

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F", DELHI

BEFORE SHRI.RIFAUR RAHMAN, ACCOUNTANT MEMBER
And
SHRI VIMAL KUMAR, JUDICIAL MEMBER

ITA No.3665/DEL/2025
(Assessment Year: 2014-15)

ACIT, Circle-7(1),
Delhi

..... Appellant

Vs.

Eberspaecher Suetrak Bus Climate Control
Systems India P. Ltd.,
E-904, Second Floor, Chittranjan Park,
New Delhi 110019
PAN: AACCE3922E

..... Respondent

Appellant by : Shri Ved Jain, Adv.
Shri Aayush Garg, CA
Respondent by : Ms. Monika Singh, CIT-DR
Date of hearing : 19.01.2026
Date of pronouncement : 12.02.2026

ORDER

PER S.RIFAUR RAHMAN,AM:

The Revenue has filed appeal against the order of the Learned Commissioner of Income Tax, New Delhi ["Ld. CIT(A)", for short]/National Faceless Appeal Centre (NFAC) dated 24.03.2025 for the Assessment Year 2014-15.

2. Brief facts of the case are that the assessee filed its return of income on 28.11.2014 declaring a loss of Rs.2,69,92,980/-. The case was selected for scrutiny through CASS. Accordingly, notices u/s. 143(2) and 142(1) of the Income Tax Act, of the Income Tax Act,1961 (hereinafter referred to as 'the Act') were issued; however, the same remained unserved upon the assessee. Several notices were

thereafter issued and adjournments were granted on various occasions. As there was no compliance, a final notice under section 142(1) read with section 144 of the Act was issued on 15.11.2016. Even then, no one appeared on behalf of the assessee. On the basis of the information available on record, the Assessing Officer completed the assessment by making substantial additions under section 68 of the Act in respect of share capital and trade creditors. The Assessing Officer further disallowed current liabilities, various expenses, depreciation and warranty provisions.

3. Aggrieved by the assessment order, the assessee preferred an appeal before the NFAC, Delhi. Before the learned CIT(A), the assessee filed detailed submissions, raised several grounds of appeal and also furnished additional evidences to substantiate its claim that the information reflected in the financial statements was genuine.

4. After considering the submissions and additional evidences, a remand report was called for from the Assessing Officer. In response Assessing Officer vide his report dated 22.06.2018 submitted as under:-

“5.1.2 During the instant appellate proceedings, the Additional evidences submitted by the appellant were sent by the CIT(A)-3, New Delhi, to the assessing officer for remand report on 25.08.2017. Further, vide his letter dated 04.06.2018, The CIT(A)-3, again requested for Remand Report on the Additional Evidences submitted by the appellant. In response to this letter the assessing officer vide his report dated 22.06.2018 has submitted that:

“Now, the assessee has filed an application under rule 46A as additional evidences along with submissions during the appellate proceedings before your good self. After verification of details submitted by the assessee along with additional evidence it is appears genuine but the genuineness of

various transactions and documents filed by assessee cannot be fully verified by the undersigned without having access to original documents, bills and vouchers and without issuing notices to parties u/s 133(6) of the IT Act.

In view of the facts and circumstances of the case, the Ld. CIT(A) may decide the case on merit”

5. Further, vide letter dated 30.07.2018, another communication was sent to the Assessing Officer seeking the remand report. However, the Assessing Officer reiterated his earlier remand report dated 22.06.2018 and merely informed that the remand report in the instant case had already been submitted. Not being satisfied, another remand report was again called for, in response, Assessing Officer submitted as under:-

“5.1.4 The Assessing officer vide his another remand report dated 07.09.2018 has stated that the additional evidences submitted by the appellant should not be admitted in the light of provisions of Rule 46A of Income Tax Rule 1962. The relevant part of the remand report dated 07.09.2018 is reproduced as under:

“During the course of assessment proceedings, AO has provided sufficient and ample opportunities to the assessee on above mentioned dates. The assessee was not prevented from filing of any supporting evidence in reference to various additions made nor was it refused to admit such evidence during the assessment proceedings.”

6. Thereafter, the appeal was transferred to the NFAC, which once again sought a remand report from the Assessing Officer. However, vide remand report dated 17.02.2025, the Assessing Officer recommended that the additional evidences should not be admitted in view of Rule 46A of the Income-tax Rules, stating that the assessee had not fulfilled the conditions prescribed therein. A response to the remand report was called for from the assessee. In response assessee has submitted as under:-

“5.1.9 The remand report dated 17.02.2025 was provided to the appellant to give his comments on it. The relevant part of submissions of the appellant are reproduced as under:

“It may be verified that the Assessing officer had served all the Notices at the Address which the Assessee had already left, prior to the start of Assessment proceedings and when the Assessee had duly intimated and updated the new address to the department.

Further, the Notice send by the Assessing officer has also been served on assessee from the personal email ID i.e, ‘nandysaurb@gmail.com’ on 25.11.2016 , which couldn’t be received by the Assessee, as the same was got rejected by the firewall security features of the IT system of the Company. Had the mail been send by the Assessing officer from the official email ID of the Department, the same wouldn’t have been rejected by the ‘firewall’ as emails having the domain name as ‘gov.in’ has specially be allowed by the firewall.

The addition had been made by the Assessing officer based on the non compliance by the Assessee against the Notice dated 15.11.2017, which itself had been received back unserved to the office of DCIT-Circle 8(1), New Delhi. Further, the said notice was subsequently served to the Assessee by the Assessing officer electronically on 25.11.2017 to the email id of assessee i.e., ‘kp.singh@eberspaecher.com’ . However, instead of sending the mail from official email id of Assessing officer, the same was served from mail id ‘nandysaurb@gmail.com’ which was protected by the firewalls installed in system of Assessee , which protected any email from unknown source to reach the system of assessee.

Thus, the Assessing officer had made all the opinions, assumption and presumptions based on the notice, which itself hadn’t been served properly. The additional documents submitted by the appellant were sent to the assessing officer for remand report.”

7. The learned CIT(A) accepted the contention of the assessee that it was prevented by sufficient cause from producing the relevant evidences before the Assessing Officer during the assessment proceedings. Accordingly, the learned

CIT(A) proceeded to adjudicate the appeal on merits. After considering the detailed submissions of the assessee, the learned CIT(A) disposed of the appeal by passing a reasoned order with the following observations. Para 5.4.3 to 6

“5.4.3 During the appellate proceedings the appellant has submitted that the during the relevant previous year, it has allotted 27,56,250 Equity Shares of Rs. 10 each to M/S Ebaspaecher Climate Control System-International on 26.03.2014. In support of the contention, the appellant has submitted the copy of the ledger account of share capital for the period 01.04.2013 to 31.03.2014, reflecting addition of Rs. 2,75,62,500/- in Share Capital account in the name of M/S Ebaspaecher Climate Control System-International. The appellant has also submitted the certificate of foreign inward remittance of the aforesaid amount received through Deutsche Bank. The appellant has also submitted the allotment resolution of the Board of company dated 26.03.2014 for allotment of 27,56,250 Equity Shares of Rs. 10/- each. The appellant has also submitted the valuation of the fair market value of Shares of the appellant company of M/S Y. K. Anand & Co. Which has valued the fair market value at Rs. 9.15 per Share.

5.4.4 The order appealed against and the submissions of the appellant have been perused. From the evidence submitted by the Appellant, it is apparent that during the relevant previous year the appellant had allotted 27,56,250 Equity Shares of Rs. 10 each to M/S Ebaspaecher Climate Control System-International, for which the appellant had received consideration through foreign remittances. During the appellate proceedings, the appellant has also submitted all the necessary evidences in support of transactions in respect of increase in share capital. Further, despite given numerous opportunities, the assessing officer has not given any adverse findings of the evidences/documents submitted by the appellant in this regard.

5.4.5 In view of the above, it is held that the appellant has successfully explained with all necessary documents, the source of the increase of share capital of Rs. 2,75,62,500/-. Therefore, the addition of Rs. 2,75,62,500/- u/s 68 of Income Tax Act on account of unexplained increase in share capital is not sustainable on the basis of the facts of instant case. Therefore, the addition of Rs. 2,75,62,500/- made u/s 68 of Income Tax Act is hereby deleted. 5.5 Further, the assessing officer has also made addition of Rs. 9,27,25,405/- u/s 68 of Income Tax Act on account of trade payable balance at the end of the relevant financial year ie. F.Y. 2013-14. In the assessment order, the assessing officer has observed that:

“4.1 On examining the ITR of the assessee for AY 2014-15, it was observed that the assessee has trade creditors the tune of Rs. 9,27,25,405/- from

different person/entities Vide notice dated 15.11.20.16 the assessee was asked to produce proper details to prove the genuineness of trade payables. The assessee was also informed that in absence of proper details the amount of trade payables will be treated as income from undisclosed sources u/s 68 of IT Act.

3.2 The approach used by the assessee company toward the scrutiny proceedings imply that assessee is deliberately trying to evade the proceedings and was not intended to furnish any details before the assessing officer. In view of the facts and circumstances the undersigned has no option but to treat the amount of trade payable as income from undisclosed sources.”

5.5.1 During the course of instant appellate proceedings, the appellant has submitted that the amount payable in respect of ‘Trade Creditors’ was payable in respect of the Purchase/Procurement of goods i.e., Raw Materials, traded goods, consumables, Packing Materials etc., purchased by the assessee during the financial year 2013-14 from the suppliers. In support of the contention in respect of sundry creditors the appellant has submitted the complete list of sundry creditors mentioning therein the name of parties and their PAN and complete addresses of the creditors. The appellant has also submitted the ledger copies of the creditors outstanding at the end of relevant financial year. The appellant has also filed confirmations or the Creditors.

5.5.2 In his remand report dated 22.03.2019, the assessing officer has reported that during the remand proceedings, out of 53 creditors to whom notices u/s 133(6) of Income Tax Act were issued, till the date of submission of remand report the replies were received in 11 cases only. However, in subsequent requests for remand report the assessing officer did not submit any report on the merit of the case.

5.5.3 The submissions of the appellant and the order appealed against have been perused. In the instant case the assessing officer has made the additions of trade payables only on the ground of non-submission of the details by the appellant. However, during the instant appellate proceedings the appellant has submitted details in respect of the trade payables. The appellant has also submitted confirmations from the trade creditors. Further, from the perusal of the copy of the ledger of the trade creditors, it is observed that there has been regular purchases and payments in the ledger accounts. It is also relevant that the payments were made to these trade creditors through banking channels.

5.5.4 During the instant appellate proceedings, the appellant had submitted the closing balance at the end of financial year 2010-11, 2011-12 and 2013-4, of the

creditors having closing balance of more than Rs. 10,00,000/- as on 31.03.2014.
The details submitted by the appellant is reproduced as under:

	Financial Year 2012-13	Financial Year 2011-12	Financial Year 2010-11
Eberspaecher Suetrak GMBH & Co. KG(Germany)	35,863,345	2,59,72,937	12,065,075
Eberspacher Climate Control Systems GmbH & Co KG	65,362	-	129,840
GEA Bock (India) Pvt Ltd	28,54,846	-	-
J.Eberspaecher GMBH & CO.KG	3,794,372	10,28,348	2,225,052
KendrionLinnig GMBH	-	44,38,421	-
Valeo India Private Limited	-	-	-
Victory Flag Automotives	-	-	-
Lloyd Electric & Engineering Ltd	1,83,329	-	-
Sudarshan Auto Electrical Components Pvt Ltd	2,38,511	21,48,026	8,48,414
Presston Engineering Corporation	9,08,903	21,46,503	17,321

5.5.5 From the above details it is observed that all the big trade creditors are in regular transactions with the appellant and they have varying closing balance over the years. The ledger account of the trade creditors are show regular pattern of purchase and payments throughout the years.

5.5.6 In the instant case the addition for unexplained sundry creditors have been made only on account of non-compliance by the appellant. In the remand proceedings the notices u/s 133(6) issued to some creditors were not responded till the submission of the remand report. It is also relevant to mention here that the most of creditors were for purchases or expenses. These purchases or expenses have not been held bogus by the assessing officer.

5.5.7 Further, the Hon'ble jurisdictional High Court of Delhi in the case of PCIT-7, Delhi vs M/S Wel Intertrade Pvt. Ltd (ITA No. 135/2023) in its judgment dated 07.03.2023 has held that mere non response to notice u/s 133(6) of the Income Tax Act by a creditor cannot be basis of addition u/s 68 of Income Tax Act. The relevant part of the judgement of the Hon'ble Jurisdictional High Court is reproduced as under:

15. In our view, the Tribunal adopted the correct approach. Merely because the respondent/assessee had not repaid the balance amount i.e., Rs.1.83 crore, and the creditor had not responded to the notice issued under Section 133(6) of the Act could not have been used as a reason by the AO to make an addition.

5.5.8 In view of the above, it is held that the appellant has successfully explained the genuineness of trade creditors outstanding at the end of the relevant financial year. Therefore, the addition of Rs. 9,27,25,405/- u/s 68 of Income Tax Act on account of trade payable is not sustainable on the facts of the instant case. Accordingly, the addition of Rs. 9,27,25,405/- u/s 68 of Income Tax Act on account of trade payable is hereby deleted.

5.5.9 Thus, the ground of appeal numbered as 4(i) is allowed.

5.6 Vide 4(ii) ground of appeal the appellant has challenged the addition of Rs.70,41,169/- i.e., 25% of the Current Liabilities amounting to Rs.2,81,64,676/- as on 31.03.2014.

While making this addition the assessing officer has observed that:

5.1 On examining the ITR of the assessee for AY 2014-15, it was observed that the assessee has current liabilities to the tune of Rs. 2,81,64,676/-. Vide notice dated 15/11/2016 the assessee was asked to produced proper details to prove the genuineness of the current liabilities. The assessee was also informed that in absence of proper details 25% of the amount of current liabilities will be disallowed which is worked out to Rs. 70,41,169/-.

5	<i>Withholding and Other Taxes and Duties Payable</i>	14,86,731
6	<i>Payable to employee</i>	2,92,614/-
7	<i>Payable for Expenses</i>	1,00,90,851
	<i>Total</i>	1,40,15,025/-

c) In respect of the liabilities stated above, we are to further state as under:

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(i) Vehicles have been obtained on finance lease basis. The legal title of these items vests with the Lessor. The Lease term is 4 Years with equated monthly payments beginning from September 2013, on which rate of interest implicit is 1.5%. The Long term provision against the finance lease obligation amounts to Rs.7,74,135/-, while the current maturities of Finance Lease obligations amounts to Rs.2,53,555/-.

(ii) Rent Equalization reserve is created where there is a rental agreement for the Office/Factory building facility and the contract includes the clause of Lock-in Period and a yearly enhancement mainly as percentage of increment and the contract is made for more than a year. So to make an equal yearly treatment of the total committed amount for the full tenure of the contract period, rent equalization reserve is created to give effect the actual rent paid and rent equalization amount. Detail calculation is attached for reference.

(iii) That the details in respect payment of "withholding & other duties" outstanding as on 31.03.2014, in next financial year along with copies of challan is enclosed herewith at Page 51 to 64 of this letter. d) That the details in respect of the Short Term Provisions shown under the Note -9 attached to the Financial statement is detailed hereunder:-

<i>S No</i>	<i>Nature of Liability</i>	<i>of Rupees</i>	<i>Remarks</i>
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1	Provision for Gratuity	3,44,195/-	a) The detailed Accounting Policy for accounting of Gratuity has already been explained in Note 31 attached to Financial statement for the year ended 31.03.2014 (Placed at Page 31 of First submission made before CIT(A) dated 21.09.2016 b)
2	Provision for leave Encashment	7,77,806/-	
3	Provision for warrantee	1,30,27,650/-	The detailed Accounting Policy for accounting of Warranty along with movement in account has already been explained in Note 36 attached to Financial statement for the year ended 31.03.2014 (Placed at Page 43 of First submission made before CIT(A) dated 21.09.2016.

5.6.2 The appellant has also submitted the ledger copies of the individual items of current liabilities and provisions. During the appellate proceedings the submissions and the documents submitted by the appellant were sent of the assessing officer for Remand Report. However, despite given numerous opportunities the assessing officer has not given any adverse findings on the evidences submitted by appellant in this regard. In the assessment order also, no specific defects were pointed out by the assessing officer and the addition on this issue was made for non-submission of the necessary documentary evidences.

5.6.3 The submissions of the appellant, the order appealed against and the remand report submitted by the assessing officer have been perused. In the instant case the assessing officer has made an adhoc disallowance of 25% of other current liabilities on account of noncompliance by the appellant. The assessing officer has not given any reason for choosing adhoc disallowance of 25% of outstanding amount. During

the appellate proceedings the appellant has submitted all the necessary documents in this regard. These documents were sent to the assessing officer for remand report. Despite given several opportunities, the assessing officer has not pointed any defect in the submissions of the appellant.

5.6.4 In view of the above, it is held that the appellant has successfully explained the genuineness of the other current liabilities and short-term provisions of Rs.2,81,64,676/- outstanding at the end of the relevant financial year. Therefore, the adhoc disallowance of 25% of the above-mentioned current liabilities is not sustainable on the facts of instant appeal. Therefore, the adhoc disallowance of Rs. 70,41,169/- on account of unverified current liabilities is hereby deleted.

5.6.5 Thus, the ground of appeal numbered as 4(ii) is allowed.

5.7 Vide 4(iii) ground of appeal the appellant has challenged the estimated addition of Rs.12,81,81,369/- i.e., 40% of the Expenses claimed amounting to Rs.31,63,04,609/- during the financial year ended 31.03.2014.

While making the aforesaid addition, the assessing officer has observed that:

6.1 On examining the ITR of the assessee for AY. 2014-15, it was observed that assessee has booked expenses amounting to Rs. 31,63,04,609/- in its profit and loss account for the F. Y. 2013-4

6.2 The assessee has failed to produce any supporting details of its expenses even after availing lots of opportunities to attend the proceedings. The assessee failed to comply with the notices and thereby did not produce supporting bills and vouchers to support the veracity of the expenses claimed.

6.3 The approach used by the assessee company toward the scrutiny proceedings imply that assessee is deliberately trying to evade the proceedings and was not intended to furnish any details before the Assessing officer. 6.4 A specific show cause was issued on 15.11.2015 intimating that in case books of acconts and vouchers are not produced on 25.11.2016, 40% of the expenses claimed will be disallowed. On this date too no books of accounts and vouchers were produced. Keeping in view of the above discussion and also in the absence of any supporting documents on an estimated basis, 40% of total expenses of Rs. 31,63,04,609/- as claimed by the assessee during the year which works out to be Rs. 12,81,81,369/- is hereby disallowed and added to the income of the assessee.

5.7.1 During the instant Appellate proceedings, the appellant has submitted the details of all the expenses claimed during the financial year 2013-14. The details submitted by the appellant is reproduced as under:

<i>Sl No.</i>	<i>Particulars</i>	<i>Amount</i>
1	Cost of Materials Consumed	20,59,48,891/-
2	Cost of Traded Goods	2,17,32,215/-
3	Employee Benefits	3,08,73,940/-
4	Finance Cost	18,51,366/-
5	Other Expenses (Except Warranty Expenses)	5,58,98,197/-
	<i>Total</i>	<i>31,63,04,609/-,</i>

5.7.2 The appellant has also submitted the details of other expenses of Rs. 5,58,98,197/- Further, in respect of cost of material consumed of Rs. 20,59,48,891/- the appellant has submitted the copy of ledger reflecting Invoice No., Invoice Date, Supplier's Name, Descriptions of the material purchased and total value of the items. The appellant has also given details of the item wise purchase of traded goods. In respect of Employee benefit expenses, the appellant has submitted the details with employee name and PAN, location gross salary and TDS deducted thereon. The appellant has also submitted the details of other employee benefits like EPF, Gratuity, Leave Encashment and other staff welfare Expenses. In respect of the finance cost the appellant has submitted the ledger account of finance cost having details like Date, lender/bank, particulars, amount and detailed narration of all the finance costs claimed. The appellant has also submitted the details of different head of expenses claimed under the Other Expenses. During the appellate proceedings, the submissions of the appellant and the above-mentioned

documents were sent to the assessing officer for verification and remand report. In none of the several remand reports, the assessing officer has made any adverse inference on the documents submitted by the appellant. All these details were sent to the Assessing Officer for a remand report. However, the assessing officer has not given any adverse findings on the submissions and documents submitted by the appellant.

5.7.3 The submissions of the appellant, the order appealed against and the remand report submitted by the assessing officer have been perused. In the instant case the assessing officer has made an adhoc disallowance of 40 % of other total expenditure claimed by the appellant on account of noncompliance by the appellant. The assessing officer has not given any reason for choosing adhoc disallowance of 40% of expenditures claimed by the appellant. The appellant has also submitted the ledger of the parties for whom payments for the expenses have been made. From the perusal of the ledger of the parties, it is observed that for all the payments for the expenditures claimed have been made through banking channels. Thus, it is held that during the appellate proceedings the appellant has submitted all the necessary documents in support of genuineness of the expenditure claimed. Further, the documents submitted by the appellant were sent to the assessing officer for remand report. Despite given several opportunities, the assessing officer has not pointed any defect in the submissions of the documents submitted by the appellant.

5.7.4 In view of the above, it is held that the appellant has successfully explained the genuineness of the expenses claimed in its profit and loss account of Rs.31,63,04,609/- outstanding at the end of the relevant financial year. Therefore, the adhoc disallowance of 40% of the above-mentioned current liabilities is not sustainable on the facts of instant appeal.

Therefore, the adhoc disallowance of Rs.12,81,81,369/- on account of unverified expenditures claimed is hereby deleted.

5.7.5 Thus, the ground of appeal numbered as 4(iii) is allowed.

5.8 Vide the ground of appeal numbered as 4(iv), the appellant has challenged the adhoc disallowance of Rs.25,79,636/- being 50% of the depreciation claimed of Rs. 51,59,271/- by the appellant on account of non-submission of the details. In the order appealed against, while disallowing 50% of depreciation the assessing officer has observed that:

“ Vide notice dated 15.11.2016 a proposal for disallowance of 50% of depreciation claimed in ITR amounting to Rs.51,59,271/- was proposed and

in absence of proper details, 50% of the said amount which work out to be Rs. 25,79,636/- is hereby disallowed and added to the income of the assessee.

5.8.1 During the instant appellate proceedings on the issue of disallowance of 50% of the depreciation, the appellant has submitted that the Assessing officer has made adhoc disallowance of depreciation claimed in the profit and loss account, which was disallowed in the computation of income. The appellant has also submitted the total depreciation claimed under income tax Act was only Rs.17,65,028/- however, the assessing officer has considered the depreciation claimed at Rs. 51,59,271/-. The appellant has further submitted that during the relevant financial year total addition to fixed assets was of Rs.18,09,508/- only, whereas the Original cost of Fixed assets brought forward from last year amounted to Rs.1,81,95,999/-. The method of Depreciation followed by the Company as per Accounting Policies cited in Note 1.5 of the Financial statement was 'Straight Line method'. The appellant has also submitted that no disallowance on account of Depreciation had been made by the Assessing officer in the past three years, while passing the Assessment order u/s 143(3). It has been submitted that no disallowance was justified in the instant case, when majority of depreciation claimed was pertaining to fixed assets brought forwarded from last year. The appellant has also submitted the details of fixed assets and the copies of bills in support of additions in fixed assets during the relevant financial year.

5.8.2 Along with the submissions of the appellant the above-mentioned documents were sent to the assessing officer for verification and remand report. In none of the several remand reports, the assessing officer has made any adverse inference on the documents submitted by the appellant in respect of the depreciation claimed by the appellant.

5.8.3 The submissions of the appellant, the order appealed against and the remand report submitted by the assessing officer have been perused. In the instant case the assessing officer has made an adhoc disallowance of 50 % of depreciation claimed in the profit and loss account.. The assessing officer has not given any reason for choosing adhoc disallowance of 50% of depreciation claimed by the appellant. The appellant has also submitted the details of assets, copies of invoices of the additions made during the relevant financial year. It is also worth mentioning that most of the fixed assets on which the depreciation was claimed by the appellant were brought forward from last years and no disallowances were made by the assessing officers in earlier years despite the assessments were completed u/s 143(3) of Income Tax Act. Thus, it is held that during the appellate proceedings the appellant has submitted all the necessary documents in support of genuineness of

the depreciation claimed. Further, the documents submitted by the were sent to the assessing officer for remand report. Despite given several opportunities, the assessing officer has not pointed any defect in the submissions of the documents submitted by the appellant.

5.8.4 In view of the above, it is held that the appellant has successfully explained the genuineness of the depreciation claimed in its profit and loss account of Rs. 51,59,271/- during the relevant financial year. Therefore, the adhoc disallowance of 50% of the depreciation claimed is not sustainable on the facts of instant appeal. Therefore, the adhoc disallowance of Rs.25,79,636/- on account of depreciation claimed is hereby deleted.

5.8.5 Thus, the ground of appeal numbered as 4(iv) is allowed.

5.9 Vide ground of appeal numbered as 4(v) the appellant has challenged the adhoc disallowance of Rs.20,74,407/- i.e., 50% of the Expenses claimed as Warranty Provisions amounting of Rs.41,48,813/- during the financial year ended 31.03.2014.

While disallowing 50% of the warranty provisions the assessing officer in the order appealed against has observed that:

“Vide notice dated 15/11/2016 a proposal for disallowance of 50% of Warranty Provisions in ITR amounting to Rs. 41,48,813 was proposed and in absence of proper details, 50% of said amount which work out to be Rs. 20,74,407/- is hereby disallowed and added to the income of the assessee”

5.9.1 During the instant appellate proceedings, the appellant has submitted that the provision is recognized for expected warranty claims on finished goods sold by the company, based on Management expectation of level of repairs and replacement of Parts. The company generally provides warrantee for a period of 12 months from the date of Installation or 15 months from the date of Invoice, whichever is later. The appellant has also submitted the details in tabular form the Warranty Provisions created and utilized during the relevant financial year. The appellant has also provided detail off the Warranty provision at the end of F.Y. 2012-13 and 2013-14 at Rs. 1,68,06,935/- and Rs. 1,33,42,559/-.

5.9.2 The appellant has further submitted that the provision for warrantee represents the ascertained liability which was computed on a scientific basis, based on quantum of sales made during the year. It may be verified that the amount of Warranty provision made during the year, represents the present/ current ascertained liability of Warranty obligation to be met in subsequent year, as period of warranty has not expired on such sales. By no means of imagination, the liability

may be termed as "Contingent Liability". Accordingly, the claim of warrantee expenses debited to profit & loss A/c is allowable as expense, while computing the total income. On the allowability of claim of warranty provisions the appellate has placed its reliance of the Judgment of the Hon'ble Supreme Court of India in the case of M/s Rotork Controls India Pvt Ltd Vs CIT, Chennai, Civil Appeal No. 3506-3510 of 2009 and some other judicial precedents.

5.9.3 Along with the submissions of the appellant the above-mentioned documents were sent to the assessing officer for verification and remand report. In none of the several remand reports, the assessing officer has made any adverse inference on the documents submitted by the appellant in respect of the warranty provisions claimed by the appellant.

5.9.4 The submissions of the appellant, the order appealed against and the remand report submitted by the assessing officer have been perused. In the instant case the assessing officer has made an adhoc disallowance of 50 % of warranty provisions claimed on account of non-compliance by the appellant. The assessing officer has not given any reason for choosing adhoc disallowance of 50% of warranty provisions claimed by the appellant. The appellant has also submitted the details of warranty provisions created and utilized during the relevant financial year. It is also worth mentioning that the appellant is consistently following the policy of creating warranty provisions of 4.5% of sale on which the appellant is giving warranty for one year from the date of installation or 15 months from the date of invoice. Thus, it is held that during the appellate proceedings the appellant has submitted all the necessary documents in support of genuineness of the warranty provisions claimed. Further, the documents submitted by the appellant were sent to the assessing officer for remand report. Despite given several opportunities, the assessing officer has not pointed any defect in the submissions of the documents submitted by the appellant.

5.9.5 In view of the above, it is held that the appellant has successfully explained the genuineness and allowability of the warranty provisions claimed in its profit and loss account of Rs. 51,59,271/- during the relevant financial year. Therefore, the adhoc disallowance of 50% of the warranty provision claimed is not sustainable on the facts of instant appeal. Rs.20,74,407/- i.e., 50% of the Expenses claimed as Warranty Provisions amounting of Rs.41,48,813/- during the financial year ended 31.03.2014. Therefore, the adhoc disallowance of Rs.20,74,407/- on account of warranty provisions claimed is hereby deleted.

5.9.6 Thus, the ground of appeal numbered as 4(v) is allowed.

5.10 *Vide fifth, sixth, seventh and eighth ground of appeal the appellant has raised some technical and procedural grounds on the issues of opportunity given to the appellant during the assessment proceedings. The appellant has also submitted that there was non-application of mind on the part of the assessing officer and the additions were made on surmises, conjectures and without bringing any material on record. In the grounds of appeal, passing of order u/s 144 of Income Tax Act has also been questioned.*

5.10.1 *Since in the earlier para of this appellate order, the appellant has already got substantial relief on merit of the case, the technical and procedural ground raised by the appellant have become academic in nature. Therefore, these grounds of appeal are not adjudicated.*

5.11 *Vide ninth ground of appeal the appellant has request to allowed an opportunity to submit addition details, documents, information within the provisions of Rule 46A of the Income Tax Rules.*

5.11.1 *As the additional details, documents, information submitted by the appellant have already been admitted in earlier part of the instant appellate order, this ground of appeal needs no separate adjudication.*

5.12 *Vide tenth ground of appeal the appellant has challenged the initiating penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961.*

5.12.1 *This ground of appeal is premature, therefore, is liable to be dismissed as premature.*

5.12.2 *Thus, tenth ground of appeal is dismissed as premature.*

5.13 *Vide eleventh ground of appeal the appellant has challenged the interest charged under section 234B of Income Tax Act, the appellant has contended that the levy of interest under section 234B is against the provisions of section 234B(3) of the Income Tax Act.*

5.13.1 *The charging of interest u/s 234B of Income Tax Act is consequential in nature therefore, it needs no separate adjudication. However, it is needless to mention here that the assessing officer will charge/recompute the interest charged u/s 234B as per the provisions of the relevant section of the Income Tax act.*

5.14 *The twelfth ground of appeal is general in nature; therefore, it needs no separate adjudication.*

6.0. *The Appeal of the appellant is partly allowed."*

7. Aggrieved with the above order, Revenue in appeal before us arising following grounds of appeal:-

1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the appeal of the assessee by deleting the addition made by the AO amounting to Rs, 2,75,62,500/- on account of disallowance of share capital u/s 68 of the Act.

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the appeal of the assessee by deleting the addition made by the AO on account of disallowance of Trade Creditors u/s 68 of the Act to the extent of Rs. 8,73,70,636/-.

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the appeal of the assessee by deleting the addition made by the AO amounting to Rs. 70,41,1691- on account of disallowance of current liabilities.

4. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the appeal of the assessee by deleting the addition made by the AO amounting to Rs. 12,81,81,369/- on account of disallowance of expenses.

5. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the appeal of the assessee by deleting the addition made by the AO amounting to Rs. 25,79,636/- on account of disallowance of depreciation.

6. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the appeal of the assessee by deleting the addition made by the AO amounting to Rs.20,74,407 /- on account of disallowance of warranty provisions.

8. At the time of hearing Id. DR submitted that the assessee had not furnished the requisite details during the assessment proceedings and, therefore, the Assessing Officer did not get an opportunity to verify the documents subsequently

filed before the learned CIT(A). On the other hand, the learned AR fairly conceded that the assessment order was passed ex-parte. However, he submitted that detailed submissions were made before the learned CIT(A) explaining the reasons for non-appearance before the Assessing Officer, primarily on the ground that the notices were not served upon the assessee and were sent to an old address where the assessee no longer existed. He further submitted that several remand reports were called for from the Assessing Officer, but he failed to properly respond. Therefore, there was no lapse on the part of the assessee. He further submitted that the learned CIT(A), after examining the material available on record as well as the assessment order, proceeded to decide the issues himself. He drew our attention to page 63 of the appellate order and submitted that the learned CIT(A) has elaborately discussed all the issues, whereas the Assessing Officer had sustained the additions without assigning cogent reasons.

9. Considered the rival submissions and material placed on record. We observe that the Assessing Officer made additions under section 68 of the Act in respect of share capital issued by the assessee during the year as well as trade creditors. Further, the Assessing Officer disallowed current liabilities and also disallowed various expenditures on an ad hoc basis, besides disallowing depreciation claimed by the assessee. From the above, it is evident that the assessment was completed with high-pitched additions without assigning proper reasons. On the other hand, we find that the learned CIT(A) has duly appreciated the documentary evidences placed before him and has passed a well-reasoned order. Even before us, the assessee has filed a detailed paper book substantiating the findings recorded by the learned CIT(A).

10. After considering the facts and circumstances of the case, we do not find any infirmity in the order passed by the learned CIT(A) so as to warrant interference.

11. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on this 12th day of February, 2026.

Sd/-

(VIMAL KUMAR)

JUDICIAL MEMBER

Delhi, Dated 12/02/2026

Sd/-

(S.RIFAUR RAHMAN)

ACCOUNTANT MEMBER

NV/-

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The PCIT
4. The DR, ITAT
5. Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI