

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
And
SHRI TAPAS RAM MISRA, JUDICIAL MEMBER**

ITA No. 2013/AHD/2024
(Assessment Year: 2018-19)

Azure Knowledge Corporation Pvt. Ltd., Azure House, Nr. Town Hall, Ahmedabad-380006. [PAN : AAFCS33464 A]	Vs.	The Deputy Commissioner of Income Tax, Circle 1(1)(1), Ahmedabad.
(Appellant)	..	(Respondent)

Appellant represented by :	Shri Biren Shah, AR
Respondent represented by:	Shri Amit Pratap Singh, Sr. DR
Date of Hearing	15.10.2026
Date of Pronouncement	19.10.2026

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the assessee against the order dated 01.10.2024 passed by the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (NFAC) [hereinafter referred to as the 'Ld. CIT(A)'], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Year 2018-19.

2. The assessee has raised the following grounds of appeal:

- In law and on the facts and circumstances of the appellant's case, the order passed by the learned CIT(A) u/s 250 of the Income-tax Act is void ab initio being bad in law.*

2. *In law and on the facts and circumstances of the appellant's case, Order u/s 143(3) r.w.s 144B is void-ab-initio since the Assessment Order was passed without passing draft Assessment Order.*
3. *In law and on the facts and in the circumstances of the case of appellant, the Ld. CIT(A) has erred in upholding the addition of investment in intangible asset as unexplained for 2,46,71,893/-, instead of deleting entire addition made by AO.*
4. *In law and on the facts and in the circumstances of the case of appellant, addition based on the provisions of section 69 r.w.s 115BBE are not wrongly applied.*
5. *In law and on the facts and in the circumstances of the case of appellant, the Ld. CIT(A) has erred in upholding disallowance of depreciation on intangible assets for Rs. 30,83,987/-.*
6. *In law and on the facts and in the circumstances of the case of appellant, the Ld. CIT(A) has erred in upholding action of AO to compute Assessed Income by considering income as per 143(1) and not returned income.*
7. *In law and on the facts and in the circumstances of the case of appellant, the Ld. CIT(A) has erred in not providing video hearing before adjudicating the case, especially asked for the same to explain the case.*

3. The brief facts of the case are that assessee is a company engaged in the business of Knowledge Process Outsourcing (KPO) and Business Process Outsourcing (BPO). The assessee filed its original return of income on 27.11.2018, declaring total income of ₹1,29,13,400 under the normal provisions of the Act and book profit of ₹2,90,87,449 under section 115JB of the Act. Subsequently, pursuant to the merger of the digital division of Smile India Knowledge Services Pvt. Ltd., which was approved by the National Company Law Tribunal (NCLT) vide order dated 30.10.2018 with effect from 01.04.2017, the assessee filed a revised return of income on 29.03.2019, declaring NIL income under the normal provisions and book profit of ₹3,07,58,086 under section 115JB of the Act. The revised return was processed by the CPC, determining the total income at ₹26,25,940 under the normal provisions and book profit at ₹3,32,92,243 under section 115JB of the Act.

3.1 The case was selected for scrutiny, and assessment was completed under section 143(3) of the Act on 19.04.2021, determining the total income at ₹3,03,81,820 as against the NIL income declared in the revised return. During the assessment proceedings, the Assessing Officer examined the addition to intangible assets amounting to ₹9,15,33,893. Since, according to the Assessing Officer, the assessee furnished supporting documents only in respect of ₹6,68,62,000, the balance amount of ₹2,46,71,893 was treated as unexplained investment under section 69 of the Act and taxed under section 115BBE. The Assessing Officer also disallowed depreciation of ₹30,83,987 relating to the aforesaid intangible assets.

3.2 The assessee contended that the intangible assets comprised software purchased from Alliance Group International Inc., USA, along with related customs duty and expenditure incurred on in-house customisation and development. It submitted that the total cost was duly recorded in its books of account and that the difference arose mainly due to customisation expenses. The assessee also disputed the applicability of section 69 and the consequential disallowance of depreciation.

3.3 The assessee further challenged the adjustments made while processing the return, including disallowances relating to gratuity, section 40A(9), tax deducted at source, employees' contributions and other expenses. It contended that these amounts had already been disallowed in the computation of income and that the adjustments resulted in duplication. The assessee also raised objections regarding the computation of income and the opportunities provided during the assessment and appellate proceedings.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A), vide order dated 01.10.2024, upheld the

action of the Assessing Officer. Being dissatisfied with the order of the Ld. CIT(A), the assessee has preferred the present appeal before the Tribunal.

5. We have heard the submissions of the assessee and perused the material available on record, including the assessment order, the impugned order passed by the Ld. CIT(A), and the grounds of appeal raised by the assessee. The assessee has challenged the validity of the assessment order on the ground that the assessment was completed without passing a draft assessment order and without providing an adequate opportunity of being heard. The assessee has also challenged the addition of Rs. 2,46,71,893/- made under Section 69 of the Income-tax Act, 1961, treating the investment in intangible assets as unexplained, the consequential disallowance of depreciation amounting to Rs. 30,83,987/-, and the adjustments made while computing the assessed income based on the intimation issued under Section 143(1) of the Act.

5.1 On perusal of the assessment order, it is observed that the Assessing Officer noticed additions to intangible assets amounting to Rs. 9,15,33,893/- during the year under consideration. The assessee furnished documents relating to the acquisition of software from Alliance Group International Inc., USA. However, as per the assessment order, supporting documents were available only to the extent of Rs. 6,68,62,000/-. Accordingly, the Assessing Officer treated the balance amount of Rs. 2,46,71,893/- as unexplained investment under Section 69 of the Act and invoked the provisions of Section 115BBE of the Act. The Assessing Officer also disallowed depreciation of Rs. 30,83,987/- attributable to the aforesaid amount.

5.2 The assessee, on the other hand, has contended that the difference represents expenditure incurred on customisation and development of the software for its business requirements, including employee salary costs and other related expenditure. **It has further submitted that the relevant expenditure**

was recorded in its books of account and that supporting details could not be furnished completely during the assessment proceedings. The assessee has also contended that the Assessing Officer did not provide an adequate opportunity to explain the difference before making the addition.

5.3 In our considered view, the nature and source of the expenditure claimed to have been incurred towards customization of the software, its accounting treatment, and its eligibility to be capitalized as an intangible asset require proper verification with reference to the books of account, invoices, agreements, ledger accounts, payment details, salary records, and other supporting documents. The issue cannot be decided merely on the basis of the difference between the amount reflected in the books of account and the supporting documents furnished during the assessment proceedings. The Assessing Officer is directed to verify the genuineness of the expenses with regard to customization of the software. The depreciation is consequential.

5.4 The assessee has also challenged the computation of assessed income by taking into account the adjustments made in the intimation issued under Section 143(1) of the Act, contending that certain expenses had already been disallowed in the revised return of income. The assessee has further submitted that certain adjustments resulted in duplication of disallowances. In our view, the computation of total income requires verification with reference to the original return, revised return, intimation issued under Section 143(1), computation of income, tax audit report, and assessment order. The Assessing Officer is required to verify whether the disputed amounts had already been disallowed by the assessee and whether any duplication has occurred while computing the assessed income.

- 6-

5.5 Considering the totality of the facts and circumstances, and in the interest of substantial justice, we deem it appropriate to set aside the impugned order of the Ld. CIT(A) and restore the matter to the file of the Assessing Officer for fresh examination and adjudication of the disputed issues in accordance with law. The Assessing Officer shall provide the assessee a reasonable opportunity to furnish the necessary documentary evidence and explanations in support of its claims. The Assessing Officer shall thereafter examine the evidence, verify the relevant records, and pass a speaking order in accordance with law.

6. Accordingly, the grounds of appeal are allowed for statistical purposes.

The order pronounced in the open Court on 19.10.2026.

**Sd/-
(TAPAS RAM MISRA)
JUDICIAL MEMBER**

**Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

(True Copy)
Ahmedabad; Dated 19.10.2026
MV

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधित आयकर आयुक्त/ Concerned CIT
4. आयकर आयुक्त(अपील) /The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद/ DR, ITAT, Ahmedabad
6. गार्डफाईल /Guard file.

आदेशानुसार/ BY ORDER,

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