

IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH", PATNA

(VIRTUAL HEARING AT KOLKATA)

**SHRI DUVVURU RL REDDY, VICE PRESIDENT
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 486/PAT/2024
(Assessment Year 2014-15)**

**Assistant Commissioner of Income Tax,
Circle-1, Patna,**

4th Floor, Lok Nayak Bhawan,
Dak Bungalow Chauraha,
Patna - 800001

..... **Appellant**

vs.

Bihar Rajya Pul Niraman Nigam Limited,

7, Sardar Patel Marg,
Patna (Bihar) - 800015
[PAN: AACCB0681R]

..... **Respondent**

**CO. No. 4/PAT/2024
(Arising out of ITA No. 486/Pat/2024
(Assessment Year 2014-15)**

Bihar Rajya Pul Niraman Nigam Limited,

7, Sardar Patel Marg,
Patna (Bihar) - 800015
[PAN: AACCB0681R]

..... **Appellant**

vs.

**Assistant Commissioner of Income Tax,
Circle-2, Patna**

..... **Respondent**

Appearances by:

Assessee represented by : Sh. Abhishek Kumar, Adv.

Department represented by : Sh. Ashwani Kr. Singal, JCIT

Date of concluding the hearing : 01.05.2025

Date of pronouncing the order : 21.05.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER

1. This is a batch of two appeals in which the main appeal (ITA No. 486/Pat/2024) has been filed by the Revenue against the order of Ld. CIT(A) and the CO has been filed by the assessee in support of the order of Ld. CIT(A). Since, these two matters are inter-connected, they are being disposed of through a single order.

2. These two cases emanate from order u/s 250 of the Income Tax Act, 1961 (hereinafter “the Act”), passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)”] vide order dated 13.06.2024. In this case the single issue pertains to the disallowance of Rs. 2,87,93,267/- booked as an expense under the head “Corporate Social Responsibility” (CSR) at the level of Ld. AO it appears that the impugned amount has been added due to the assessee not being able to present a satisfactory reply to justify the said expense with respect to a business purpose.

2.1 Aggrieved with this action, the assessee approached the Ld. CIT(A) who has allowed the assessee’s appeal on the basis of finding that the explanation 2 to section 37 of the Act was inserted by the Finance Act, 2014 w.e.f. 01.04.2015. It is mentioned that through this amendment any expense incurred under the head CSR as referred to in section 135 of the Companies Act, 2013, shall not be deemed to be an expenditure incurred by the assessee for the purpose of business of profession. The Ld. CIT(A) has mentioned that such expenses were to be disallowed on or after 01.04.2014. Since, the present case pertains to AY 2014-15, the Ld. CIT(A) held that the amended provision would not apply in the case of the assessee for this year. He has accordingly given relief.

2.3 Aggrieved with this action of Ld. CIT(A), the Revenue has come in appeal with three grounds which challenge the action of Ld. CIT(A) with respect to the operation of the amended provision and also the fact that the assessee apparently did not present satisfactory documents or evidences before the Ld. AO.

3. Before us, the Ld. DR read out the portions of the Ld. AO's order and assailed the action of Ld. CIT(A) by showing that the impugned expenses were not allowable. Per contra, the Ld. AR stated that the assessee was regularly incurring expenditure under CSR and following the case of PEC Ltd. reported in 451 ITR 436 (Delhi), the expenditure under CSR could not be allowed in the AY 2014-15. The Ld. AR supported the action of Ld. CIT(A) and stated that their cross objections deserve to be allowed since they are intended to support the action of Ld. CIT(A).

4. We have carefully considered the rival submissions and gone through the records before us. It is seen that the Ld. CIT(A) has examined the issue from the factual and legal angle thoroughly and thereafter arrived at a conclusion which is in keeping with the law. In this regard, we would also like to respectfully following the case of PEC Ltd. (supra) in holding that for the AY 2014-15 CSR was to be allowed as an expense and to that extent we do not agree with the finding of Ld. AO that such expense had to have a direct nexus with the business of the assessee since as per the Companies Act (section 135) a certain portion of their profits have to be allocated for CSR activities. Since, the assessee is a company owned by the State Government hence, it was duty bound to allocate a certain percentage of the profits for CSR activities. It is another matter that from AY 2015-16 CSR activities have been taken out of the ambit of section 37 of the Act. Accordingly, we uphold the action of Ld. CIT(A) and dismiss the appeal of the Revenue. For this reason, the CO filed by the assessee is allowed.

5. In result, appeal of the Revenue is dismissed and CO filed by the assessee is allowed.

Order pronounced on 21.05.2025

Sd/-
(Duvvuru RL Reddy)
Vice President

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 21.05.2025
AK, Sr. P.S.

Copy of the order forwarded to:

1. Bihar Rajya Pul Niranman Nigam Limited
2. Assistant Commissioner of Income Tax, Circle-1, Patna
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches