

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 2275-2276/Bang/2025
Assessment Years : 2016-17 & 2018-19

M/s. Excel Dwelling Oxygen Private Limited, 44, 12 th Main, 17 th Cross, 6 th Sector, HSR Layout, Bengaluru – 560 102. PAN: AADCE6857D	Vs.	The ACIT, Circle 2(1)(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Pranay Sharma, AR
Revenue by	:	Shri Shivanad Kalakeri – CIT DR

Date of Hearing	:	10-02-2026
Date of Pronouncement	:	30-03-2026

ORDER

PER PRASHANT MAHARISHI, VICE – PRESIDENT

1. The Appellant has submitted two Appeals to us against the Appellate Order issued by the Commissioner of Income Tax (Appeals) 15, Bengaluru [the Ld. CIT (A)] on 13 August 2025. This Appellate Order pertains to Assessment Orders made by the Assistant Commissioner of Income Tax Circle 2[1][2], Bangalore, and the Deputy Commissioner of Income Tax 2[1][2], Bangalore [the Ld. AO], under Section 144 of the Income Tax Act, 1961 [the Act] on 7 December 2018 and 22 April 2021, which were dismissed.

2. The brief facts of the case indicate that the Assessee company is engaged in the real estate business. For Assessment Year 2016-17, it filed its return of income on 28th February 2017, declaring a total income of ₹ 14,04,02,838/-. The return was selected for scrutiny, and notices under section 143(2) of the Income Tax Act were issued. Several other notices were subsequently issued by the Assessing Officer, but these were not complied with by the Assessee. Consequently, a show cause notice under section 144 of the Act was issued on 26th November 2018, which also went unanswered by the Assessee. Therefore, the learned Assessing Officer proceeded to make the following disallowances/additions to the total income of the assessee.
3. Disallowance under section 40(a)(ia) amounting to ₹ 3,33,97,787/- was made based on a review of the audit report. The Assessee company had paid a total of ₹ 7,50,276,935/- without any tax deduction at source (TDS). Additionally, for payments of ₹ 3,160,49,022/-, TDS was deducted but not remitted to the Central Government's account as required by the provisions of the Act. Consequently, the Assessing Officer determined that 30% of these expenses from the total payment of ₹ 11,13,25,957/-, on which TDS was either not deducted or tax was not paid, should be disallowed. Based on this calculation, the disallowance was computed as ₹ 3,33,97,787/-.
4. The learned Assessing Officer observed that there is a sundry creditor outstanding amounting to ₹ 42,43,11,880/- for which no response was provided, such as confirmation or an explanation for why these liabilities remain outstanding. Consequently, the Assessing Officer proceeded to disallow 10% of such liability. Accordingly, from the

total creditors of ₹ 42,43,11,875/-, an adjustment of ₹ 4,24,31,188/- was made.

5. The Assessing Officer further referenced Form No. 26QB, noting that the sale consideration received by the Assessee amounted to ₹ 1,92,42,480/-. As no explanation regarding the sources of this income was provided, the officer treated the above sum as undisclosed income and accordingly made an addition.
6. Consequently, the total income was determined at ₹ 10,94,74,293/- through an Assessment Order issued under section 144 of the Act on December 7, 2018.
7. For AY 2018-19, the Assessee filed an Appeal before the CIT(A) for this year, as well as for the Assessment Year 2018-19, both of which involved identical disallowances with varying amounts. These disallowances led to an addition of ₹ 2,43,13,772/- due to non-deduction of tax at source. Accordingly, against the reported loss of ₹ 5,32,56,507/-, the assessed loss was recorded at ₹ 2,89,45,735/- by the assessment order dated April 22, 2021.
8. Both assessments were challenged before the Appellate Authority which were disposed of by the learned CIT (A) on August 13, 2025.
9. In paragraph six of the Appellate Order, the learned CIT (Appeals) noted that the Assessee was served with ten notices requesting submissions for the Appeal; however, submissions were not provided in nine of these instances. A notice dated July 25, 2025, required a response by August 4, 2025. The assessee replied on July 29, 2025, seeking that the learned CIT (Appeals) remit the matter to the file of the learned Assessing Officer.
10. The learned CIT(A), as stated in paragraph 7, observed that despite being given repeated opportunities, the Appellant failed to provide

any explanation regarding the various additions made by the AO for both assessment years. Due to the Appellant's failure to appear before the AO and submit the necessary documentation, additions were made on account of sundry creditors and undisclosed income. The Appellant did not take advantage of the numerous opportunities granted during the proceedings before the learned CIT(A), nor did he offer any further evidence during the appellate proceedings. Consequently, the CIT(A) had no alternative but to uphold the additions made by the AO for both assessment years and dismiss the appeals.

11. The Appellant, being dissatisfied with the proceedings, has filed an Appeal before us. The learned Authorised Representative, Mr. Pranay Sharma, advocate, submitted a comprehensive paper book of 91 pages outlining the reasons for his inability to appear before the lower authorities. He explained that ongoing legal disputes regarding the land prevented attendance at the notices. Furthermore, he noted that the Assessee Company's address had changed and this update was communicated to the Registrar of Companies. He also mentioned a change in the email address of the Appellant Company. Thus, he argued that due to multiple impediments affecting the Appellant, the assessment and appellate proceedings could not be attended by assessee. Accordingly, he requested that Appellant be given an opportunity to present its case.
12. The learned Departmental Representative, Commissioner Sri Shivanand Kalakeri, opposed the submission made by the learned Authorised Representative. He stated that numerous opportunities were provided by the lower authorities to the SSE; however, the Appellant consistently failed to fulfil its responsibility to comply with those notices. Consequently, he argued that leniency should not be extended to the Assessee, given its conduct. He further explained

that, in the absence of the required details, the revenue authorities had no alternative but to issue the included order based on the available information. He emphasized that it is the duty of the Revenue Authority to deliver duly bound Assessment and Appellate Orders, and it cannot wait indefinitely for a response from the assessee. Therefore, these orders warrant confirmation.

13. We have carefully considered the rival contention and perused the orders of the learned revenue authorities. The facts clearly show that the Appellant was completely non responsive to the notices issued by the learned Assessing Officer as well as by the Appellate Authority. May be there may be many impediments against the Assessee of diverse types but that does not give any right to the assessee to not to respond to the notices of revenue authorities. Assessee could have find at least an adjournment request also but except on one occasion before the Appellate Authority Assessee remained non-compliant. Assessee does not deserve any leniency in these matters.
14. Upon review of the learned Assessing Officer's order, wherein 10% of the unconfirmed creditors were added, and considering that the issue regarding Suomoto disallowances raised by the Assessee was not addressed, it is evident that the Assessment Order should also be set aside. Furthermore, the learned CIT A did not consider the grounds of Appeal, in which it was submitted that the disallowance of 10% on unconfirmed creditors is not valid. Even if the disallowance made by the Assessee on its own was not considered, the learned CIT(A) ought to have decided this issue based on its merits.
15. Considering the facts and in the interest of justice, both Appeals of the Assessee are hereby restored to the file of the learned Assessing Officer.

16. The Assessee is directed to deposit ₹ 10,000 into the Prime Minister's National Relief Fund account within 30 days from the date of receipt of this order and subsequently provide the relevant details to the Assessing Officer, who shall review and decide the matter afresh based on its merits after affording the Assessee an opportunity for a hearing.
17. In the result we allow both the Appeals for statistical purposes as indicated above.

Order pronounced in the open court on 30th March, 2026.

Sd/-
(SOUNDARARAJAN K.,)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
VICE-PRESIDENT

Bangalore,
Dated, the 30th March, 2026.

TNTS

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. CIT(A) | |

By order

Assistant Registrar,
ITAT, Bangalore