

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 1950/AHD/2025
Assessment Years: 2022-23**

Deputy Commissioner of Income Tax, Circle – 1(1)(1), Ahmedabad - 380015	Vs.	Awlencan Innovations India Limited, Connekt, 13 th Floor, Gala Empire, Opp Doordarshan TV Tower, Drive In Road, Thaltej, Ahmedabad - 380054 [PAN – AARCA3564H]
(Appellant)		(Respondent)
Assessee by	Shri Ankit Parikh, CA	
Revenue by	Shri R P Rastogi, CIT-D.R	
Date of Hearing	10.02.2026	
Date of Pronouncement	12.02.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the Revenue against the order of National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as 'CIT(A)'], dated 14.08.2025 for the Assessment Year (A.Y.) 2022-23 in the proceeding u/s 143(3) of the Income Tax Act.

2. The brief facts of the case are that the assessee had filed its return of income for A.Y. 2022-23 on 20.10.2022 declaring Loss. The case was selected for scrutiny under CASS. In the course of assessment the AO

had made addition of Rs.13,78,48,685/- on account of provision for expenses. The assessment was completed u/s. 143(3) r.w.s. 144B of the Act, on 23.03.2024 at (-) Rs. 7,71,29,712/-.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the first appellate authority, which was decided by the learned CIT(A) vide the impugned order and the appeal of the assessee was allowed.

4. Now the Revenue is in appeal before us. The following grounds have been taken in this appeal:

1. *“Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs. 13,78,48,685/- being provisions towards its future expenses without appreciating the fact that the provisions created by the assessee is contingent in nature and not ascertained and hence are not allowable deduction under the Income Tax Act?”*
2. *“Whether on the facts and in circumstances of the case, the Ld. CIT(A) was justified in accepting additional evidences in the form of invoices, ledger extract etc. without remanding the matter to the Assessing Officer as per Section 250 of the I.T. Act?”*
3. *The appellant craves leave to amend or alter any ground or add a new ground, which may be necessary”.*
4. *It is, therefore, prayed that the order of Id. CIT(A) may be set aside and that of the Assessing officer be restored”.*

5. Shri. R P Rastogi, the Ld. CIT-DR submitted that in the course of assessment the AO had required the assessee to provide details of expenditure relating to certain entities which were not registered under

GST. As per tax audit report the Auditor had flagged that the assessee had made expenditure of Rs. 54,68,90,214/- relating to entities which were not registered under GST. From the details as furnished by the assessee, the AO found that expenditure of Rs.13,78,48,685/- was on account of provision which was not an ascertained liability. The assessee did not explain the basis of the provision and the invoices received against these provisions in the subsequent year was also not brought on record. Therefore, the AO had held that a provision of Rs.13,78,48,685/- was contingent and unascertained liability and accordingly he had made the disallowance. The Ld. CIT-DR submitted that the Ld. CIT(A) had allowed relief to the assessee by considering additional evidences in the form of invoices, ledger extract etc. without remanding the matter the Assessing Officer or without calling any remand report from him. He, therefore, requested that the matter may be set aside to the AO with a direction to examine the fresh evidences brought on record by the assessee before the Ld. CIT(A).

6. Per contra, Shri Ankit Parikh, CA and the Ld. AR of the assessee submitted that the assessee had duly explained before the AO that the provision for marketing expense and back office support charges was made on the basis of actual expenditure incurred during the year and for the reason that the actual bills and invoices were not received during the year. He explained that the invoices for the expenses were received in the next financial year. Since the invoice was not available at the time of provision, GST No. was also not available and, therefore, the expenses were classified as “expenditure relating to entities not registered under GST”. He explained that considering the fact that the provision was made

on the basis of the actual expenditure incurred during the year, the Ld. CIT(A) had rightly deleted the addition. He further submitted that the Ld. CIT(A) has only considered the invoices, ledger extracts, TDS deducted, bank statements, contract copies etc. which was also produced before the AO. He, therefore, strongly supported the order of the Ld. CIT(A)

7. We have considered the rival submissions and carefully gone through the materials brought on record. In Annexure-Q to the tax audit report the auditor had quantified “expenditure relating to entities not registered under GST” at Rs. 54,68,90,214/-. In the course of assessment, the AO had issue a show cause notice to assessee requiring it to explain as to why 10% of this expense should not be disallowed. This proposal was made on the presumption that the expenses incurred to non-GST registered entities were inflated. Before the AO the assessee had made submission vide letter dated 15th March, 2024, a copy of which has been brought on record in the paper-book filed by the assessee. The assessee had explained that expense of Rs.27,32,13,039/- was on account of salary, bonus, provident fund, staff welfare, leave encashment, gratuity etc. and that no GST was required for the employee’s emoluments booked under different heads. Further that the expenditure of Rs.14,48,58,525/- was on account of provision for different expenses and another sum of Rs. 3,27,44,866/- was on account of referral bonus, trading challenge and marketing expense. The assessee had thus furnished details of non-GST registered expense to the extent of **Rs.45,08,48,689/- only**. It was submitted before the AO that within the time of 3 days as allowed, only this much of details could be compiled.

8. Out of the details as furnished by the assessee, the AO had disallowed the sum of Rs.13,78,48,685/- on account of provision for expenses. The assessee had explained that the provision for expenses relating to F.Y. 2021-22 was made for the reason that the actual invoices were not received during the year. In the absence of the invoice, GST detail of the parties was not available and for this reason the auditor had classified these expenses as payment made to non-GST registered parties. The assessee had explained that the actual invoice for these expenses were received in the next financial year 2022-23. It is, however, found that **the copy of invoices in respect of the provisions were not brought on record before the AO and the provisions were not co-related with the actual invoice received in the next financial year.** From the order of the Ld. CIT(A), it is found that the assessee had submitted details of invoices, ledger extracts, TDS made, bank statements, contract copies before him and he had allowed the relief after verifying the evidences brought on record before him. From the copy of reply filed before the AO, it is evident that the documents and evidences filed before the Ld. CIT(A) were fresh evidences. Therefore, the Ld. CIT(A) was required to obtain a remand report of the AO on the fresh evidences filed before him. The order of the Ld. CIT(A) is thus found to be in contravention to provision of Rule 46A(3) of the Income-Tax Rules, and his order cannot be upheld for this reason. It is further found that the assessee had furnished details of non-GST registered expense to the extent of Rs. 45,08,48,689/- only before the AO as against total expense of Rs.54,68,90,214/-. The **details in respect of difference of Rs.9,60,41,525/- was neither filed before the AO nor brought on record before the Ld. CIT(A).**

9. In view of above facts, we deem it proper to set aside the matter to the file of the Jurisdictional AO with a direction to allow another opportunity to the assessee to furnish the complete detail in respect of the entire expense of Rs. 54,68,90,214/- made to non-GST registered parties. The assessee will be free to produce the additional evidences brought on record before the Ld. CIT(A) to the AO or any other evidence as deemed fit, in order to justify the provision for expenses as claimed. The assessee will also comply to the requirement of the JAO and produce the details and clarifications as required by him. The AO is further directed to verify the basis of provision for the expense made by the assessee vis-à-vis the actual invoice received in the next financial year, as contended by the assessee, and thereafter, decide the matter as per law. In case the assessee doesn't make compliance before the AO, he will be free to decide the matter on merits on the basis of materials as available on record.

10. In the result, the appeal of the Revenue is allowed for statistical purpose.

Order pronounced in the Court on 12/02/2026 at Ahmedabad.

Sd/-
(TR SENTHIL KUMAR)
Judicial Member
Dated – 12th February, 2026
Neelesh Kumar

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.

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3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल /Guard file.

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad