

आयकर अपीलीय अधिकरण
पटना पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री संजय शर्मा, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. Nos.: 330, 331, 332, 333, 334 & 335/PAT/2024
AYs: 2012-13, 2013-14, 2014-15, 2014-15, 2017-18 & 2018-19**

Bihar State Road Development Corporation Limited (BSRDCL)	Vs.	ITO, Ward-2(1), Patna
		ACIT, Circle-2, Patna
		Income Tax Department, NFAC, Delhi
(Appellant)		(Respondent)
PAN: AADCB7567M		

Appearances:

Assessee represented by : Abhi Sarkar, AR.

Department represented by : Rajat Datta, CIT.

Date of concluding the hearing : 15-July-2025

Date of pronouncing the order : 24-July-2025

ORDER

PER BENCH:

These six appeals filed by the assessee are against the separate orders of the Commissioner of Income Tax (Appeals)-NFAC, Delhi

[hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AYs 2012-13, 2013-14, 2014-15, 2014-15, 2017-18 and 2018-19 dated 24.01.2024 and 25.01.2024, which have been passed against the assessment orders u/s 143(3)/147, 144/147, 143(3)/263, 143(3), 143(3) and 143(3)/144B of the Act, respectively on various dates.

2. Since the issues in all the appeals are common, all the appeals were heard together and are being decided vide this common order for the sake of convenience and brevity.

3. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

I. ITA No. 330/PAT/2024; AY 2012-13:

"1. For that the grounds of appeal hereto are without prejudice to each other.

2. For that the appellate order dated 24/01/2024 bearing DIN & Order No: ITBA/NFAC/S/250/2023-24/1060081479(1) passed under Section 250 of the Income Tax Act, 1961 (hereinafter called the Act) for Assessment Year 2012-13 by the Ld. First Appellate Authority, viz. the Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre (NFAC), Delhi, is bad both in law and on facts.

3. For that the order of assessment dated 02/08/2016 bearing DIN & Order No: Nil passed under Section 143(3) / 147 of the Act for Assessment Year 2012-13 by the ld. assessing officer, viz. the Income Tax Officer, Ward - 2(1), Patna, is bad both in law and on facts.

4. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth at the time of assessment proceeding.

5. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is based on presumption, surmises and conjectures.

6. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the Ld. assessing officer is wholly perverse in as much as

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the same are contrary to and at variance with the materials available on record.

7. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer is far from best judgment assessment as envisaged in the Act.

8. For that the Ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer has erred in disallowing Rs.30,52,571/- on the account of expenses claimed in the profit and loss account for expenses made on account of corporate social responsibility (in short CSR) in Financial Year 2011-12 corresponding to Assessment Year 2012-13, notwithstanding the fact that the Explanation (2) of sub-Section (1) of Section 37 of the Act was inserted by the Finance (No. 2) Act, 2014, w.e.f. 1.4.2015 and was applicable from Assessment Year 2015-16 and that the said provision was not applicable in the Assessment Year 2012-13 and that the application of the said provision is only prospective.

9. For that the ld. Commissioner of Income Tax (Appeal) as well as the ld. assessing officer has erred in disallowing Rs.46,190/-on the account of expenses claimed in the profit and loss account for payment made under interest on TDS.

10. For that the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer has erred in disallowing Rs.66,47,34,169/- on the account of deduction claimed u/s 80IA of the Act due to interest income from Fixed Deposit, Saving Account and other income.

11. For that the appellant shall place any other point/points at the time of hearing of the appeal.”

II. ITA No. 331/PAT/2024; AY 2013-14:

“1. For that the grounds of appeal hereto are without prejudice to each other.

2. For that the appellate order dated 25/01/2024 bearing DIN & Order No: ITBA/NFAC/S/250/2023-24/1060138818(1) passed under Section 250 of the Income Tax Act, 1961 (hereinafter called the Act) for Assessment Year 2013-14 by the Ld. First Appellate Authority, viz. the Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre (NFAC), Delhi, is bad both in law and on facts.

3. For that the order of assessment dated 02/08/2016 bearing DIN & Order No: ITBA/AST/M/147/2019-20/1021871020 passed under Section 144 read with Section 147 of the Act for Assessment Year 2013-14 by the ld. assessing officer, viz. the Assistant Commissioner of Income Tax, Circle 2, Patna, is bad both in law and on facts.

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4. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth at the time of assessment proceeding.

5. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is based on presumption, surmises and conjectures.

6. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is wholly perverse in as much as the same are contrary to and at variance with the materials available on record.

7. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer is far from best judgment assessment as envisaged in the Act.

8. For that the ld. Commissioner of Income Tax (Appeal) as well as the ld. assessing officer has erred in initiating reassessment proceeding and passing order u/s 147 of the Act, notwithstanding the fact that the assessment for the Assessment Year 2013-14 was already completed u/s 143(3) of the Act vide order of assessment dated 31/03/2016 and that an assessment concluded u/s 143(3) of the Act cannot be reopened u/s 148 of the Act after the expiry of 4 years solely on the ground of change of opinion.

9. For that the ld. Commissioner of Income Tax (Appeal) as well as the ld. assessing officer has erred in disallowing Rs.6,06,16,174/- on the account of expenses claimed in the profit and loss account for expenses made on account of corporate social responsibility (in short CSR) in Financial Year 2012-13 corresponding to Assessment Year 2013-14, notwithstanding the fact that the Explanation (2) of sub-Section (1) of Section 37 of the Act was inserted by the Finance (No. 2) Act, 2014, w.e.f. 1.4.2015 and was applicable from Assessment Year 2015-16 and that the said provision was not applicable in the Assessment Year 2013-14 and that the application of the said provision is only prospective.

10. For that the ld. Commissioner of Income Tax (Appeal) as well as the ld. assessing officer has erred in disallowing Rs.33,05,28,937/- on the account of deduction claimed u/s 801A of the Act due to interest income from Fixed Deposit, Saving Account and other income.

11. For that the appellant shall place any other point/points at the time of hearing of the appeal.”

III. ITA No. 332/PAT/2024; AY 2014-15:

“1. For that the grounds of appeal hereto are without prejudice to each other.



2. For that the appellate order dated 24/01/2024 bearing DIN & Order No: ITBA/NFAC/S/250/2023-24/1060083564(1) passed under Section 250 of the Income Tax Act, 1961 (hereinafter called the Act) for Assessment Year 2014-15 by the ld. First Appellate Authority, viz. the Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre (NFAC), Delhi, is bad both in law and on facts.

3. For that the order of assessment dated 21/11/2019 bearing DIN & Order No: NIL passed under Section 143(3) read with Section 263 of the Act for Assessment Year 2014-15 by the ld. assessing officer, viz. the Assistant Commissioner of Income Tax, Circle - 2, Patna, is bad both in law and on facts.

4. For that the order of assessment dated 21/11/2019 bearing DIN & Order No: NIL passed under Section 143(3) read with Section 263 of the Act for Assessment Year 2014-15 by the ld. assessing officer, viz. the Assistant Commissioner of Income Tax, Circle - 2, Patna is invalid in view of the fact that there was no DIN mentioned in the impugn order which is contrary to the CBDT Circular No. 19/2019 dated 14-8-2019.

5. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth at the time of assessment proceeding.

6. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the Ld. assessing officer is based on presumption, surmises and conjectures.

7. For that the order of the Ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is wholly perverse in as much as the same are contrary to and at variance with the materials available on record.

8. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer is far from best judgment assessment as envisaged in the Act.

9. For that the ld. Commissioner of Income Tax (Appeal) as well as the ld. assessing officer has erred in initiating assessment proceeding and passing order u/s 143(3) of the Act on the basis of order dated 30.03.2019 u/s 263 of the Act, notwithstanding the fact that the assessment for the Assessment Year 2014-15 was already completed u/s 143(3) of the Act vide order of assessment dated 30/12/2016 bearing DIN & Order No: Nil passed under Section 143(3) of the Act for Assessment Year 2014-15 by the Ld. assessing officer, viz. the Assistant Commissioner of Income Tax, Circle 2, Patna and that an assessment concluded u/s 143(3) of the Act cannot be assessed solely on the ground of change of opinion.

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10. For that the ld. Commissioner of Income Tax (Appeal) as well the Ld. assessing officer has erred in disallowing Rs.4,17,73,240/- on the account of expenses claimed in the profit and loss account for expenses made on account of corporate social responsibility (in short CSR) in Financial Year 2013-14 corresponding notwithstanding the fact that the Explanation (2) of sub-Section (1) of Section 37 of the Act was inserted by the Finance (No. 2) Act, 2014, w.e.f. 1.4.2015 and was applicable from Assessment Year 2015-16 and that the said provision was not applicable in the Assessment Year 2014-15 and that the application of the said provision is only prospective.

11. For that the ld. Commissioner of Income Tax (Appeal) as well as the ld. assessing officer has erred in disallowing Rs.56,58,27,946/- on the account of deduction claimed u/s 80IA of the Act due to interest income from Fixed Deposit, Saving Account and other income.

12. For that the appellant shall place any other point/points at the time of hearing of the appeal.”

IV. ITA No. 333/PAT/2024; AY 2014-15:

“1. For that the grounds of appeal hereto are without prejudice to each other.

2. For that the appellate order dated 24/01/2024 bearing DIN & Order No: ITBA/NFAC/S/250/2023-24/1060084496(1) passed under Section 250 of the Income Tax Act, 1961 (hereinafter called the Act) for Assessment Year 2014-15 by the ld. First Appellate Authority, viz. the Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre (NFAC), Delhi, is bad both in law and on facts.

3. For that the order of assessment dated 30/12/2016 bearing DIN & Order No: Nil passed under Section 143(3) of the Act for Assessment Year 2014-15 by the ld. assessing officer, viz. the Assistant Commissioner of Income Tax, Circle 2, Patna, is bad both in law and on facts.

4. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth at the time of assessment proceeding.

5. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the Ld. assessing officer is based on presumption, surmises and conjectures.

6. For that the order of the Ld. Commissioner of Income Tax (Appeal) as well as the order of the Ld. assessing officer is wholly perverse in as much as the same are contrary to and at variance with the materials available on record.



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7. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer is far from best judgment assessment as envisaged in the Act.

8. For that the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer has erred in disallowing Rs.30,52,570/- on the account of expenses claimed in the profit and loss account for expenses made on account of corporate social responsibility (in short CSR) in Financial Year 2013-14 corresponding to Assessment Year 2014-15, notwithstanding the fact that the Explanation (2) of sub-Section (1) of Section 37 of the Act was inserted by the Finance (No. 2) Act, 2014, w.e.f. 1.4.2015 and was applicable from Assessment Year 2015-16 and that the said provision was not applicable in the Assessment Year 2013-14 and that the application of the said provision is only prospective.

9. For that the appellant shall place any other point/points at the time of hearing of the appeal.”

V. ITA No. 334/PAT/2024; AY 2017-18:

“1. For that the grounds of appeal hereto are without prejudice to each other.

2. For that the appellate order dated 24/01/2024 bearing DIN & Order No: ITBA/NFAC/S/250/2023-24/1060086025(1) passed under Section 250 of the Income Tax Act, 1961 (hereinafter called the Act) for Assessment Year 2017-18 by the ld. First Appellate Authority, viz. the Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre (NFAC), Delhi, is bad both in law and on facts.

3. For that the order of assessment dated 15/12/2019 bearing DIN & Order No: ITBA/AST/S/143(3)/2019-20/1022377052(1) passed under Section 143(3) of the Act for Assessment Year 2017-18 by the ld. assessing officer, viz. the Assistant Commissioner of Income Tax, Circle 2, Patna, is bad both in law and on facts.

4. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth at the time of assessment proceeding.

5. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is based on presumption, surmises and conjectures.

6. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is wholly perverse in as much as the same are contrary to and at variance with the materials available on record.



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7. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer is far from best judgment assessment as envisaged in the Act.

8. For that the Ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer has erred in disallowing Rs.107,61,45,485/- on the account of deduction claimed u/s 80-IA of the Act due to interest income from Fixed Deposit, Saving Account and other income.

9. For that the ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer has erred in disallowing Rs.22,50,834/- on the account of expenses claimed in the profit and loss account for expenses made on account of corporate social responsibility (in short CSR) in Financial Year 2016-17 corresponding to Assessment Year 2017-18.

10. For that the appellant shall place any other point/points at the time of hearing of the appeal.”

VI. ITA No. 335/PAT/2024; AY 2018-19:

“1. For that the grounds of appeal hereto are without prejudice to each other.

2. For that the appellate order dated 24/01/2024 bearing DIN & Order No: ITBA/NFAC/S/250/2023-24/1060086826(1) passed under Section 250 of the Income Tax Act, 1961 (hereinafter called the Act) for Assessment Year 2018-19 by the ld. First Appellate Authority, viz. the Commissioner of Income Tax (Appeal) at National Faceless Appeal Centre (NFAC), Delhi, is bad both in law and on facts.

3. For that the order of assessment dated 22/06/2021 bearing DIN & Order No: ITBA/AST/S/143(3)/2021-22/1033620294(1) passed under Section 143(3) of the Act for Assessment Year 2018-19 by the Ld. assessing officer at Income Tax Department, National Faceless Assessment Centre, Delhi, is bad both in law and on facts.

4. For that the appellant was not given any opportunity, much less sufficient opportunity, to put forth his contentions and place evidences henceforth at the time of assessment proceeding.

5. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is based on presumption, surmises and conjectures.

6. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the order of the ld. assessing officer is wholly perverse in as much as the same are contrary to and at variance with the materials available on record.



7. For that the order of the ld. Commissioner of Income Tax (Appeal) as well as the ld. assessing officer is far from best judgment assessment as envisaged in the Act.

8. For that the Ld. Commissioner of Income Tax (Appeal) as well as the Ld. assessing officer has erred in disallowing Rs.51,32,41,851/- on the account of deduction claimed u/s 80-IA of the Act due to interest income from Fixed Deposit, Saving Account and other income.

9. For that the appellant shall place any other point/points at the time of hearing of the appeal.”

4. We will take up the appeal for AY 2012-13 in ITA No. 330/PAT/2024 as the lead case. Brief facts of the case are that the assessee is a Bihar State Government Undertaking and during the year under consideration was engaged to construct, execute, carry out, improve, work, develop, administer, manage, control or maintain in Bihar and elsewhere all types of roads, highways, express routes, paths, streets, bridges, sideways, tunnels and other infrastructure works. The case was selected for scrutiny through Computer Assisted Scrutiny Selection (in short 'CASS'). The assessment order for AY 2012-13 u/s 143(3) of the Act was passed on 31.03.2015. After the completion of assessment, the Assessing Officer (hereinafter referred to as Ld. 'AO') found that the assessee had claimed deduction u/s 80-IA of the Act on interest income and other income booked under the head "Other Income", which was not allowable. Accordingly, the case of the assessee was reopened within the meaning of section 147 of the Act after recording reasons and obtaining prior approval from the competent authority. Thereafter, a notice u/s 148 of the Act was issued to the assessee on 21.04.2016. In response, the assessee e-filed its return on 03.06.2016 declaring total income of ₹8,00,00,000/-. Thereafter notices u/s 143(2) and 142(1) of the Act were issued and served upon the

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assessee. The reassessment was completed u/s 143(3) r.w.s 147 of the Act on 02.08.2016 by making the following additions/disallowances:

(a)	Corporate Social Responsibility u/s 37(1) of the Act:	₹30,52,571/-
(b)	Interest on TDS:	₹46,190/-
(c)	Deduction on 'Other Income' claimed u/s 801A:	₹66,47,34,169/-

The total income of the assessee was thus assessed at ₹74,78,32,931/-.

4. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who, vide order dated 24.01.2024, dismissed the appeal of the assessee. The assessee has raised additional ground vide paper book filed on 17.06.2025 which is as under and which was admitted for adjudication:

“1. For that in view of the fact that the appellant has paid taxes as Minimum Alternate Tax (MAT) as per the provisions of section 115JB of the Act, the appellant has paid sufficient taxes and there is no loss to the Revenue on that account.”

5. Along with the appeal, the assessee had filed 5 paper books and for all the appeals common paper book had been filed relating to section 143(3) as well as section 263 of the Act. In the appeal for AY 2014-15 relating to order under section 143(3) of the Act, the assessee has filed the paper book along with the computation of income.

6. At the outset, the Ld. DR submitted that these paper books and documents were neither filed before the Ld. AO nor before the Ld. CIT(A) nor they are part of the original grounds of appeal raised before the Tribunal and requested that the matter may be set aside to the Ld. CIT(A) to decide the appeal afresh.

7. We have considered the submission made. The assessee has raised as many as 11 grounds of appeal. However, Ground no. 4 states



that the assessee was not given any opportunity, much less sufficient opportunity to put forth his contentions and place evidences at the time of assessment proceedings and in Ground no. 5 and other grounds of appeal it is submitted that the order of the Ld. CIT(A) as well as the Ld. AO are based on presumption, surmises and conjectures.

8. A perusal of the assessment order u/s 143(3)/147 of the Act shows that the assessee was found to have claimed deduction u/s 80-IA of the Act on interest income and some other income credited under the head 'other income' which were not eligible for deduction as per explanation of section 80-IA(4) of the Act and accordingly, a notice u/s 148 of the Act was issued 21.04.2016 and served upon the assessee through Speed Post. Subsequently, statutory notices were issued and since the assessee could not furnish the details of the expenditure claimed on account of Corporate Social Responsibility (in short 'CSR') amounting to ₹30,52,571/-, interest on TDS of ₹46,190/- which was held to be not for the purpose of business, the same was disallowed. Further, a sum of ₹71,91,44,620/- claimed under the head 'other income' in the profit and loss account and on which deduction u/s 80-IA of the Act was also claimed and which was bifurcated into Own Fund and RCD Fund, was disallowed by the Ld. AO relying upon the decisions of Hon'ble Supreme Court in the case of **Cambay Electric Supply Industrial Co. Ltd. Vs. CIT [1978] 113 ITR 84**, **Ashoka Leyland Vs. CIT [1997] 224 ITR 122** and **M/s Pandian Chemicals Ltd. Vs. CIT [2003] 129 Taxman 539/262 ITR 278 (SC)**. A sum of ₹66,47,34,169/- was disallowed which was claimed as a deduction u/s 80-IA of the Act as against the total interest earned at ₹ 71,91,44,620/- and the total income was assessed at ₹74,78,32,931/-. The Ld. CIT(A) confirmed the addition on account of disallowance u/s 80-IA of the Act by relying upon

the decisions of Hon'ble Supreme Court in the cases of **Cambay Electric Supply Industrial Co. Ltd. v. CIT [1978] 113 ITR 84, CIT Vs. Sterling Foods [1999] 104 Taxman 204 (SC)** and the finding of Coordinate Bench of ITAT, Pune in the case of **Kripa Chemicals (P.) Ltd. Vs. DCIT [2004] 88 ITD 200 (Pune)(TM)** and held that considering the facts, legal provisions and case laws, the income earned by the appellant in nature of interest and other income such as on fixed deposits, saving account, other interest and other income and credited in profit and loss account under the head 'other income' shall not be considered as income derived from the profits and gains of eligible business and finding of the Ld. AO towards disallowance made u/s 80-IA of the Act was confirmed. Similarly, other disallowances on account of CSR, which were not pressed by the assessee and expenses claimed for payment made towards interest on TDS were also upheld for disallowance made by the Ld. AO and appeal of the assessee was dismissed.

9. Before us, the assessee has filed the additional ground along with the written submissions which are reproduced as under:

“1. That the appellant states that the present appeal has arose in respect of the order of assessment dated 02.08.2016 passed under Section 143(3) read with Section 147 of the Income Tax Act, 1961 (hereinafter called the Act) for Assessment Year 2012-13.

2. That the appellant states that in the above order of assessment, the Id assessing officer, without giving the appellant any opportunity much less sufficient opportunity, held that the amount of Rs.30,52,571/- debited as expenses in Profit and Loss Account, under the heading "Corporate Social Responsibility" was not allowable as business expenditure as per the provision of Explanation (2) of subsection (1) of Section 37 of the Act. Accordingly, the ld assessing officer added Rs.30,52,571/- to the total income of the appellant.



3. That the appellant states that in the present case an amount of Rs.30,52,571/- was debited in Profit & Loss Account under the head Other Expenses on account of corporate social responsibility. The said expenditure was claimed in Financial Year 2011-12 corresponding to Assessment Year 2012-13.

4. That the appellant states that Explanation (2) of sub-Section (1) of Section 37 of the Act was inserted by the Finance (No. 2) Act, 2014, w.e.f. 1.4.2015 and was applicable from Assessment Year 2015-16. Copy of Section 37 of the Act is enclosed.

5. That the appellant states that the above said provision was not applicable in the Assessment Year 2012-13 and the application of the above said provision is only prospective.

6. That the appellant states that to substantiate its claim it places reliance of the following judgments:

a) *Principal Commissioner of Income-tax v. PEC Ltd* reported in [2023] 146 taxmann.com 407 (Delhi)/[2023] 291 Taxman 281 (Delhi)/[2023] 451 ITR 436 (Delhi)[29-11-2022], wherein it has been held that - "Amendment brought by way of Explanation 2 to section 37(1) by Finance Act, 2014, with effect from 1-4-2015 was prospective in nature and thus, CSR expenditure incurred prior to 1-4-2015 was to be allowed."

b) *Principal Commissioner of Income-tax v. Steel Authority of India Ltd* reported in [2023] 148 taxmann.com 132 (Delhi) [06-01-2023], wherein it has been held that - "Explanation 2 appended to section 37(1) by Finance Act, 2014 with effect from 1-4-2015 is applicable prospectively from assessment year 2015-16; therefore, corporate social responsibility expenditure incurred by assessee-company on or before 31-3-2014 was to be allowed as deduction under section 37(1)"

Copy of judgments is enclosed.

7. That the appellant states that in the above order of assessment, the Id assessing officer, without giving the appellant any opportunity much less sufficient opportunity, held that the amount of Rs.66,47,34,169/- claimed as deduction under Section 80-IA of the Act, was not allowable on the sole ground that interest income is not entitled for benefit of deduction under Section 80-IA of the Act.

8. That the appellant states that the Id assessing officer disallowing claim of the appellant under Section 80-IA of the Act, has all together ignored the fact that the appellant is wholly owned State Government company and is engaged in construction and maintenance of roads in the State of Bihar and

is entitled to the benefit under Section 80-IA of the Act as per Explanation to first proviso to subsection (4) of Section 80-IA of the Act.

9. That the appellant states that the primary objective of the appellant is construction of roads as per the directions of the State Government of Bihar. For the purpose of execution of the work, the State Government allots funds to the appellant and for the purpose of meeting its administrative expenses the appellant received agency charges and contingency charges. Copy of resolutions dated 18.11.2009 and 25.01.2016 by the Government of Bihar regarding payment of agency charges and contingency charges to the appellant is enclosed.

10. That the appellant states that to support its above contention and facts, it places reliance upon the judgment of the Hon'ble ITAT, Patna Bench in the case of Executive Engineer RCD v ACIT, TDS, Patna bearing appeal No. ITA No.117 to 119/PAT/2017, wherein the Hon'ble ITAT (at Para 7.4) has held that the appellant receives agency charges as consideration. Copy of judgment is enclosed.

11. That the appellant states that the ld assessing officer while passing the impugn order has altogether disallowed the whole deduction claimed under Section 80-IA of the Act, which primarily was in respect of work of construction and maintenance of roads in the State of Bihar.

12. That the appellant states that the ld assessing officer ought to have segregated the claim of deduction under Section 80-IA of the Act in respect of construction and maintenance of roads in the State of Bihar and in respect of interest income, notwithstanding the fact that the assessment proceedings were initiated in respect of deduction claimed under Section 80-IA of the Act pertaining to interest income earned.

13. That the appellant states that the Department has never raised any doubt regarding the activities of the appellant and hence they ought to accept the deduction claimed under Section 80-IA of the Act.

14. That the appellant states that it is also entitled to claim deduction under Section 80-IA of the Act on interest income received from banks. The appellant places reliance upon the following judgments:

a) Commissioner of Income-tax-I v. Reliance Energy Ltd. reported in [2021] 127 taxmann.com 69 (SC)/[2022] 441 ITR 346 (SC), wherein the Hon'ble Apex Court has upheld that "there is no restriction on taking into account income from any other source while allowing the deduction computed under section 80-IA, subject to the aggregate of all deductions under Chapter VI-A not exceeding the 'gross total income". The Hon'ble Apex Court further held

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AYs: 2012-13, 2013-14, 2014-15, 2014-15, 2017-18 & 2018-19
Bihar State Road Development Corporation Limited (BSRDCL).**

that "Sub-section (5) cannot be pressed into service for reading a limitation of the deduction under sub-section (1) only to business income"

b) *AVM Cine Products v. Deputy Commissioner of Income Tax* reported in [2021] 123 taxmann.com 41 (Madras)/[2020] 421 ITR 431 (Madras), wherein the Hon'ble High Court of Madras has held that "interest income earned by assessee on margin money deposits with bank were very much profits and gains of business of assessee and accordingly assessee was entitled to deduction under section 80-IA in respect of such interest incomes".

Copy of judgments is enclosed.

15. That notwithstanding the submission and contentions raised hereinabove, the appellant alternatively states that it has also paid taxes as Minimum Alternate Tax (MAT) as per the provisions of section 115JB of the Act and even assuming but not accepting that the appellant is not entitled to deduction under Section 80-IA of the Act pertaining to interest income earned, the appellant has paid sufficient taxes and there is no loss to the Revenue on that account. The appellant has prepared an alternative computation of income and tax thereupon based upon disallowance of deduction under Section 80-IA of the Act pertaining to interest income. Copy of alternative computation of income and tax thereupon is enclosed.

16. That the appellant states that to substantiate its claim it places reliance of the following judgments:

a) *ACIT v. Satluj Jal Vidyut Nigam Ltd* reported in [2019] 107 taxmann.com 497 (Chandigarh - Trib.) Copy of judgments is enclosed.

17. That in view of the submissions made hereinabove, it is prayed as follows:

a) The amount debited as expenses in Profit and Loss Account, under the heading "Corporate Social Responsibility" may be held as allowable expenditure for the Financial Year 2011-12 corresponding to Assessment Year 2012-13.

b) The amount of Rs.66,47,34,169/- claimed as deduction under Section 80-IA of the Act, may be allowed.

c) The impugn order of assessment may be set-aside and / or quashed and / or deleted.

d) The impugn notice of demand may be set-aside and / or quashed and / or deleted."



10. We have considered the submissions made and also gone through the decisions relied upon by the assessee. Some of the documents were filed before the Ld. CIT(A) which were not filed before the Ld. AO and as pointed out by the Ld. DR, the paper book along with the necessary annexures and the additional ground raised were not part of the original grounds of appeal before the Tribunal nor these documents were filed before the Ld. CIT(A). Since they have been filed for the first time and were not considered by the Ld. CIT(A), therefore, in the interest of justice and fair play, the order of the Ld. CIT(A) is hereby set aside and remitted back to him to consider the documents filed before the Tribunal and to readjudicate upon the grounds of appeal raised before the Ld. CIT(A) including the additional ground of appeal raised before the Tribunal. Hence, for statistical purposes, the appeal of the assessee is partly allowed.

11. Since the issues in ITA Nos. 331, 332, 333, 334 & 335/PAT/2024 are similar to the issues in ITA No. 330/PAT/2024, the finding as in AY 2012-13 shall *mutatis mutandis* apply to the appeals for the AYs 2013-14, 2014-15, 2017-18 & 2018-19 as well and the orders of the Ld. CIT(A) are set aside and the appeals are remitted to him to be decided afresh and all these appeals of the assessee are also partly allowed for statistical purposes. It may be mentioned that the assessee has filed 2 appeals for A.Y. 2014-15. While I.T.A. No. 332/PAT/2024 is in respect of order u/s 143(3) r.w.s. 263 dated 21.11.2019 and vide order u/s 263 dated 30.03.2019 the order u/s 143(3) dated 30.12.2016 was cancelled to be done de novo and in the appeal against the order u/s 143(3) dated 30.12.2016, the Ld. CIT(A) had dismissed the appeal on the sole ground of CSR as the assessee on facts submitted that the appeal had become infructuous in the light of the order of the Ld. CIT(A), and the issues in



the appeal against the order u/s 143(3) r.w.s. 263 are similar to the issues in appeal in respect of other assessment years, therefore, both the appeals against the orders for A.Y. 2014-15 in ITA Nos. 332 and 333/PAT/2024 are also set aside to the Ld. CIT(A) so that the facts can be re-examined on the basis of the submissions made before us and the issues can be finally decided.

12. In the result, all the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open Court on 24th July, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 24.07.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

- 1. Bihar State Road Development Corporation Limited (BSRDCL), RCD Central Mechanical, Workshop Campus, Shaheed Pir Ali Khan Marg, Near Patna Airport, Sheikhpura, Patna, Bihar, 800014.**
- 2. ITO, Ward-2(1), Patna.**
- 3. ACIT, Circle-2, Patna.**
- 4. Income Tax Department, NFAC, Delhi.**
5. CIT(A)-NFAC, Delhi.
6. CIT-
7. CIT(DR), Patna Bench, Patna.
8. Guard File.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata