

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 4292/MUM/2025  
Assessment Year: 2018-19**

DCIT-CC-8(4), Mumbai	Vs.	Savita Oil Technologies Limited 66-67 Nariman Bhavan, Nariman Point, Mumbai 400021, PAN: AAACS7934A
(Appellant)		(Respondent)

Present for:

Assessee : Shri Yogesh Thar  
and Shri Chaitanya Joshi, CAs  
Revenue : Shri Rajesh Kumar Yadav, CIT DR

Date of Hearing : 13.08.2025  
Date of Pronouncement : 10.11.2025

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the Revenue is against the order of CIT (A) 50, Mumbai, vide order no. ITBA/APL/S/250/2025-26/1075632908(1), dated 15.04.2025 passed against the assessment order by ACIT,CC-8(4), Mumbai, u/s.143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 24.08.2021 for AY 2018-19.

2. Grounds taken by the Revenue are reproduced as under:

*“1. Whether on the facts and in the circumstances of the case, the Hon'ble CIT(A) was justified in law in allowing deduction under section 80-IA(4) of the Income-tax Act, 1961, without adjusting the losses incurred by the eligible undertaking prior to the initial assessment year, contrary to the provisions of section 80-IA(S)?*

*2. Whether the Hon'ble CIT(A) was correct in law in relying upon CBDT Circular No. 1/2016 and the decision of the Hon'ble Madras High Court in the case of Vellayudhaswamy Spinning Mills Pvt. Ltd. (340 ITR 477) when there exist contrary binding judicial precedents mandating that losses of earlier years, even*

*if already set off against other income, must be notionally considered while computing eligible profits for deduction under section 80-IA*

*3. Whether the Hon'ble CIT(A) erred in law in ignoring the decision of the Hon'ble, ITAT, Ahmedabad Special Bench in the case of CIT v. Goldmine Shares & Finance Pvt. Ltd. [ 113 ITD 209 (SB) (Ahd)], which mandate the adjustment of earlier years' losses while computing profits for deduction under section 80-IA?*

*4. Whether the Hon'ble CIT(A) was justified in law in granting deduction under section 80-IA(4) merely based on the assessee's discretion to choose the initial assessment year, overlooking the statutory requirement to compute profits as per the deeming fiction contained in section 80-IA(5) from the year of commencement of eligible business?*

*5. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) erred in holding that the interest paid on delayed payment of customs duty (IGST) amounting to Rs.78,06,000/- is compensatory in nature and hence allowable under Section 37(I) of the Income-tax Act, 1961. 6. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the assessee's claim for gratuity expenditure of Rs. 16,67,413/- which was not claimed in the original return of income.*

*7. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the assessee's additional claim of deduction of Rs.6,68,500/- under section 80G of the Income Tax Act, 1961 with respect to C.S.R. activity which was not claimed in the original return of income.”*

3. We will take up the grounds taken by the Revenue seriatim. Ground No.1 to 4, they all relate to one single issue in respect of deduction claimed by the assessee u/s.80IA(4) on which Revenue contends that it has been allowed without adjusting the losses incurred by the eligible undertaking prior to the initial assessment year which is contrary to the provisions of section 80IA(5).

4. Facts as culled out from records are that assessee filed its return of income on 18.10.2018 reporting total income at Rs.140,41,29,820/- which was later revised on 30.03.2019 with revised total income at Rs.140,42,34,650/-. Assessment was completed with total assessed income at Rs.152,76,49,225/- by making the following additions of disallowances:

1. Restricted the claim of deduction u/s 80-IA to Rs. 13,46,32,738/- as against the claim of deduction of Rs. 25,02,41,018/-.
2. Disallowance of interest paid on delayed IGST of Rs.78,06,000/-
3. Disallowance of additional claim of deduction u/s 80G of Rs. 13,37,000/-.
4. Disallowance of additional claim of deduction towards gratuity expense of Rs. 16,67,413/-.
5. Disallowance of additional claim of deduction of cess of Rs. 1,38,38,092/-.

4.1. On the issue relating to claim of deduction u/s.80IA(4), it is noted that assessee had 23 windmills units situated in different states. Assessee maintained separate books of accounts for each of the units. Assessee had losses in some of these units which was for years before the initial year for claiming the deduction. These losses were fully set off by the assessee against other income thereby allowing no carry forward of loss in these units. While computing the net profit for each of these units, assessee did not take into consideration the losses of the respective units prior to the initial year u/s.80IA, since the losses were set off against the income of respective years. Based on this working, assessee claimed a total deduction u/s.80IA at Rs.25,02,41,018/-. In the course of assessment proceedings, ld. Assessing Officer by applying provisions of section 80IA(5) held that losses of the years prior to the initial year even though fully set off against other income in the respective years have to be taken into account for working the profits for the purpose of claim of deduction u/s.80IA. He thus, recomputed the deduction by working out accumulated losses in 10 units which resulted into a reduced deduction eligible u/s.80IA(4) amounting to

Rs.13,46,32,738/- as against claim of Rs.25,02,41,018/- made by the assessee. Assessee submitted that similar disallowance were made in the preceding assessment years, i.e., Assessment Year 2010-11 to Assessment Year 2016-17 which went in appeal and were allowed in favour of the assessee by holding that losses of the years beginning from the initial year and the years subsequent to such initial year had taken into consideration while working out the profit eligible for deduction u/s.80IA. Losses absorbed in the earlier years cannot be carried forward for adjustment while computing deduction u/s. 80IA for the subsequent years. This issue is a legacy issue and has been decided in favour of the assessee's own case as listed below, with Sr.No. 01 to 04 by the Tribunal and Sr. No. 05 to 06 by the ld. CIT(A):

1. AY 2010-11 - ITA 2986 Mum/2015 - Department's Appeal to Hon'ble Bombay High Court is at pre-admission stage
2. AY 2011-12 - ITA 1730/Mum/2016 - No Appeal by Department before Hon'ble Bombay High Court
3. AY 2012-13 and AY 2013-14 - ITA 5318/Mum/2016 - No Appeal by Department before Hon'ble Bombay High Court
4. AY 2014-15 - ITA 5155/Mum/2017 - No Appeal by Department before Hon'ble Bombay High Court
5. AY 2015-16 - No Appeal by Department before Hon'ble ITAT
6. AY 2016-17 - No Appeal by Department before Hon'ble ITAT

4.2. Ratio laid down in the above listed decision applies to the facts of the case under consideration as submitted by the assessee:-

1. *The AO has disallowed deduction u/s 80-IA in respect of 10 windmill units. The initial assessment year opted by the Company in respect of these 10 units was various assessment years prior to the year under consideration i.e. AY 2018-19. Thus, the Company during AY 2018-19 has not opted for Initial Year in respect of any of its units.*

2. As per the enclosed details of the disallowance made by the AO in respect of 10 units, one of the unit is "Sangli 2" and the Company had opted AY 2012-13 as initial assessment year. The operation of the said unit started in AY 2007-08 and the assessee company as per provisions of the Act has claimed AY 2012-13 as initial assessment year and claimed deduction u/s 80-IA for the first time in AY 2012-13. The Company has incurred losses in respect of "Sangli 2" unit in the AY 2007-08 & AY 2008-09 and earned profit in AY 2009-10, AY 2010-11 and AY 2011-12. Since none of these years was selected as initial assessment year, the profits in the three years (AY 2009-10 to AY 2011-12) were offered to tax and the losses in respect of two years (AY 2007-08 and AY 2008-09) were set off against the other income in respective years.

3. However, the AO while passing the assessment order for AY 2012-13 held that the losses of the unit in the assessment year preceding the initial assessment year have to be notionally brought forward for the purpose of computing the eligible profits of the first assessment year in the block of 10 years and consequently subsequent assessment years. Accordingly, the AO disallowed the deduction claimed in respect of "Sangli 2" unit.

4. CIT(A) noted that Hon'ble Madras High Court in case of Valayudhaswamy Spinning Mills Pvt Ltd vs CIT (2012) 340 ITR 477 has held that loss in the year earlier to the initial assessment year already absorbed against the profits of other business cannot be notionally brought forward and set off against the profit of the eligible business as no such mandate is provided in section 80-1A(5). The CIT(A) relying of the ratio of above decision has allowed the claim of the Company for AY 2012-13 in respect of deduction u/s 80-IA in respect of Sangli 2 unit as well as other units. The above decision of CIT(A) has also been upheld by ITAT. 5. The appellate authorities i.e. CIT(A) and ITAT in subsequent years upto AY 2016-17 have also allowed the deduction u/s 80-IA on the above principle.

6. To sum up, the gist of the ratio of various decision and the CBDT circular No 1 of 2016 dated 15th February 2016 is as follows:

- Assessee has option to choose the initial / first year from which it may desire the claim of deduction for ten consecutive years out of slab of fifteen years initial assessment year as opted by the assessee
- Assessee shall be entitled to deduction u/s 80-IA for 10 consecutive assessment years from
- Only the losses of the years beginning from the "initial year" and the years subsequent to such "initial year" have to be taken into consideration while working out deduction u/s 80-IA
- Losses absorbed in earlier years (prior to initial assessment year) cannot be carried forward for adjustment while computing deduction u/s 80-IA

4.3. Reference was also made to the CBDT circular No.1/2010, dated 14.02.2016, since treatment given by the ld. Assessing Officer to consider the losses prior to the initial assessment year for working the eligible profits is not in consonance with the said circular. Ld. CIT(A) took note of the factual position of the year under consideration in respect of deduction claimed by the assessee and the judicial precedents as listed above in assessee's own case where the issue have been held in favour of the assessee. By placing reliance on the decision of Coordinate Bench in assessee's own case, there being no change in the material facts and the position of law, claim of assessee u/s.80IA(4) was allowed by the ld. CIT(A).

5. Before us, ld. Sr. DR made an attempt to distinguish the decision of Hon'ble High Court of Madras in the case of Velayudhaswamy Spinning Mills Pvt Ltd. Vs CIT 340 ITR 477 (Mad) which was held in favour of assessee by referring to the decision of Coordinate Bench of ITAT, Mumbai in the case of Pidilite Industries Ltd. Vs. PCIT [2011] 12 taxmann.com 96 (Mum). From the perusal of the said decision relied upon by ld. Sr. DR, it is noted that it dealt with the period pre-amendment to section 80IA brought by Finance Act, 1999 whereby in the pre-amendment period "initial assessment year" was defined u/s.80IA(12). The said decision considered the amendment which took place by Finance Act, 1999, taking away the definition of "initial assessment year" given in the pre-amendment period. The facts of this case are distinguishable and hence does not support the contention of the Revenue.

5.1. We have perused the orders of the Coordinate Bench in assessee's own case as listed above, on which ld. CIT(A) has relied upon. Relevant

extracts from the decision of the Coordinate Bench in ITA No.2986/Mum/2015 for Assessment Year 2010-11 is reproduced below for ready reference:

*"The respondent-assessee is a company incorporated under the provisions of the Companies Act, 1956 and is, inter-alia, engaged in the business of manufacture of transformer oils, lubricating oils and other petroleum products besides generation of electricity from windmills.*

*1. Insofar as the first Ground of appeal is concerned, the same relates to the assessee's claim for deduction of Rs. 6,71,25,876/- u/s. 801A(4) (iv) of the Act in respect of the profits derived from the windmill units. Notably, the assessee owns six windmill units situated in the States of Maharashtra, Karnataka, and Tamil Nadu. In the course of assessment proceedings, the Assessing Officer observed that the profit of the windmill units were not correctly worked out by the assessee as according to him, the losses in the years prior to the 'initial year', though the same have been otherwise set-off against the other incomes of the assessee in those respective years, were required to be taken into consideration in view of Sec. 801A(5) of the Act in order to work out the profits eligible for deduction u/s. 801A(4)(iv) of the Act. Accordingly, the Assessing Officer worked out the profits of the six respective units as per his interpretation of Sec. 801A(5) of the Act and arrived at a figure of loss in respect of four out of six units and consequently, denied assessee's claim for deduction to the extent of Rs. 5,25,99,585/- Notably, the disallowance has been reduced to Rs. 4,02,23,291/- by the Assessing Officer on account of rectification of a mistake.*

*2. Before the CIT(A), assessee assailed the working of the Assessing Officer and pointed out that having regard to the provisions of Sec. 801A(5) of the Act, as understood by the Hon'ble Madras High Court in the case of Velayudhaswamy Spinning Mills Pvt. Ltd., 340 ITR 477 (Mad) and other judicial pronouncements, only the losses of the years beginning from the 'Initial year' and the years subsequent to such 'Initial year' have to be taken into consideration while working out the profits eligible for deduction u/s 801A(4)(iv) of the Act. Pertinently, the CIT(A) has relied upon the judgment of the Hon'ble Madras High Court in the case of Velayudhaswamy Spinning Mills Pvt. Ltd. (supra) and a host of other decisions referred to in his order, and concluded that the interpretation placed by the assessee was liable to be affirmed. Against such a decision of the CIT(A), Revenue is in appeal before us.*

*3. Pertinently, Sec. 801A of the Act, so far as is relevant for our purpose, prescribes for deduction of an amount equal to 100% of the profits and gains derived by an Undertaking or enterprise from an eligible business Act further prescribes that the deduction can be claimed by the assessee, at his option, iness Sub-section (2) of Sec. 801A of the for any ten consecutive assessment years out of fifteen years (twenty years in certain cases) beginning from the year in which the Undertaking commences operation, begins development or starts providing services, etc. stipulated in the section. Sub-section (5) of Sec. 801A of the Act, which is the bone of contention before us, prescribes the manner of determining the quantum of deduction with reference to the initial assessment year. The said section reads as under:*

*“80-1A(5) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.”*

*In the above section, the interpretation to the expression 'initial assessment year' placed by the Assessing Officer is the year in which the eligible business/manufacturing activity had commenced operations. So however, the interpretation placed by the assessee is to the effect that the 'initial assessment year' refers to the year in which the assessee chooses to start claiming deduction as mandated in Sub-section (2) of Sec. 801A of the Act. In the context of the instant case, the Assessing Officer considered the losses incurred in the respective units in the years prior to the year in which assessee opted to start claiming deduction in order to arrive at the profits eligible for deduction. So however, as per the assessee, it is only the losses starting from the initial year, i.e., the first year of claim of deduction and thereafter, which are required to be taken into consideration for arriving at profits eligible for deduction. Factually speaking, there is no dispute that so far as losses considered by the Assessing Officer are concerned, they have otherwise been absorbed against other incomes of the assessee in the respective years. The CIT(A) has upheld the stand of the assessee by relying on the judgment of the Hon'ble Madras High Court in the case of Velayudhaswamy Spinning Mills Pvt. Ltd. (supra) and even before us, no contrary decision of any High Court has been relied upon by the Revenue. Apart therefrom, we find that the stand of the Revenue is clearly in contrast to the decision taken by the CBDT in its Circular no 1/2016 dated 15.2.2016. The following portion of the CBDT Circular is relevant:*

*"The matter has been examined by the Board. It is abundantly clear from sub-section (2) that an assessee who is eligible to claim deduction u/s 801A has the option to choose the initial/first year from which it may desire the claim of deduction for ten consecutive years, out of a slab of fifteen (or twenty) years, as prescribed under that sub-section. It is hereby clarified that once such initial assessment year has been opted for by the assessee, he shall be entitled to claim deduction u/s 801A for ten consecutive years beginning from the year in respect of which he has exercised such option subject to the fulfillment of conditions prescribed in the section. Hence, the term 'initial assessment year' would mean the first year opted for by the assessee for claiming deduction u/s 801A. However, the total number of years for claiming deduction should not transgress the prescribed slab of fifteen or twenty years, as the case may be and the period of claim should be availed in continuity.*

*The Assessing Officers are, therefore, directed to allow deduction u/s 801A in accordance with this clarification and after being satisfied that all the prescribed conditions applicable in a particular case are duly satisfied. Pending litigation on allowability of deduction u/s 801A shall also not be*

*pursued to the extent it relates to interpreting 'initial assessment year' as mentioned in sub-section (5) of that section for which the Standing Counsels/D.R.s be suitably instructed."*

*1. Quite clearly, as per the CBDT, the term 'Initial assessment year' used in Sec. 801A(5) of the Act is to be understood to mean the first year opted for by the assessee for claiming deduction u/s 801A of the Act. Considering in this light also, we find no error on the part of the CIT(A) in allowing the claim of the assessee. Further, it is pertinent to note that the CBDT has clarified that even the pending litigations on the allowability of deduction u/s 801A of the Act should also not be pursued to the extent it relates to interpreting the expression 'initial assessment year contained in Sec. 801A(5) of the Act. Therefore, the prosecution of the aforesaid Ground of appeal by the Revenue before us is in indirect conflict with the directions of the CBDT and, therefore, on this count also we find no merit in the ground raised by the Revenue. The same is hereby dismissed."*

5.2. From the above, we note that the issue before us is no longer *res integra*, as squarely covered by the judicial precedents in assessee's own case. Respectfully following the same, there being no change in the material facts and position of law, the ground Nos. 01 to 04 raised by the Revenue are dismissed.

6. Ground No.5 is in respect of interest paid on delayed payment of customs duty (Integrated Goods and Services Tax) amounting to Rs.78,06,000/- which has been disallowed by Id. Assessing Officer, being penal in nature under the provisions of section 37(1) of the Act.

6.1. Brief facts in this respect are that assessee as an exporter is entitled to import inputs without payment of customs duty under the import export policy against advanced authorisation. After introduction of Goods and Services Tax (GST), assessee imported some inputs under advanced authorisation. Imports with exemption of customs duty and IGST were allowed either prior to exports or post exports. Customs notification 79/2017, dated 13.10.2017 introduced pre-import conditions under advanced authorisation which was interpreted by

Department of Revenue Intelligence (DRI) to mean that for availing exemption of IGST on imports against advanced authorisation must be prior to exports. Based on DRI investigation, assessee was alleged of having not fulfilled pre import conditions for certain imports cleared under bills of entry for which assessee was required to pay IGST with interest thereon. In order to avoid litigation, assessee chose to deposit the amount of IGST of Rs.19.55 crores along with interest there on of Rs.1.33 crores. In the year under consideration, assessee claimed deduction of Rs.78.06 lakhs on account of interest paid on delayed deposit of IGST. According to the assessee, the said claim was allowable u/s.37(1) of the Act, as it did not fell within the exception where the disallowance could be made only when it is in relation to offence or for anything prohibited by law for the time being in force. The said interest payment was compensatory in nature on account of delayed deposit of IGST and is not on account of contravention of any law. The said expenditure is laid out wholly and exclusively for the purpose of business and is revenue in nature, hence allowable.

6.2. Assessee placed reliance on the decision of Hon'ble High Court of Gujarat in the case of Maxim Tubes Company Pvt. Ltd. which dealt with the issue of applicability of notification No. 79/2017 dealt in Special Civil Application No.14558 of 2018 and others whereby the Hon'ble Court struck down the pre-import condition as being ultra vires authorisation scheme. However, ld. Assessing Officer held that the interest payment was for violating the IGST provisions pursuant to enquiry carried out by DRI and hence penal in nature, not allowable in view of Explanation 1 to section 37(1). Ld. CIT(A) dealt with the issue by taking into account the provisions relating to IGST and Customs Act and also referred to the decision of Coordinate Bench of ITAT, Bangalore

in the case of Mangalore Chemical and Fertiliser Ltd. in ITA No.1209/Bang/2024, dated 15.10.2024 whereby on similar issue, such interest expenditure was allowed under the provisions of section 37(1) of the Act.

7. Before us, ld. Sr. DR submitted that ld. CIT(A) ought to have enquired if the interest expenditure is penal in nature before giving relief to the assessee. According to him, the said interest expenditure is penal in nature and hence, rightly disallowed by ld. Assessing Officer.

8. Per contra, ld. Counsel for the assessee in addition to the above narration, submitted that the pre-import condition for imports under the advanced authorisation brought in by Customs Notification No.79/2017, dated 13.10.2017 was in challenge before the Hon'ble High Court of Bombay in a Writ Petition No.19366 of 2024, dated 09.04.2025, in the case of A.R. Sulphonex Pvt. Ltd. Vs. Union of India and others. Hon'ble Jurisdictional High Court of Bombay after dealing with various legal aspects of this issue, concluded in para-69 and 70 of its judgement that provisions of section 3(12) of the Customs Tariff Act as amended by Finance (2) Act, 2024, dated 16.08.2024 would apply only prospectively. Thus, interest levied prior to this period would be without authority of law and hence liable to be quashed and set aside. Ld. Counsel thus submitted that the provisions under which interest was levied for delayed deposit of IGST arising out of the pre-import conditions for import under advanced authorisation introduced by aforesaid Customs Notification was prospective and hence not applicable in the case of assessee. Such a levy of interest has been brought into the Customs Tariff Act only by way of amendment made by Finance (2) Act, 2024. Accordingly, in the present case, the interest

so levied is without the authority of law and assessee is in the process of claiming refund for the interest so paid by it.

8.1. It is important to note that the question whether there is any infraction of law or whether the expenditure is incurred for any purpose, which is an offence or which is prohibited by law, is generally to be decided by the authority or the court empowered to do so, under the respective law. In the case before us, it is the levy of interest on the delayed deposit of IGST which has been claimed by the assessee as a deduction u/s.37(1). The said interest paid on delay of deposit of IGST is calculated at certain percentage and on time basis which is nothing but compensation for delay of payment of taxes and accordingly compensatory in nature. Accordingly, considering the above discussion including the fact of the case and the juridical precedents as well as position of law under the respective statute, the interest expenditure so claimed by the assessee is deductible u/s.37(1). We are in agreement with the relief granted by Id. CIT(A). Accordingly, ground no.5 raised by Revenue is dismissed.

9. Ground No.6 is in respect of not accepting claim on the deduction of Rs.16,67,417/- towards gratuity expenditure which was not claimed in the original return filed by the assessee. In this respect assessee submitted that during the year under consideration, it continued to follow the accounting policy of recording the liability towards employee benefits for gratuity based on actuarial valuation. However, from A.Y 2017-18, assessee was required to prepare the statement of profit and loss in accordance with the provisions of Ind-AS and Schedule III of the Companies Act 2013. Accordingly, out of total gratuity expense of Rs. 86,87,572/-, an amount of Rs. 70,20,159/- was debited to P&L account

and the remaining amount of Rs. 16,67,413/- was debited to other comprehensive income account. The entire liability of Rs. 86,87,572/- was paid on 18.07.2018, i.e., before the due date of filing the return. Therefore, the entire amount is allowable as a deduction u/s 43B of the Act. However, while computing the taxable income, assessee failed to claim the deduction of Rs. 16,67,413/-. Ld. AO did not consider the additional claim in view of the decision in the case of Goetze India Ltd. vs CIT. In this regard, assessee further submitted that it could not file the revised return since the time limit for filing the same was already lapsed. Relying on the decision of Hon'ble Bombay High Court in the case of Siva Equipment Pvt. Ltd. and the decision in the case of Purthvi Brokers & Shareholders, assessee submitted that the additional claim can be admitted by the appellate authorities.

9.1. In this regard, it is noted that assessee had accounted for total expenditure towards gratuity payment of Rs.86,87,572/- which in entirety was paid before the due date of filing of return for the year under consideration hence allowable u/s. 43B. It was inadvertently that assessee did not claim the deduction of Rs.16,67,413/- due to bifurcation of the total amount made as per the applicable accounting standard as this amount was parked under the head 'other comprehensive income' (OCI) in the profit and loss income. All the facts relating to the said claim were on record before the ld. AO. Assessee made a reasonable attempt of claiming this deduction by putting an additional claim before the ld. AO though he chose not to deal with the same but disallowing it. Ld. CIT(A) has considered this claim of assessee by placing reliance on the decision of Hon'ble Jurisdictional High Court of Bombay in the case of Prithvi Brokers and Shareholders 349 ITR 346 (Bom). Considering the facts on record and the details discussed above,

we do not find any reason to interfere with the findings arrived at by Id. CIT(A). Accordingly, ground no.6 is dismissed.

10. Ground No.7 is in respect of additional claim of deduction of Rs.6,68,500/- made by the assessee u/s. 80G vis-a-vis CSR expenses which was not claimed in the original return filed by the assessee. In this respect, factual matrix are that assessee claimed deduction of Rs.40 lakhs u/s.80G on account of donations of Rs.80 Lakhs made by it to various charitable institutions. In addition to this, assessee had spent Rs.46,10,000/- towards CSR. It thus, included amount of Rs.22,02,000/- as donation under CSR which was on top of donations of Rs.80 lakhs. Assessee had suo moto added back the amount of Rs.22,02,000/- while computing its business income. It was brought out by the assessee in the course of assessment proceedings that the amount of Rs.22,02,000/- included an amount of Rs.13,37,000/- paid to various charitable institutions registered and recognised u/s.80G which entitles it to claim deduction of 50% of this amount which comes to Rs.6,85,500/- (50% of Rs.13,37,000). According to the assessee, since all the facts relating to this claim were already on record and detailed submissions were made in the course of assessment proceedings, Id. AO ought to have considered the claim which was denied as according to Id. Assessing Officer, the same was not included in the revised return. In the first appeal, assessee reiterated its submission and claimed it as allowable deduction u/s.80G by placing reliance on the decision of Prithvi Brokers (supra). Further, it was submitted that the issue of claim of deduction u/s.80G vis-a-vis CSR expenses is no longer *res integra* as dealt by plethora of judicial precedents by the Coordinate Bench including the decision by the Coordinate Bench of ITAT, Mumbai in assessee's own case for AY 2017-

18 whereby deduction u/s.80G has been held to be allowable in respect of CSR expenses. Considering all the facts and judicial precedents, ld. CIT(A) allowed the claim of assessee.

10.1. We have perused the detailed submissions made by the assessee before the ld. CIT(A) as reproduced in the first appellate order and find no reason to interfere with the findings arrived at by ld. CIT(A) while allowing the claim of assessee. Accordingly, ground No.7 is dismissed.

11. In the result, appeal of the Revenue is dismissed.

Order is pronounced in the open court on 10 November, 2025

Sd/-  
(Saktijit Dey)  
Vice President

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 10 November, 2025***

*MP, Sr.P.S.*

**Copy to :**

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai