

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "डी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD

श्री टी.आर. सेन्थिल कुमार, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।

BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1446/Ahd/2024
निर्धारण वर्ष /Assessment Year : 2020-21

Vimal Coal Pvt.Ltd. 503, Addpr Aspire Near Jahanvee Restaurant University Road to Panjrapole Road Ahmedabad - 380 009	<u>बनाम/</u> <u>v/s.</u>	The Dy.CIT Circle-4(1)(1) Ahmedabad
स्थायी लेखा सं./PAN: AABCV 4259 J		

(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Ms. Priyanka Sajnani, AR On behalf of Shri Sunil Maloo, AR
Revenue by :		Shri Atul Pandey, Sr.DR

सुनवाई की तारीख/Date of Hearing : 23/04/2025
घोषणा की तारीख /Date of Pronouncement: 25/04/2025

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, AM:

This appeal by the assessee is directed against the order passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 10.06.2024 for the Assessment Year (AY) 2020-21, confirming the disallowance of Rs.11,02,500/- made by the Assessing Officer [hereinafter referred to as "AO"] under section 80G of the Income-tax Act, 1961 [hereinafter referred to as "the Act"].

Facts of the Case:

2. The assessee is engaged in the business of trading in coal. For A.Y. 2020-21, it filed its return of income on 31.12.2020 declaring a total income of Rs.27,60,08,710/-. The return was selected for complete scrutiny under CASS for verification of large deduction claimed under section 80G where the donee's approval status was in question. During the assessment proceedings, the Assessing Officer observed that the assessee had made a donation of Rs.22,05,000/- as part of its statutory Corporate Social Responsibility (CSR) obligation under section 135 of the Companies Act, 2013. Out of this, the assessee claimed Rs.11,02,500/- (i.e., 50%) as deduction under section 80G of the Act. The AO disallowed the claim stating that since CSR expenditure is mandatory and not voluntary, it is not eligible for deduction under section 80G. Reliance was placed on Explanation 2 to section 37(1), and the total income was assessed at Rs. 35,65,88,180/- after making the said disallowance.

3. The assessee preferred an appeal before CIT(A). In the appellate proceedings before the CIT(A), the assessee submitted that -

- Donations were made to All India Social Education Charitable Trust and Dahiben Patel Charitable Trust, both of which are registered under section 80G(5) of the Act.
- These trusts are engaged in education, which is a valid CSR activity under Schedule VII of the Companies Act.
- The entire CSR expenditure was suo motu disallowed under section 37(1) of the Act while computing business income.

- Deduction was claimed under section 80G of the Act, which operates independently and is not overridden by section 37(1) of the Act.
- The donations were made via banking channels and supported by proper receipts and confirmations.

3.1.1 The CIT(A), however, confirmed the disallowance. For the sake of clarity the operative part of the decision of CIT(A) is reproduced hereunder:-

"I have considered the facts of the case and submission filed by the appellant carefully. I find that the nature of donations paid by the appellant is not covered by the clause 80G(2)(iihk) i.e. donation paid to Swachh Bharat Kosh set up [by the] Central Govt. other than the sum spent by the assessee in pursuance of Corporate Social Responsibility. Similarly, donations paid by the appellant is also not covered by the clause 80G(2)(iihl) i.e. the Clean Ganga Fund set up [by the] Central Govt. other than the sum spent by the assessee in pursuance of Corporate Social Responsibility. Thus, I find that the donations paid are of CSR nature and hence no deduction is admissible against such CSR expenditure. Therefore, the addition made by the AO is confirmed and the ground raised by the appellant is dismissed."

4. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds:

"1. The CIT(A) erred in law and in facts in confirming the addition of Rs 11,02,500/-being deduction claimed u/s 80G of the Income Tax Act for donation made as part of CSR activities to All India Social Education Charitable Trust and Dahiben Patel Charitable Trust, both duly engaged in education related activities and also not covered by Section 80G(2)(ilikh) or 80G(2) (ilihl) of the Income Tax Act. (Tax effect for the addition of Rs 11,02,500/- is Rs. 3,74,850/-) .

2. The Appellant reserves the right to add, alter, amend, or modify any of the grounds of appeal during the course of the appellate proceedings."

5. During the course of hearing before us, the assessee filed detailed written submissions reiterating that the claim under section 80G is made post disallowance of CSR expense under section 37(1), Section 80G of the Act is a

deduction from gross total income and not a business deduction, the donees are not covered by exclusionary clauses 80G(2)(iihk) or (iihl) and there is no express bar under section 80G on claiming deduction of CSR-related donations, except to the two specified funds. The assessee placed reliance on the following judicial precedents:

- Aia Engineering Ltd. Vs. PCIT - ITA Nos. 309 & 310/Ahd/2024.
- Power Mech Projects Ltd. Vs. DCIT - (2023) 156 taxmann.com 575 (Hydrabad - Trib.).
- Societe Generale Securities India (P.) Ltd. Vs. PCIT - (2023) 157 taxmann.com 533 (Mumbai - Trib.).

6. The Departmental Representative (DR), on the other hand, relied on the orders of lower authorities and reiterated that no such deduction is allowed.

7. We have carefully considered the rival submissions, the findings of the lower authorities, the documentary and factual matrix on record, as well as the judicial precedents placed before us. The solitary issue for adjudication is whether the assessee is entitled to deduction of Rs.11,02,500/- under section 80G of the Act in respect of donations made as part of its Corporate Social Responsibility (CSR) obligations.

7.1. The donation of Rs.22,05,000/- was made by the assessee to two charitable institutions namely - All India Social Education Charitable Trust amounting to Rs. 22,00,000/- and Dahiben Patel Charitable Trust amounting to Rs.5000/-, both registered under section 80G(5) of the Act and engaged in education-related activities. The assessee disallowed the entire CSR expenditure under section 37(1) in the computation of business income and

thereafter claimed 50% deduction under section 80G of the Act. The CIT(A), while acknowledging that the donations are not covered by the exclusions in section 80G(2)(iihk) or (iihl), nevertheless dismissed the assessee's claim.

7.2. The Finance (No. 2) Act, 2014 inserted Explanation 2 to section 37(1) to explicitly disallow CSR expenses as a deduction under the head “profits and gains of business or profession”. However, there is no corresponding bar introduced in Chapter VI-A, which governs deductions from gross total income, including under section 80G. The Explanatory Memorandum to the Finance Bill, 2014, clarifies that the objective was to prevent companies from reducing taxable business profits by treating CSR as business expenditure, since such spending constitutes an application of income. Notably, the memorandum does not propose any bar on deduction under section 80G, nor does the Finance Act insert such a restriction despite having amended section 80G to insert specific exclusions for donations to Swachh Bharat Kosh [clause (iihk)] and Clean Ganga Fund [clause (iihl)]. This drafting choice reflects the principle of *expressio unius est exclusio alterius* – the express exclusion of certain CSR donations in clauses (iihk) and (iihl) implies that other CSR donations, if otherwise qualifying under section 80G, remain allowable. If Parliament had intended to prohibit all CSR-related donations from deduction under section 80G, it could have explicitly done so, just as it did for those two specific funds. The absence of such a general prohibition must be presumed to be deliberate. Therefore, any administrative or interpretive extension of Explanation 2 to section 37(1) into the domain of section 80G would amount to judicial legislation, contrary to settled canons of construction.

7.3. The Co-ordinate Bench Decision in AIA Engineering Ltd. [ITA Nos. 309 & 310/Ahd/2024], relying on the decisions of other co-ordinate bench,

has already discussed and decided on the merits of this issue while quashing the revisionary order passed u/s 263 of the Act. We have also noted the other decision relied on and observed that each of these decisions concluded that deduction under section 80G remains allowable even in respect of CSR donations, provided they are not hit by the express exclusions under section 80G(2) of the Act.

7.4. In the present case, there is no dispute that -

- The assessee disallowed the CSR amount in the computation of business income as required by Explanation 2 to section 37(1) of the Act.
- The donee trusts are registered under section 80G(5) of the Act.
- The donations were made through verifiable banking channels.
- The institutions are not covered by clauses (iiihk) or (iiihl) of section 80G(2) of the Act.

7.5. We are of the view that the CIT(A)'s conclusion – though acknowledging the inapplicability of clauses (iiihk)/(iiihl) – is contrary to the legislative structure and fails to appreciate the scope and autonomy of section 80G within Chapter VI-A.

7.6. In light of the legislative intent behind Explanation 2 to section 37(1), of the Act the structure and operation of Chapter VI-A, judicial consensus from Co-ordinate Benches and full compliance by the assessee with the conditions of section 80G, we hold that the assessee is entitled to deduction of Rs.11,02,500/- under section 80G of the Act. The disallowance made by the AO and sustained by the CIT(A) is hereby directed to be deleted.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 25th April, 2025 at Ahmedabad.

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

अहमदाबाद/Ahmedabad, दिनांक/Dated 25/04/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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)-(NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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