

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

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

S.A. No. 50/Bang/2026 (in ITA No. 2954/Bang/2025) & ITA No. 2954/Bang/2025
Assessment Year : 2022-23

M/s. Rafferty, No. 1, Alsana Tower, JB Nagar Main Road, Jeevanbhima Nagar S.O., Bengaluru – 560 075. PAN: ABDFR2046P	Vs.	The Income Tax Officer, Ward – 3(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Pranav Krishna, Advocate
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	10-04-2026
Date of Pronouncement	:	17-04-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 20/11/2025 in respect of the A.Y. 2022-23.

2. The assessee is a firm and their case was selected for scrutiny under CASS since no audit report was filed u/s. 44AB of the Act. Subsequently, notices u/s. 143(2) and 142(1) were issued. The assessee also responded by saying that their total income does not exceed the threshold limit for filing the audit report u/s. 44AB. The AO not accepted the said submissions and treated the difference between the income reported as well as the income

available in the books of accounts as the undisclosed revenue. Similarly, the fabrication charges incurred by the assessee also not accepted since the TDS was not deducted and therefore disallowed the 30% of the fabrication charges and made the addition.

3. As against the said order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) also issued hearing notices on five occasions but the assessee had not responded to the said notices and not filed their written statements and therefore the Ld.CIT(A) had dismissed the appeal filed by the assessee.

4. As against the said ex-parte order, the present appeal has been filed before this Tribunal.

5. At the time of hearing, the Ld.AR submitted that the Ld.CIT(A) had not verified the records and therefore the order of the Ld.CIT(A) is against the principles of natural justice. The Ld.AR further submitted that because he is not well versed in the appeal proceedings, he has not appeared before the Ld.CIT(A) and further submitted that the Ld.CIT(A) ought to have decided the appeal on merits but dismissed the appeal for non-appearance by assessee which is not correct. The Ld.AR further submitted that there is no understatement of revenue and the assessee is having all the details to show that there is no such understatement and prayed that if one more opportunity is granted they will appear before the Ld.CIT(A) and demonstrated that the said addition is unwarranted.

6. The Ld.DR submitted that the AO had considered the reply filed by the assessee along with the letter and arrived a conclusion that there is an understatement of revenue and also found that the assessee had not deducted the TDS on the fabrication charges and therefore the 30% addition was made u/s. 40(a)(ia) of the Act.

7. We have heard the arguments of both sides and perused the materials available on record.

8. The assessee had explained that there is no understatement of revenue since the said amount is only an advance which was also reported to the department during the next A.Y. and therefore treating the said as income of the current year is not correct. It is the case of the assessee that all the documents are available to establish the fact that there is no understatement of revenue. Insofar as the fabrication charges are concerned, the assessee himself had submitted that the payments made to the sub-contractors except in one case does not exceed the maximum prescribed under the Act and therefore the non-deduction of TDS would not attract the provisions of 40(a)(ia) of the Act. These are all the facts to be considered by the appellate authorities but unfortunately, the assessee had not appeared and submitted any written submissions and therefore the Ld.CIT(A) had dismissed the appeal.

9. Considering the fact that the assessee had cooperated with the revenue before the AO and also considering the fact that the appeal order is an ex-parte order, in the interest of justice, we are remitting this issue to the file of the Ld.CIT(A) by setting aside the order of the Ld.CIT(A). We are remitting this issue to the file of the Ld.CIT(A) on the condition that the assessee should pay a sum of Rs. 5,000/- by way of cost to the Prime Minister's National Relief Fund within 90 days from the date of this order and produce the receipt before the Ld.CIT(A) while rehearing the appeal. If the assessee had not paid the said cost amount, then the order giving concession to the assessee would go. With the above observations, we set aside the order of the Ld.CIT(A) and remit this issue to the file of the Ld.CIT(A) for fresh consideration. It is also open to the assessee to furnish the written submissions as well as the documents to show that the additions are unwarranted.

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

11. Since we are advancing the appeal and decided the appeal on merits, the stay application filed by the assessee becomes infructuous and therefore the stay application is dismissed.

12. In the result, the appeal filed by the assessee is partly allowed for statistical purposes and the stay application stands dismissed as infructuous.

Order pronounced in the open court on 17th April, 2026.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 17th April, 2026.
/MS /

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore