assessment order afresh. He undertakes on behalf of the assessee to be more vigilant in making timely compliance.

3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the Revenue submits that there was delay that is inordinate delay in filing appeal before First Appellate Authority as well as delay before Tribunal. The assessee has not explained the delay, thus, delay may not be condoned and appeal may be dismissed as unadmitted.

4. We have considered the rival submissions of both the parties and have gone through the lower authorities carefully. On perusal of material placed before us, we find that assessment order was completed on 27-28/03/2016. The assessee filed appeal in physical form on 24.04.2016. Thus, the appeal in first round was filed in time. As such appeal was filed physically, it was dismissed for technical reason with the direction to file appeal electronically. Such order was passed on 03.05.2018, copy of which is also available on record. As the order was passed on 03.05.2018, certainly it may have been communicated / sent by way of registered post or by hand. The assessee by the end of the same month filed appeal electronically on 31.05.2018. Such fact is clearly acknowledged by Id. CIT(A) in his order dated 17.04.2024. The Id. CIT(A) rejected the appeal by taking view that explanation of delay is not satisfactory. The Id. CIT(A) has not recorded as to what explanation was offered. He has not recorded whether any show cause notice was issued or not. Once, appeal was rejected, the grounds of appeal on merit was also summarily rejected. Considering the fact that physical appeal was dismissed on 03.05.2018 and appeal in electronic view was filed on 03.05.2018, in our considered view, there was no delay and even in case there was delay the conduct of assessee shows that there is no deliberated action of assessee which may be considered as negligent act of assessee. Thus, even if any such small delay, is condoned. So far as, further, delay in filing appeal before Tribunal, the assessee in Form 36 (before Tribunal) has clearly mentioned that

impugned order was communicated on 26.09.2025. To support his view, the assessee filed affidavit of one of the director of assessee company wherein it has been specifically mentioned that physical copy of order passed by Id. CIT(A) on 27.04.2024 was communicated by assessing officer in response to their letter dated 26.09.2025. Thus, from the date of communication, we find that appeal is within time. No rebuttal to such affidavit is given by Revenue except objecting the prayer of assessee. Even otherwise the registry of this Tribunal has not raised objection about the delay. Thus, in our view, there is no delay in filing appeal even if it is considered that there is delay, such delay is duly explained, which we accept as reasonable. Therefore, delay in filing appeal otherwise is condoned.

5. On merit, we find that assessing officer made addition on account of unexplained credit and unexplained investment under section 68 & 69 respectively. The additions were made for the want of evidence to prove the identity, creditworthiness and genuineness of lender. Before us, the Id. AR of the assessee vehemently submitted that assessee is ready to discharge their onus to prove all three ingredients of section 68 and necessary discharge against additions under section 69. Considering the fact that Id. CIT(A) has dismissed the appeal without considering the merit, the assessing officer made addition for the want of sufficient evidence, therefore, we deem it appropriate to restore the matter to the file of jurisdictional assessing officer to pass the assessment order afresh. Needless to direct that before passing the

order afresh, the Id. AO shall allow reasonable opportunity to the assessee. The assessee is also directed to be more vigilant in future in timely. In the result, the grounds of appeal raised by the assessee are allowed for statistical purpose.

6. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 12/01/2026

Sd/-

Sd/-

**(ARUN KHODPIA)**  
**ACCOUNTANT MEMBER**

**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Mumbai; Dated 12 /01/2026  
Biswajit, Sr PS

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai