

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B" : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 246/HYD/2018

Assessment Year: 2014-15

Platina Infra Services
Private Limited,
HYDERABAD
[PAN: AAACZ3373Q]

(Appellant)

The Deputy Commissioner
Vs of Income Tax,
Circle-16(2),
HYDERABAD

(Respondent)

For Assessee : Shri D.Venugopal, AR

For Revenue : Shri Rohit Mujumdar, DR

Date of Hearing : 07-01-2021

Date of Pronouncement : 12-01-2021

ORDER

PER BENCH :

This assessee's appeal for AY.2014-15 arises from the CIT(A)-4, Hyderabad's order dated 23-11-2017 passed in case No.0439/ 2016-17/ DCIT, Cir.16(2) / CIT(A)-4 / Hyd / 17-18, in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case file perused.

2. The assessee has pleaded the following substantive grounds in the instant appeal:

“1. The learned Commissioner of Income Tax (Appeals)-4, Hyderabad ("the CIT(A)") erred in fact and in law in confirming the action of the Deputy Commissioner of Income Tax- Circle-16(2), Hyderabad ("the AO") in not allowing deduction of Rs. 62,07,546 on account donation made by the Appellant.

2. The learned CIT(A) erred in fact and in law in confirming the action of the AO in not allowing deduction u/s 80GGB of Rs. 62,00,000 despite the fact that all the conditions mentioned u/s 80GGB were complied by the Appellant.

3. The learned CIT(A) erred in fact and in law in confirming the action of the AO in not allowing deduction u/s.80G of Rs. 7,546 despite the fact that all the conditions mentioned u/s 80G were complied by the Appellant.

4. The learned CIT(A) erred in fact and in law in confirming the action of the AO in not allowing deduction of Rs. 62,07,546 despite the fact that the necessary documents for claiming the deduction were duly filed before the learned AO.

5. The learned CIT(A) erred in fact and in law in confirming the action of the learned AO in not allowing deduction of donation of Rs. 62,07,546 on the ground that the additional claims / fresh claims can be made only by filing revised return of income.

6. Without prejudice to Grounds No. 1 to 5, the learned CIT(A) erred in fact and in law in not allowing the deduction of donation of Rs. 62,07,546 by considering the claims as additional / fresh claims made before the appellate authority”.

3. With the able assistance of both the learned representatives, we notice during the course of hearing that the Assessing Officer as well as the CIT(A) have declined the assessee's Section 80G claim(s) for the precise reason that it had not filed a revised return claiming the said relief. They have quoted case law Goetze (India) Ltd. Vs. CIT (2006) [284 ITR 323] (SC) that Assessing Officer ought not to entertain a new claim without filing of a revised return. We find no merit in the learned lower authorities' sole reasoning. The fact remains that their lordships have themselves made it clear in para 4 of the said decision that tribunal's jurisdiction to

entertain such a new plea in absence of a revised return or for any other authority exercising appellate jurisdiction under the provisions of the Act are not impinged upon in any manner; whatsoever. We therefore restore the assessee's grievance(s) herein above back to the Assessing Officer for his appropriate adjudication/factual verification on merits. Needful may be done within three effective opportunities of hearing.

4. This assessee's appeal is treated as allowed for statistical purposes in above terms.

Order pronounced in the open court on 12th January, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Hyderabad, Dated: 12-01-2021

Copy to :

*1. Platina Infra Services Private Limited, 1-3-183/40/122,
Gandhi Nagar, SBI Colony, Hyderabad.*

*2. The Dy. Commissioner of Income Tax, Circle-16(2),
Hyderabad.*

3. CIT(Appeals)-4, Hyderabad.

4. Pr. CIT-4, Hyderabad.

5. D.R. ITAT, Hyderabad.

6. Guard File.