

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No.134/PUN/2025
Assessment year : 2020-21**

C G Marketing Private Limited C 5020, 5 th Floor, Solitaire Business Hub, S.No.207/12/1-1, Near Nico Garden, Vimannagar, Pune – 411014	Vs.	DCIT, Circle 1(1), Pune
PAN: AABCC7475M		
(Appellant)		(Respondent)

Assessee by : Shri Sarvesh Khandelwal
Department by : Shri Ramnath P Murkude
Date of hearing : 21-04-2025
Date of pronouncement : 22-04-2025

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the order dated 20.11.2024 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2020-21.

2. Facts of the case, in brief, are that the assessee is a domestic company and engaged as a distributor of Procter and Gamble as well as Gillette India Ltd. It filed its return of income on 12.12.2020 declaring total income of Rs.12,90,54,500/-. The case of the assessee was selected for complete scrutiny under CASS and accordingly statutory notices u/s 143(2) and 142(1) of the Income

Tax Act, 1961 (hereinafter referred to as 'the Act') were issued and served on the assessee, in response to which the assessee filed the requisite details.

3. During the course of assessment proceedings the assessee submitted that it had made donation of Rs.24 lakhs which was inadvertently not claimed as deduction u/s 80G of the Act while filing the return of income. The assessee therefore vide submissions dated 23.09.2021 and 21.01.2022 raised the additional claim for allowing the deduction u/s 80G of the Act amounting to Rs.24 lakhs and submitted all the supporting documents to substantiate the claim. However, in the order passed u/s 143(3) of the Act on 19.09.2022 the Assessing Officer did not allow such claim nor discussed the issue.

4. Before the Ld. CIT(A) / NFAC the assessee relying on various decisions including the decision of Hon'ble Bombay High Court in the case of Pruthvi Brokers & Shareholders vs. CIT (2012) 349 ITR 336 (Bom) submitted that the assessee is entitled to make additional claim which is not made before the Assessing Officer. However, the Ld. CIT(A) / NFAC rejected the appeal filed by the assessee by observing as under:

"5 I have perused facts of the case, assessment order of the AO, submission of the appellant and the documents available on record. As per the order of the AO, after verification of the three issues i.e -

- 1. Credit of brought forward TDS.*
- 2. Non-furnishing of Quantitative details.*
- 3. ICDS compliance and adjustments.*

The returned income has been accepted. There is no disallowance of any such claim of deduction u/s 80G. This means that the grounds of appeal raised in the appeal do not emanate from the assessment order. Even otherwise, even if the assessee had inadvertently not claimed the deduction u/s 80G in the return, he could have claimed it by filing a revised return.

In view of the foregoing, the said claim of the appellant is rejected. All the grounds of appeal are deemed to have been dismissed.”

5. Aggrieved with such order of the Ld.CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following effective ground:

1. *On the facts and circumstances prevailing in the case and as per provisions and scheme of the Act it be held that the Assessing Officer and Commissioner of Income Tax (Appeals) has erred in not allowing the additional claim of deduction u/s 80G of the Act. Just and proper relief be granted.*
2. *The appellant prays to be allowed to add, amend, modify, rectify, delete, and raise any grounds of appeal at the time of hearing.*

6. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. The only grievance of the assessee in the instant case is regarding the disallowance of claim u/s 80G of the Act which the Ld. CIT(A) / NFAC has rejected on the ground that the assessee had not claimed the same by filing the revised return. We find the Hon'ble Supreme Court in the case of Goetze India Ltd. vs. CIT (2006) 284 ITR 323 (SC) has held that the said decision was restricted to the powers of the assessing authority to entertain a claim for deduction otherwise than by a revised return and did not impinge on the power of the

appellate tribunal u/s 254 of the Act. The relevant observations of Hon'ble Supreme Court read as under:

“2. The question raised in this appeal relates to whether the appellant assessee could make a claim for deduction other than by filing a revised return. The assessment year in question was 1995-96. The return was filed on 30-11-1995, by the appellant for the assessment year in question. On 12-1-1998, the appellant sought to claim a deduction by way of a letter before the assessing officer. The deduction was disallowed by the assessing officer on the ground that there was no provision under the Income Tax Act to make amendment in the return of income by modifying an application at the assessment stage without revising the return.

3. This appellant's appeal before the Commissioner (Appeals) was allowed. However, the order of the further appeal of the department before the Income Tax Appellate Tribunal was allowed. The appellant has approached this court and has submitted that the Tribunal was wrong in upholding the assessing officer's order. He has relied upon the decision of this court in National Thermal Power Company Ltd. v. CIT (1998) 229 ITR 383, to contend that it was open to the assessee to raise the points of law even before the Appellate Tribunal.

4. The decision in question is that the power of the Tribunal under section 254 of the Income Tax Act, 1961, is to entertain for the first time a point of law provided the fact on the basis of which the issue of law can be raised before the Tribunal. The decision does not in any way relate to the power of the assessing officer to entertain a claim for deduction otherwise than by filing a revised return. In the circumstances of the case, we dismiss the civil appeal. However, we make it clear that the issue in this case is limited to the power of the assessing authority and does not impinge on the power of the Income Tax Appellate Tribunal under section 254 of the Income Tax Act, 1961. There shall be no order as to costs.”

7. Respectfully following the above decision, we admit the additional claim made by the assessee u/s 80G of the Act and restore the matter to the file of the Assessing Officer with a direction to verify the claim of the assessee. Needless to say the Assessing Officer shall give due opportunity of being heard to the assessee and decide the issue as per fact and law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 22nd April, 2025.

Sd/-

(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 22nd April, 2025

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

Sd/-

(R. K. PANDA)
VICE PRESIDENT

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	21.04.2025		Sr. PS/PS
2	Draft placed before author	22.04.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			