

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.1713/PUN/2025  
Assessment year : 2023-24**

Agarwal Enterprises 364, Gokale Cross Road, Near Deep Bungalow, Model Colony, Pune – 411016	<b>Vs.</b>	DCIT, Circle – 2, Pune
<b>PAN: AACFA6974D</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Nikhil S Pathak  
Department by : Shri Madan Thirmanpalli, Addl.CIT  
(Virtual)

Date of hearing : 14-01-2026  
Date of pronouncement : 16-02-2026

**ORDER**

**PER ASTHA CHANDRA, JM:**

This appeal filed by the assessee is directed against the order dated 13.06.2025 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2023-24.

2. Facts of the case, in brief, are that the assessee is a firm carrying on the business of electricity generation via windmill and solar plant. It filed its return of income on 30.09.2023 declaring total income of Rs.8,08,16,101/- after claiming Chapter VIA deduction of Rs.1,13,93,754/- u/s 80IA of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The case was selected for scrutiny under CASS to verify the following reason:

*“First Year of Deduction claimed u/s 80IA/80IAB/80IAC/80IBA”*

3. Accordingly statutory notice u/s 143(2) of the Act was issued and served on the assessee. Thereafter, the Assessing Officer issued notice u/s 142(1) of the Act along with a questionnaire in response to which the assessee filed the requisite details.

4. The Assessing Officer during the course of assessment proceedings noted that the assessee during the impugned assessment year has earned income out of sale proceeds received from generation of electricity by supplying the same to Rajasthan and Telangana governments and claimed deduction u/s 80IA of the Act at Rs.1,13,93,754/-. He noted that the assessee, apart from showing income from business of electricity generation related activities, is also carrying on share trading business and having gross profit of Rs.16,26,44,830/-. During the course of assessment proceedings the Assessing Officer noted that the assessee has claimed salary expenses of Rs.41,27,199/-. Since the assessee did not submit any other evidence other than the bank statement and TDS details, the Assessing Officer accepted salary at Rs.27,06,871/- only. Since the assessee according to the Profit and Loss Account is carrying on the business of power generation and share trading business during the year, therefore, the Assessing Officer allocated 50% of the salary towards business of share trading and the balance 50% towards business of power generation and accordingly re-worked the deduction u/s 80IA of the Act.

5. In appeal, the Ld. CIT(A) / NFAC, on the basis of various submissions made by the assessee, noted that the evidences for claiming salary is available to the

extent of Rs.38,64,803/- only and therefore he allowed the salary expenses to that extent and held the remaining amount of Rs.2,62,396/- as not allowable. So far as the allocation of salary to power generation unit is concerned, it was argued before him that share trading and investment business is of Rs.1,67,78,718/- and that of power generation business is Rs.2,45,10,036/- and therefore, the salary is to be allocated in the ratio of the turnover.

6. However, the Ld. CIT(A) / NFAC was not satisfied with the arguments advanced by the assessee and held that 1/4<sup>th</sup> of salary payment of Rs.38,64,803/- i.e. Rs.9,66,201/- is to be allocated to power generation unit and Rs.28,98,602/- to be allocated to share trading unit.

7. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

- 1] *The learned CIT(A) erred in making a disallowance of Rs.2,62,396/- out of the total salary expenditure of Rs.41,27,199/- on the ground that the assessee could submit evidences of the payment of Rs.38,64,803/- only and therefore, the balance amount was not allowable as an expenditure u/s. 37(1).*
- 2] *The learned CIT(A) failed to appreciate that the assessee had submitted details of the entire salary expenditure of Rs.41,27,199/- and accordingly, there was no reason to make any disallowance out of the total salary expenditure paid by the assessee and hence, the disallowance made of Rs.2,62,396/- may kindly be deleted.*
- 3] *The learned CIT(A) erred in allocating 25% of the total salary expenditure to the power generating undertaking and thereby erred in reducing the claim of 80IA by an amount of Rs.9,66,201/-.*
- 4] *The learned CIT(A) erred in not appreciating that there was no reason to allocate any salary expenditure towards power generation undertaking and*

*therefore, the disallowance of Rs.9,66,201/- made u/s. 80IA is not justified and the same may kindly be deleted.*

- 5] *Without prejudice to the above grounds, the assessee submits that the allocation of 25% the total salary expenditure to the power generation unit is not justified and the same may kindly be released substantially.*
- 6] *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.*

8. The Ld. Counsel for the assessee at the outset submitted that the only issue raised in the grounds of appeal is regarding allocation of salary expenses to power generation unit and share trading unit and the disallowance of Rs.2,62,396/- out of total salary expenditure of Rs.41,27,199/-.

9. Referring to the copy of tax audit report filed in the paper book from pages 104 to 122, the Ld. Counsel for the assessee drew the attention of the Bench to clause 26 of the report and submitted that the assessee has *suo motu* disallowed bonus / commission to employees of Rs.2,42,998/- as per provisions of section 43B(c) of the Act.

10. Referring to page 83 of the paper book he drew the attention of the Bench to the statement of trading account for the year ending 31.03.2023 according to which the assessee has claimed salary payment of Rs.41,27,199/-.

11. Referring to page 178 of the paper book, he submitted that the assessee has claimed salary to the extent of Rs.41,27,199/-. He submitted that the first appellate authority has allowed salary to the extent of Rs.38,63,700/-. However, if bonus /

commission of Rs.2,42,998/- which has been disallowed by the assessee *suo motu* is considered, then the salary payment considered by the assessee is correct.

12. Referring to the same Profit and Loss Account he submitted that the sale of electricity is Rs.2,45,10,086/- and sale of shares is Rs.1,67,78,507/-. He submitted that there cannot be any adhoc apportionment of salary to share trading and power generation business and it has to be apportioned on the basis of turnover which is a scientific method. In his alternate contention, he submitted that only a lump sum amount approximately Rs.50,000/- may be disallowed out of 80IA claim.

13. The Ld. DR on the other hand heavily relied on the order of the Ld. CIT(A) / NFAC.

14. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. The only dispute in the instant appeal is regarding the quantum of salary and apportionment of the same between the power generation unit and the share trading business. We find the assessee in the instant case claimed salary expenses of Rs.41,27,199/-. However, in absence of any proper details, the Assessing Officer determined the salary at Rs.27,06,871/- and apportioned the same to the power generation unit and share trading business in the ratio of 50:50. We find in appeal the Ld. CIT(A) / NFAC on verification of the details found that the assessee has established salary payment to the tune of

Rs.38,64,803/-. He, therefore, held that out of the salary of Rs.41,27,199/- an amount of Rs.38,64,803/- is allowable and Rs.2,62,396/- is not allowable.

15. So far as the allocation of salary to share trading business and power generation business are concerned, he directed the Assessing Officer to allocate 1/4<sup>th</sup> of salary payment of Rs.38,64,803/- i.e. Rs.9,66,201/- to be allocated to power generation unit and the remaining amount of Rs.28,98,602/- to be allocated to share trading unit. It is the submission of the Ld. Counsel for the assessee that the correct salary after considering the bonus paid to the employees as per the tax audit report is Rs.41,27,199/- and therefore, the salary claimed in the Profit and Loss Account is correct and has to be allowed.

16. So far as the allocation of the same to power generation unit and share trading business is concerned, it is his submission that either same should be allocated on the basis of turnover or some lump sum disallowance may be made.

17. So far as the quantum of salary is concerned, on verification of tax audit report and other details, we find the salary has been correctly claimed at Rs.41,27,199/-, therefore, the contention of the assessee that the salary which has been debited to Profit and Loss Account as per audit report is accepted. So far as the allocation of salary to the power generation unit and share trading business is concerned, we are of the considered opinion that the allocation of the same in the ratio of turnover of both the units is a scientific method and therefore will meet the

ends of justice. We, therefore, direct the Assessing Officer to re-compute the deduction u/s 80IA of the Act by apportioning the payment of salary to the power generation unit and the share trading business in the ratio of their turnover. The grounds raised by the assessee are accordingly partly allowed.

18. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 16<sup>th</sup> February, 2026.

**Sd/-**  
(R. K. PANDA)  
VICE PRESIDENT

**Sd/-**  
(ASTHA CHANDRA)  
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 16<sup>th</sup> February, 2026  
GCVSR

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Assistant Registrar  
आयकर अपीलीय अधिकरण ,पुणे  
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	12.02.2026		Sr. PS/PS
2	Draft placed before author	13.02.2026		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Office Superintendent			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			