

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F': NEW DELHI**

**BEFORE  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.5478/Del/2025  
(ASSESSMENT YEAR 2022-23)**

Teleplex Construction Co., B-842, MIG Flats, East of Loni Road, Delhi-110093. <b>PAN-AAAF5223G</b>	Vs.	DCIT, CIR 58.1, Delhi.
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	Shri V. K. Sabharwal, Adv. Shri Rajiv Kumar, Adv. Shri Sanjeev Saxena, CA
<b>Department by</b>	Ms. Monika Singh, CIT-DR
<b>Date of Hearing</b>	29.01.2026
<b>Date of Pronouncement</b>	08.04.2026

**ORDER**

**PER VIMAL KUMAR, JM:**

The appeal filed by the Assessee is against order dated 08.07.2024 of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the Ld. CIT(A)'] passed u/s 250 of the Income Tax Act, 1961, [hereinafter referred to as 'the Act'] arising out of assessment order dated 28.02.2024 of Ld. Assessing Officer/ Assessment Unit [hereinafter referred as 'the AO'] under section 143(3) r.w.s 144B of the Act for Assessment Year 2022-23.

2. Brief facts of the case are that the assessee filed return of income on 02.10.2022 declaring total income of Rs.74,23,580/-. The case of assessee was selected through CASS. The assessee had shown high liabilities as compare to low income/receipts

and the assessee has substantial purchases from suppliers who are Non Filer(s). The assessee showed business as contractor. Notice u/s 143(2) dated 02.06.2023, Notices u/s 142(1) dated 11.08.2023, 18.09.2023, 25.09.2023, 27.10.2023, 26.12.2023 and 08.01.2024 and show cause notice dated 02.02.2024 were issued. The assessee made part compliance. On completion of proceedings, Ld. AO vide order dated 28.02.2024 made additions of Rs.3,95,66,691/-, Rs.7,09,503/- & Rs.9.21,52,897/-. Against order dated 28.02.2024 of Ld. AO, the assessee filed appeal before the ld. CIT(A) which was dismissed vide order dated 08.07.2024.

3. Being aggrieved, appellant assessee preferred present appeal on following grounds:

*“1. That the Ld. CIT(A) NAFC, Delhi has grossly erred in dismissing the appeal without adjudicating the incurable legal infirmities that go to the root of the case and vitiate the assessment Order namely: (i) Illegally assuming jurisdiction by issuing a defective notice u/s 143(2) of the Act; (ii) Defying binding CBDT instructions; and (iii) Assessing a high amount of deemed income by ad-hoc additions to income based on presumptions and assumptions in place of assessing the real income.*

*2. That the impugned order passed by Ld. CIT(A) NAFC, Delhi dismissing the appeal is illegal and void as it was framed hurriedly without service of any of the notice(s) upon the appellant as mentioned in the impugned order upon the appellant.*

*3. That in the facts and circumstances of the case, the dismissal of Appeal by Ld. CIT(A) NAFC, Delhi is not sustainable as the Appellant was prevented to submit replies and upload documents due to non-service of any of the notices allegedly sent by CIT(A) NFAC.*

*4. That on the facts and circumstances of the case, the impugned order is illegal and void as the Ld. CIT(A) NFAC, neither made any inquiries through AO nor adjudicated any of the Grounds of appeal Delhi and thus defied the provisions of sub-sections (6) of sections 250, 251(1)(a), 251(1)(b) and Explanation of section 251(2) of the Income Tax Act, 1961.*

*5. That on the facts and circumstances of the case and in view of: (i) non-service of notices; (ii) violation of principles of natural justice; (iii) denial of proper opportunity and (iv) summarily dismissal of appeal resulting in violation of provisions of sections 250(6), 251(1)(a), 251(1)(b) and Explanation of section 251(2)*

*of the Act, the case may be restored to CIT(A) NFAC and/or AO, Faceless Assessment Unit.*

*6. That the Ld. CIT(A) NFAC, Delhi has grossly erred in dismissing the appeal and in sustaining the ad-hoc addition of Rs. 3,95,66,691/- being 25% of total Purchase expenses as unexplained expenditure u/s 69C of the Income Tax Act, 1961 without bringing any cogent reason.*

*7. That the Ld. CIT(A) NFAC, Delhi grossly erred in dismissing the appeal and in sustaining the ad-hoc addition of Rs. 9,21,52,897/- being 25% of total Current Liabilities Rs. 36,86,11,589/-ns unexplained Cash credits u/s 68 of the Income Tax Act, 1961 without bringing any cogent reason.*

*8. That on the facts and circumstances of the case the Ld. Assessing officer has grossly erred in invoking section 115BBE of the Income Tax Act, 1961 on all additions to the income.*

*9.. That on the facts and circumstances of the case the Ld. Assessing officer grossly erred in initiating penalty proceedings u/s 270A and 271AAC(1) of the Income Tax Act, 1961.*

*10. That the Ld. CIT(A) NFAC, Delhi grossly erred in dismissing the appeal and in sustaining the ad-hoc addition of Rs.7,09,503/-being 10% of total expenses Rs.70,95,030/- without bringing any cogent reason.*

*11. That the Ld. CIT(A) NFAC, Delhi grossly erred in dismissing the appeal and in sustaining the mechanical rejecting the trading results and invoking provisions of sec. 145(3) of the Income Tax Act, 1961 without bringing any cogent reason.”*

4. Through application dated 22.01.2026 under Rule 11 of the ITAT Rules, 1963, the assessee sought permission for following additional grounds of appeal:

*“1. That the illegal and adhoc additions made by the Ld. AO and upheld by Ld. CIT (A)-NFAC, Delhi were incorrect under the law and to the facts of the case as the correctness, completeness and bonafides of books of accounts maintained on basis of which audited financials were prepared and which formed part of Income tax Return filed were neither doubted nor controverted nor rejected u/s145(3) of the Income tax Act, 1961.*

*2. That the illegal and adhoc additions u/s 68 on creditors by the Ld. AO and upheld by Ld. CIT (A)-NFAC, Delhi was illegal and wrong under the law and to the facts of the case because the total creditors Rs. 35, 11,40 867/- included creditors of Rs. 20,50,46,454/- relating to preceding year(s).”*

5. Ld. Authorized Representative for appellant/assessee submitted that during FY 21-22 (AY 22-23), the firm has executed contracts awarded by two Public Sector Undertakings viz., Bharat Sanchar Nigam Ltd. (BSNL) and Indian Telephone Industries (ITI) which included laying of Optical Fiber Cable and maintenance services.

5.1 That during the year 2021-22, the firm also executed work of laying Gas Pipe Line in Moradabad (UP) for Torrent Gas- Moradabad (UP).

5.2 That for AY 2022-23 against a turnover of Rs.21 crores approx. the appellant filed return of income declaring an income of Rs. 74,23,580/-. (NP ratio 3.57% and GP ratio 8.56%)

5.3 That the accounts of the firm are audited u/s 44AB of the Income Tax Act, 1961. The firm files its return on basis of actual income earned as per audited financials. That the returned income has been accepted in all preceding years and no variations have been to the returned income.

5.4 That the case of AY 2022-23 was selected for scrutiny. That it was the first year of assessment and the assessee was not much familiar about face less assessment procedures. It filed relevant details but could not upload the voluminous details called for in time due to limited size of each attachment at ITBA portal.

5.5 That the case was assessed u/s 143(3) wherein huge additions were made and the returned income Rs.74,23,580/- by making ad-hoc and twice taxing same issues/amounts was assessed to Rs.13,98,52,671/-. The details of additions are given in Table below:

	<b>ADDITIONS MADE</b>	<i>Page No of appeal</i>	Amt (Rs.)
1.	Ad-hoc 25% additions of Purchases Rs.15,82,66,767 u/s 69C -Books of accounts not rejected, -Corresponding Sales not reduced/varied	27	395,66,691  Note-1
2.	Ad-hoc 10% additions of total expenses Rs.70,95,030/- u/s 68 Additions on ad-hoc basis are on higher side	28 Para-2	709,503
3.	Ad-hoc 25% additions of total Liabilities Rs. 36,86,11,589/-	28 Para-3	921,52,897 Note-2

**BREAKUP OF CURRENT LIABILITIES**

	Opening Bal. As on 01.04.2021	Additions/ Payments during Year	Bal as on 31.3.2022	Remarks
Creditors	<b>20,50,46,454</b>	<b>14,60,94,412*</b>	<b>35,11,40,866</b>	Note-2 below
Job work Payable			103,04,414	Paid later
Security deposits			26,16,114	Business Liability
Duties & Taxes			15,27,336	GST liability paid in later year
Salary Payable		-	2,17,388	paid next yr
ESI Payable		-	14,347	Paid next yr
TDS 1%		-	5,80,122	
Other TDS		-	11,07,562	
Other expenses		-	11,03,440	
G. Total			36,86,11,589	

**Note-1** Additions Rs. 395,66,691/- being 25% of Purchases Rs. 15,82,66,767 has been made on ad-hoc basis without rejection of books of accounts u/s 145(3) of the Act and without disturbing corresponding Sales which have been accepted in assessment. The AO had accepted the books of accounts and not disturbed the audited financials u/s 145(3) of the Act as forming part of ITR

**Note-2**

**Addition of 25% of all current liabilities Rs. 36,86,11,589 i.e. Rs. 921,52,897**

3.3 That an ad-hoc addition of Rs. 921.52,897/- being 25% of total current liabilities Rs. 36,86,11,589 has been made u/s 68 which includes addition on creditors.

***Creditors Addition***

3.4 In above addition of total current liabilities, the addition of 25% of creditors is wrong as the opening creditors Rs.20,50,46,454 cannot be added u/s 68. Moreover, as the creditors increased during year Rs. 14,60,94,412 represent net creditors o/s for purchases Rs. 15,82,66,767/-of CY cannot be added again u/s 68 as 25% of purchases has already added u/s 69C and thus it amounts to double taxation.

Creditors cannot be added u/s 68 in view of Hon'ble Delhi HC judgement in CIT v. Shri Vardhman Overseas Ltd., (2012) 343 ITR 408 (Delhi) because the assessee had not written back the amounts to its P&L account, and the balance sheet still showed the liabilities as existing debts and paid off in subsequent Financial Year(s) which has already been accepted as correct by the Ld.AO while framing the assessment.

Therefore, the entire addition of creditors included in 25% of total current liabilities deserves to be deleted.

**Other Current liabilities**

3.5 Other Current liabilities are either statutory due paid in subsequent year or other business liabilities paid in next or subsequent year and hence are not liable for 25% additions u/s 68 of the Act.

6. Ld. Departmental Representative submitted that the additions were made due to disallowance of creditors who were non filer.

7. From examination of record in light of aforesaid rival contention, it is crystal clear that Ld. AO vide order dated 28.02.2024 made additions by making *ad hoc* and taxing same issues.

7.1 Additions Rs.395,66,691/- being 25% of Purchases Rs.15,82,66,767 has been made on ad-hoc basis without rejection of books of accounts u/s 145(3) of the Act without disturbing corresponding Sales which have been accepted in assessment. The AO had accepted the books of accounts and not disturbed the audited financials u/s 145(3) of the Act as forming part of ITR.

7.2 The creditors increased during the year Rs.14,60,94,412/- represent net creditors o/s for purchases Rs.15,82,66,767/- of CY cannot be added again u/s 68 as 25% of purchases has already added u/s 69C and thus it amounts to double taxation.

7.3 As per judgement of Hon'ble Delhi High Court in CIT vs. Shri Vardhman Overseas Ltd., [2012] 343 ITR 408 (Delhi) because the assessee had not written back the amounts of its P & L Account, therefore, the addition of creditors included in 25% of total current liabilities deserves to be deleted. Accordingly, additional grounds of appeal No.1 & 2 and Ground of Appeal No.6 & 7 are accepted. Ground of appeal No.1 to 5 and 7 being academic in nature are left open.

8. In the result, the appeal of assessee is allowed.

Order is pronounced in the open Court on 08.04.2026.

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

Dated: 08.04.2026

*\*PK, Sr. Ps\**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**  
**ITAT NEW DELHI**