

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH AT KOLKATA**

Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s). 2423/KOL/2025
Assessment Year(s) 2022-23**

Huldibari Industries and Plantation Company Limited (Appellant)	Vs.	ACIT, Range-4, Kolkata (Respondent)
PAN: AAACH8051R		

**CO No(s). 17/KOL/2026
Arising out of ITA No(s). 2423/KOL/2025
Assessment Year(s) 2022-23**

ITO, Ward-4(4), Kolkata (Appellant)	Vs.	Huldibari Industries and Plantation Company Limited (Respondent)
PAN: AAACH8051R		

Appearances:

Assessee represented by : Sanjay Bhattacharaya, FCA.

Department represented by : Pranab Kumar Koley, CIT, DR.

Date of concluding the hearing : 25-March-2026

Date of pronouncing the order : 08-April-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee and the cross objection filed by the Revenue are against the common order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2022-23 dated 04.08.2025. Since the issues in both the appeals are related, they were heard together and are being decided vide this common order for the sake of convenience and brevity



2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. That the Ld. Commissioner of Income-tax (Appeals), NFAC was wrong in not deleting the disallowance of Prior Period Expenses aggregating to Rs.6,44,442.

2. That without prejudice to the contentions raised in Ground No. (1) above, the Ld. Commissioner of Income-tax (Appeals), NFAC erred in directing the Assessing Officer to allow only the Fee relating to 5(five) months out of the Audit Fees of Rs.1,00,890/- charged for the period of 8(eight) months covering January, 2021 to August, 2021 and thus he was wrong in confirming the disallowance of Audit Fee relating to the 3 (three) months' period from January, 2021 to March, 2021.

3. That the Ld. Commissioner of Income-tax (Appeals), NFAC was wrong in confirming the disallowance of Rs.6,61,534 being the Interest paid by the appellant in relation to Loan taken by the appellant.

4. That the Ld. Commissioner of Income-tax (Appeals), NFAC failed to appreciate that the Addition of Rs.6,97,50,000/- allegedly u/s 68 having been wrongly made by the Assessing Officer, there could not have been any applicability of Special Rate of Tax u/s 115BBE and thus the Ld. Commissioner of Income-tax (Appeals), NFAC erred in dismissing the Appeal on this issue made by the appellant.

5. That the appellant craves leave to add, delete or modify any Ground or Grounds of Appeal before or at the time of the Hearing of the Appeal.”

2.1 The Revenue has filed cross objections raising the following grounds:

“1. Whether the Ld. CIT(A) erred in fact as well as in law by not giving any opportunity to the A.O. to counter the fresh evidences produced before him under Rule 46A.

2. Whether the Ld. CIT(A) erred in fact as well as in law in exceeding his jurisdiction as he is not entitled to set aside any Assessment Order passed u/s 143(3) by A.O. w.e.f. 01.10.2024.

3. That the appellant craves leave to add and/or alter, amend, modify or rescind the grounds hereinabove before or at the time of hearing of this appeal.”



3. We shall first take up the assessee's appeal in **ITA No. 2423/KOL/2025** for adjudication. Brief facts of the case are that the assessee had filed its return of income for AY 2022-23 showing total income of ₹3,70,090/-. The case was selected for scrutiny under Computer Assisted Scrutiny Selection (in short 'CASS') for the reasons of high liabilities in balance sheet as compared to low income/receipt declared in the ITR, the difference between the total expenditure of personal nature as per ITR and total expenditure of personal nature as per Form 3CD and some of the creditors in the assessee company being either directors in companies whose registration had been cancelled by the MCA or were with low means i.e. either they had not filed ITRs or had shown marginal taxable income. Accordingly, the Assessing Officer (hereinafter referred to as Ld. 'AO') issued statutory notice to provide details and in response to which the assessee furnished the copy of tax audit report along with the balance sheet and profit & loss account, computation of income, copy of annual report and account, written submission, details of bank account along with statement, details of cash deposit and copy of ITR of its directors, the agreement on assignment of lease and liabilities including loan and sundry creditors etc. The Ld. AO proposed addition on account of non-genuineness of the unsecured loan taken by the assessee in response to which the assessee furnished certain details of the lenders i.e. Huldibari Tea & Agro (P) Ltd. and Kanisha Petrochem Pvt. Ltd. The Ld. AO issued notice u/s 133(6) of the Act to the said parties but since no response was received therefore, in the absence of satisfactory credibility of the lenders, the liabilities arising due to unsecured loan accepted during the year to the extent of ₹ 6,97,50,000/- (Huldibari Tea & Agro (P) Ltd., ₹5,82,50,000/-



(+) Kanisha Petrochem Pvt. Ltd. ₹1,15,00,000/-) were considered unexplained liabilities and were added to the total income of the assessee u/s 68 r.w.s 115BBE of the Act. The Ld. AO also disallowed a sum of ₹1,02,184/- on account of club expenses and also disallowed the claim of prior period expenses to the tune of ₹6,44,442/-. Further, the Ld. AO added a sum of ₹6,61,534/- to the total income of the assessee on account of interest paid on unsecured loans. The Ld. AO noted that the assessee had utilized the surplus fund by extending an interest free loans to related parties for non-business purposes. The Ld. AO assessed the total income of the assessee at ₹7,15,28,250/- u/s 143(3) r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who vide order dated 04.08.2025 partly allowed the claim of prior period expenses and dismissed the claim of interest paid on unsecured loans and also dismissed the ground relating to charging of unexplained income u/s 115BBE of the Act and accordingly, dismissed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined.

6. Ground Nos. 1 & 2 are regarding disallowance of prior period expenses. The Ld. CIT(A) confirmed the disallowance by his findings as under:

I have gone through the submission of the appellant. It is seen that the appellant did not submit any explanation as to why the office rent of earlier

were debited in A.Y. 2022-23. The appellant did not explain why and how these liabilities accrued during the P.Y. relevant to A.Y. 2022-23. In the absence of any explanation, the disallowance of prior period rent is confirmed.

As regards the audit fee, professional fee and membership subscription, the appellant did not submit any evidence like bill etc. The appellant did not explain for which period this expense pertained to. Further the appellant did not explain even the genuineness of the impugned payment. In the absence of any explanation / proof, the disallowance of prior period rent is confirmed.

As regards professional fee to AR Maiti & Co, the appellant submitted the bills. It is seen that Bill no 103/2021-22 dated 10.01.2022 pertains for audit for the period Jan 2020 to Dec 2020 for Rs. 1,77,000/-.

Bill No 105/2021-22 dated 10.01.2022 pertains for audit for the period Jan 2021 to August 2021 for Rs. 100,890/-

It is seen that Bill no 103/2021-22 does not pertain to the P.Y. relevant to A.Y. 2022-23. Further it is not a case of the appellant that the auditor carried out audit for the period Jan 2020 to Dec 2020 during F.Y. 21-22. When the audit was done in earlier F.Y., the expenses should have been booked in the corresponding A.Y. Therefore, the same could not allowed as deduction.

As regards Bill No 105/2021-22, the part amount of the bill pertains to A.Y. 2022-23 i.e. out of 8 months, 5 months pertains to A.Y. 2022-23. Therefore, the corresponding amount is allowed as deduction. The A.O. is directed to allow the corresponding amount accordingly.

This grounds of appeal is partly allowed.

6.1 It was submitted by the Ld. AR that the liabilities had crystallised during the year, although the bills were raised in the earlier years. It was merely an error which was corrected. It was stated that the Ld. CIT(A) did not appreciate the fact that as the liabilities had crystallised during the year, the same were allowable even in the mercantile system of accounting. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be confirmed.



6.2 We have considered the facts of the case, the submissions made and the documents filed. Since the liabilities which related to earlier year but had crystallised during the year, the same were liable to be allowed as a deduction. Hence, the assessee is required to produce evidence for the bills raised in the earlier years and the crystallisation of the liabilities during the year and the Ld. AO is directed to verify the same and allow the deductions claimed for the payments made during the year. Hence, Ground Nos. 1 & 2 are allowed for statistical purposes and the findings of the Ld. CIT(A) are reversed.

7. Ground No. 3 relates to the disallowance of ₹ 6,61,534/- being interest on loans to related parties without charging interest. The Ld. CIT(A) confirmed the addition by giving his findings as under:

It is seen from the submission of the appellant, the appellant failed to explain how the borrowing were utilized for the purposes of business. The onus was on the appellant to explain the utilization of funds. The appellant was required to submitted date wise funds borrowed and its utilization. In the absence of any nexus, the disallowance made by the A.O. is hereby confirmed.

This ground of appeal is dismissed.

7.1 The Ld. AR submitted before us that the loans were given to the related parties out of own funds in the earlier year though an amount of ₹5.68 Crore was given and this year the amount is increased to ₹9.33 Crore and there is an increase of approximately ₹3.65 Crore. the Ld. CIT(A) confirmed the disallowance by holding that *it is seen from the submission of the appellant, the appellant failed to explain how the borrowing were utilized for the purposes of business. The onus was on the appellant to explain the utilization of funds. The appellant was required to submitted date wise funds borrowed and its utilization. In the*



absence of any nexus, the disallowance made by the A.O. is hereby confirmed. The Ld. AR assured that if the matter is remanded to the Ld. AO, the assessee will be able to justify that the interest free loans were given out of its own funds. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

7.2 We have considered the facts of the case, the submissions made and the documents filed. The order of the Ld. CIT(A) is hereby set aside on this issue and the same is remanded to the Ld. AO for verification of the claim of the assessee and to recompute the disallowance as per law. The assessee shall submit necessary evidence in support of the claim that the interest free loans were given from its own funds and in case it is so, the Ld. AO shall delete the addition made on account of interest paid on loans for interest free loans which has been confirmed by the Ld. CIT(A).

9. Ground No. 4 was not pressed, hence, the same is dismissed as not pressed.

10. Ground No. 5 is general in nature and does not require any separate adjudication.

11. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

12. As regards the cross objections raised by the Revenue, the same relates to addition of ₹ 6,97,50,000/- on account of unexplained cash credits for loans received from the related concerns. Before the Ld. CIT(A), the assessee furnished some documents and who noted the submission of the assessee and has noted that the amount was received



in relation to the assignment of the lease and the amounts received were shown as advance. The assessee submitted annual accounts in support of its contention before the Ld. CIT(A) and also submitted bank statements of the above 2 parties from whom the loans were received. Since the documents were not filed before the AO, the assessee was directed by the Ld. CIT(A) to submit the same before the Ld. AO and the AO was directed to verify the same and in case the documents were found in order, the additions were directed to be deleted. The revenue contends that the Ld. CIT(A) does not have the power to set aside the case. Since in the order of the Ld. CIT(A), the issue has been remanded to AO for verification by the Ld. CIT(A), we direct the AO to consider the evidences filed by the assessee before the Ld. CIT(A) and decide the issue of addition under section 68 of the Act afresh as had also been directed by the Ld. CIT(A), after granting an opportunity to the assessee to furnish evidence for the creditworthiness of the creditors. Accordingly, the cross objections raised by the Revenue are partly allowed for statistical purposes.

13. In the result, the appeal filed by the assessee is partly allowed for statistical purposes while the cross objections filed by the Revenue are also partly allowed for statistical purposes.

Order pronounced in the open Court on 8th April, 2026.

Sd/-
[George Mathan]
Judicial Member

Sd/-
[Rakesh Mishra]
Accountant Member

Dated: 08.04.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

- 1. Huldibari Industries and Plantation Company Limited, McLeod House, 3, Netaji Subhas Road, Kolkata, West Bengal, 700001.**
- 2. ACIT, Range-4, Kolkata.**
- 3. ITO, Ward-4(4), Kolkata.**
4. CIT(A)-NFAC, Delhi.
5. CIT-
6. CIT(DR), Kolkata Benches, Kolkata.
7. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata