

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'E': NEW DELHI)**

**BEFORE SHRI GS PANNU, VICE PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No:- 802/Del/2023
Assessment Year: 2017-18**

Mumbai JNPT Port Road Company Ltd., G-5 and 6, NHAI Building, Sector -10, Dwarka, New Delhi.	Vs.	DCIT, Circle 17(2), New Delhi.
PAN No: AADCM0285H		
APPELLANT		RESPONDENT

Assessee by : Ms. Khushboo Singhal, CA
Revenue by : Shri Anshul, Sr. DR

Date of Hearing : 09.05.2024
Date of Pronouncement : 18.06.2024

ORDER

PER ANUBHAV SHARMA, JM

This appeal has been preferred by the Assessee against the order dated 23.01.2023 of National Faceless Appeal Centre, Delhi, [hereinafter referred to as 'NFAC / CIT(A)'] in Appeal No. CIT(A), Delhi-6/10378/2019-20 arising out of an appeal before it against

the order dated 15.12.2019 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the Deputy Commissioner of Income Tax, Circle 17(2), Delhi, (hereinafter referred as the Ld. AO) for Assessment Year 2017-18.

2. The assessee has raised the following grounds:

“a) That the learned CIT (Appeals) has erred on facts and in law in disallowing deduction claimed under Chapter VI-A of Income Tax Act, 1961 for a sum of Rs. 27,84,984/-.

b) That the CIT (Appeals) did not accept the donation receipt as additional evidence taking plea of procedural rules and law and not considering the substance, truthfulness of the fact which was very clear.

c) The appellant craves, leaves to add, alter, modify, change, amend or delete, any of the grounds of appeal before or at the time of hearing of appeal.

d) That appellant craves leave and sanction of the learned CIT (Appeals) to file additional evidences, if so, required for proper prosecution of the case, based on facts and circumstances, which has not been or could not be adduced or filed before lower authorities either because proper and sufficient opportunity was not provided or because it was not solicited or its need was not appreciated.”

3. Heard and perused the record. The assessee company, is a SPV of National Highways Authority of India (NHAI), and has been set up to develop, establish, construct, operate and maintain a Project relating to the construction of the adequate road connectivity to Jawahar Lal Nehru Port Trust (JNPT), which is an

object of the public utility. Original Return of Income was filed declaring a total income of Rs. 87,24,44,600/-on 30.10.2017 and was revised on 03.07.2018 declaring total income of Rs. 93,31.21,890/-. The assessment in this case was completed on 15.12.2019 at an assessed income of Rs. 93,59,06,870/-making Disallowance on account of deduction under Section 80G amounting to Rs. 27,84,984/-. Assessee company had claimed deduction u/s 80G of Rs. 27,84,984/- for contribution to Prime Minister's National Relief Fund. However, in one of the questionnaire assessee erroneously replied that the assessee company had not claimed any deduction u/s VI-A. The AO considered the last reply filed and disallowed the deduction of Rs. 27,84,984/-. Assessee claims that AO has not considered the previous replies. Assessee filed an appeal before CIT (A) and submitted donation receipt as an evidence. But did not give an application in terms of Rule 46A for admitting additional evidence, but requesting for the same in statement of facts. Considering the same learned CIT(A) also did not allow the deduction of donation u/c VI-A on the ground that the case did not fit under any of the four limbs of the Rule 46A(1) of the Income Tax Rules.

4. Though before us the Ld. DR has defended the orders of Tax authorities below, but could not dispute the fact that Assessee company had deposited Rs. 27,84,984/- for contribution to Prime Minister's National Relief Fund. In fact even the tax authorities below have not questioned the same. When the question was merely of substantiating of an assertion of fact, of which every public authority is supposed to take notice on it's own, then refusing to take cognizance of the same, merely for not filing a formal application under Rule 46A of IT Rules, is not justified. The order of CIT(A) cannot be sustained.

5. The grounds are sustained. The appeal is allowed. AO is directed to allow the deduction claimed deduction u/s 80G of Rs. 27,84,984/- for contribution to Prime Minister's National Relief Fund.

Order pronounced in the Open Court on 18 .06.2024

Sd/-
(GS PANNU)
VICE PRESIDENT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 18/06/2024.
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	