

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 538-539/Bang/2025
Assessment Years: 2014-15 & 2015-16

M/s Atria Brindavan Power Pvt. Ltd., 11, 1 st Floor, Commissariat Road, Bengaluru North, Richmond Town, Bengaluru – 560 025.	Vs.	The Dy. Commissioner of Income Tax, Central Circle - 2(4), Bengaluru.
PAN – AAECA 1467 C		.
APPELLANT		RESPONDENT

Assessee by	:	Shri V Srinivasan, Advocate
Revenue by	:	Shri Balusamy N, JCIT (DR)

Date of hearing	:	15.07.2025
Date of Pronouncement	:	13.08.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

These appeals filed by the assessee are against the order passed by the Id. CIT(A)-15, Bengaluru vide order both dated 27/02/2025 for the assessment years 2014-15 & 2015-16.

First, we take up ITA No. 538/Bang/2025, an appeal by the assessee for the AY 2014-15.

2. The issue raised in Ground No. 5 is that the assessee should be allowed enhanced deduction under section 80-IA of the Act on account of disallowance of repair and maintenance expenses of ₹76,80,010 only.
3. The brief facts are as under. The assessee is a private limited company. It is engaged in the business of generation and sale of electricity. During the assessment proceedings, the Assessing Officer disallowed expenses of ₹76,80,010.00 only. These were booked under the head "repair and maintenance." The AO treated these expenses as bogus and added them back to the total income of the assessee.
3. The assessee filed an appeal before the learned CIT(A). It was argued that the assessee is entitled to a higher deduction under section 80-IA of the Act. The assessee relied on CBDT Circular No. 37 of 2016 dated 2 November 2016.
4. However, the learned CIT(A) rejected the claim. He held that the circular only covers disallowances made under sections 32, 40(a)(ia), 40A(3), and 43B of the Act. According to the learned CIT(A), the circular does not apply to the disallowances made under section 37 of the Act. He, therefore, upheld the addition made by the AO.
5. Aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.
6. The learned Authorized Representative (AR) before us filed a paper book running from pages 1 to 177 and submitted that the assessee is eligible for a higher deduction under section 80-IA of the Act.

The reason is that the disallowance of ₹76,80,010 has resulted in increase in the income that is otherwise eligible under section 80-IA of the Act. He relied on the judgment of the Hon'ble Karnataka High Court in the case of *CIT vs. M. Pact Technology Services Pvt. Ltd.* in ITA No. 228/2013, dated 11 July 2018.

7. On the contrary, the learned Departmental Representative (DR) before us filed a written submission having pages and rejoinder of 2 pages and opposed the submission. He argued that the decision of the Karnataka High Court is distinguishable. That case involved disallowance under section 40(a)(ia), whereas the present case involves disallowance under section 37 of the Act. The learned DR also argued that the CBDT circular does not apply to the disallowances made under section 37 of the Act.

7.1 The Id. AR also vide letter dated 30-7-2025 has filed rejoinder distinguishing the contentions raised by the Id. DR for the Revenue.

8. We have heard the rival submissions of both the parties and considered the materials available on record. We find merit in the submissions of the learned AR. The issue is whether the income enhanced due to disallowance of expenses under section 37 is eligible for deduction under section 80-IA of the Act. The CBDT Circular No. 37/2016 clarifies that if the disallowance increases the eligible business income, the enhanced income is also eligible for deduction under Chapter VI-A, unless expressly prohibited.

8.1 Although the circular mentions certain sections like 40(a)(ia), 40A(3), and 43B of the Act, but the principles behind the circular are general. It supports the view that any disallowance, if it increases income from an eligible business, should be allowed for deduction under section 80-IA, unless barred by law.

8.2 We also rely on the decision of the Hon'ble Karnataka High Court in the case of *M/s M. Pact Technology Services Pvt. Ltd.* (supra). The Hon'ble Court held that the disallowance which increases eligible business income should be considered for deduction under section 10A of the Act (a similar provision as section 80-IA of the Act).

8.3 In the present case, the business of the assessee—generation of electricity—is eligible under section 80-IA of the Act. The disallowance of ₹76,80,010 has resulted in an increase in eligible business income. Therefore, this enhanced income must be considered for deduction under section 80-IA of the Act. Accordingly, we hold that the assessee is entitled to claim the enhanced deduction under section 80-IA of the Act.

8.4 As the assessee succeeds in the manner discussed above, the other grounds raised by the assessee do not require any separate adjudication. Similarly, the grounds which are of consequential in nature also become infructuous for the reason that the issue on merit has been decided by us in favour of the assessee. Accordingly, they are dismissed as infructuous.

9. In the result, the appeal of the assessee is partly allowed.

Coming to IT No. 539/Bang/2025

10. The facts of the case on hand in respect to sec. 80-IA are identical to the facts of the case discussed above, therefore, respectfully following the same, we hold that the assessee is entitled to claim the enhanced deduction under section 80-IA of the Act and other grounds are also identical to the facts decided in above paragraph 8 of the order.

11. In the result, the appeal of the assessee is hereby partly allowed.

12. In the combined result, both the appeals of the assessee are hereby partly allowed.

Order pronounced in court on 13th day of August, 2025

Sd/-

(KESHAV DUBEY)

Judicial Member

Bangalore

Dated, 13th August, 2025

/ vms /

Sd/-

(WASEEM AHMED)

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore