

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 3480/DEL/2023 [A.Y 2014-15]

Multi Mantech International
Pvt Ltd., M Square
Millennium Plaza
Judges Bungalow Road
Opp. Swami Narayan Temple
Ahmedabad City, Ahmedabad

Vs.

The Dy. CIT
Circle - 17(1)
New Delhi

PAN: AAACM 0268 M

(Appellant)

(Respondent)

Assessee By : Shri Pallav, CA
Shri Ritik, CA

Department By : Shri Ankush Kalra, Sr. DR

Date of Hearing : 12.01.2026

Date of Pronouncement : 12.01.2026

ORDER

PER NAVEEN CHANDRA, AM :-

This appeal by the assessee is directed against the order of the ld.
CIT(A), Delhi dated 17.10.2023 pertaining to A.Y 2014-15.

2. The Grounds of Appeal taken by the assessee is as follows:

"1. (a) On the facts and circumstances of the case, the learned CIT (APPEALS) has erred both on facts and in law in disallowing an amount of Rs.35,00,000/- on account of donation u/s 35(1)(ii).

(b) That the disallowance has been made despite the expenses being incurred are wholly genuine and true to the best knowledge of assessee.

2. (a) On the facts and circumstances of the case, the learned CIT (APPEALS) has erred both on facts and in law in disallowing an amount of Rs.6,25,000/- on account of festival expenses. (b) That the disallowance has been made despite the expenses being incurred wholly and exclusively for the purposes of business.

3. (a) On the facts and circumstances of the case, the learned CIT (APPEALS) has erred both on facts and in law in disallowing an amount of Rs.23,44,179/- on account of expenses.

(b) That the disallowance has been made despite the expenses being incurred wholly and exclusively for the purposes of business."

3. Briefly stated, the facts of the case are that the assessee electronically filed its Return of Income on 29.04.2014 declaring an income of Rs. 1,99,61,610/-. Return was selected for scrutiny assessment through CASS and accordingly, statutory notices alongwith questionnaire were issued and served upon the assessee.

4. The assessee is a private limited company, incorporated in 1991 by Government of India and engaged in the business of consultancy services for projects in the infrastructure sector, namely water

resources, water supply, wastewater environment and off shore engineering. The company specializes in providing technical consultancy and engineering services and employs over 180 people.

5. The ITR of the assessee was selected for scrutiny and notice u/s 143(2) of the Act and thereafter, a questionnaire u/s 142(1) of the Act, was served on the assessee. The AO, after considering the submissions filed by the assessee, passed an order dated 12th December 2016 u/s 143(3) of the Act, assessing the income at Rs. 3,41,30,969/- as against the returned income of Rs. 1,99,61,610/-. The difference in the returned income and the assessed income is on account of following additions/disallowances made by the Assessing Officer:

Sl. No.	Particulars	Amount (Rs.)
1.	Disallowance on account of deduction u/s 35(1)(ii)	20,00,000
2.	Disallowance on account of undisclosed income as per Form 26AS	77,12,790
3.	Disallowance u/s 14A	1,39,4574.
4.	Disallowance on account of festival expenses	6,25,000
5.	Disallowance of other expenses	36,92,112
	TOTAL	1,41,69,359

6. Aggrieved with the aforesaid additions/ disallowances made by the Assessing Officer, the assessee filed an appeal before the ld. CIT(A) who reduced the additions/disallowances to Rs. 64,69,179/- from Rs. 1,41,69,359 by agreeing with the assessee on all but three counts as follows:

No.	Sl.	Particulars	Amount (Rs.)
1.		Disallowance on account of deduction u/s 35(1)(ii)	35,00,000
2.		Disallowance on account of festival expenses	6,25,000
3.		Disallowance of other expenses	23,44,179
		TOTAL	64,69,179

7. Aggrieved further by the abovementioned order of the ld. CIT(A), the assessee is in appeal before us.

8. Facts relating to Ground No. 1 are that the assessee during the year, made a donation of Rs. 20,00,000/- to School of Human Genetics and Population Health (hereinafter referred as SHGPH) and claimed deduction of Rs 35,00,000/- being 175% of the amount incurred under the provisions of section 35(1)(ii) of the Act.

9. Before us, the ld. counsel for the assessee vehemently stated that the donation was made on the basis of bonafide belief that SHGPH is genuine institution which is involved in research. The donee, SHGPH, to established its credential, supplied documents such as (1) Certificate of registration under Societies Act 1961; (2) Certificate of registration under section 12A of the act;(3) Copy of approval under section 80G (5) (vi);(4) List of governing body members and their PAN details;(5) Certificate of renewal of registration as Scientific and Industrial research Organization (SIRO);(6) Copy of PAN card;(7) Note on Section 35(1)(ii) as well as its awards such as Bharat Nirman Award, Global

Achievers foundation award in 2012 and Bharat Vibhushan Samman Puraskar in 2013.

10. It is further say of the ld. counsel for the assessee that no report of the Investigation Wing was provided or shown to the assessee/Counsel of the assessee and no cross examination of such persons whose statements may have been relied upon by the Assessing Officer in the course of assessment proceedings was given. At no point of time was the assessee allowed an opportunity to present its case or offered an opportunity to cross examine the material on record.

11. The ld. counsel for the assessee submitted that the allegation that the assessee has entered into transactions for obtaining accommodation entries is wholly based on conjectures and surmises, unsupported by any cogent material or evidence. The Assessing Officer has referred to generalized concepts in his order such as lifting of the corporate veil and statements relating to the so-called Jain Brothers, who admittedly have no connection or nexus with the appellant or the impugned transactions. No material has been brought on record to demonstrate any direct or indirect involvement of the appellant with such parties. It is submitted that reliance on unrelated case material, without establishing factual linkage, cannot substitute legal proof and renders the allegation legally unsustainable.

12. The ld. counsel for the assessee contended that without prejudice, even assuming (though not admitted) that the recipient institution was subsequently alleged to be involved in fraudulent activities, the assessee, being a donor, would at best be a defrauded party and not an accomplice to any alleged offence. In the absence of any cogent, direct, or undeniable evidence proving the knowledge, intent, or complicity, no adverse inference can be drawn against the assessee. Suspicion, howsoever strong, cannot substitute legal proof. The ld. counsel for the assessee relied upon the decision of the co-ordinate bench of the ITAT at Kolkata *in DCIT vs. M/s PRB Securities Pvt. Ltd.* [2018] ITA No. 211/Kol/2017.

13. Per contra, the ld DR submitted that SHGPH, during survey u/s 133A of the Act, was found to be engaged in issuing bogus donation certificate u/s 35(1)(ii) for a commission, an act admitted by the President/Secretary/Treasurer of the institution. Subsequently, to settle the tax, SHGPH had gone to Settlement Commission where it admitted that in lieu of service charge, they provided accommodation entries of donation to the donors. The ld DR stated that a broker-wise ledger was also found which contained the name of the assessee as beneficiary and hence the information was passed on to the AO of the assessee. The ld DR further pointed out that the assessee was confronted

with the Investigation Wing report and were show caused with regard to bogus donation and the assessee failed to avail any opportunities to furnish its explanation on this issue. It is argued that at this juncture before the ITAT, raising the issue of borrowed satisfaction and cross examination is no more relevant.

14. We have heard the rival submissions and have perused the materials on record. We find that the Investigation Wing of the Income Tax Department conducted a survey u/s 133A of the Act on 27.01.2015 on SHGPH wherein it was found that the said institution had provided accommodation entries of donation to donors through elaborate network of brokers for a commission. It was detected by the Income Tax Department that the said bogus donation racket by SHGPH involved Rs 724 crore in three years from April 2011. Upon detection of the bogus donation scam for evading taxes in an organized manner, SHGPH settled its tax liability in the Settlement Commission admitting its involvement in the bogus donation racket. It was also found that SHGPH did not keep their books of account in their registered office but had outsourced the books of account in one CA's office. A broker-wise ledger of commission paid for arranging donation was found. Before us, the fact that a broker-wise ledger containing the name of the assessee as beneficiary, remained uncontroverted.

15. We find that the AO received the information regarding survey on SHGPH and the assessee being a beneficiary of the racket, during the assessment proceedings. Upon receipt of such information, the AO made further enquiries with the assessee and confronted it with the findings/report of the Wing and gave two specific opportunities vide order sheet notings dated 02.02.2016 and 07.12.2016 to explain the genuineness of the donation made. The assessee however failed to provide any explanation when the opportunity to discharge the onus was provided to it.

16. We therefore are of the considered view that at this juncture before us, to raise the issue of assessee's bonafide belief regarding SHGPH being genuine institution having all certificates/documents from relevant authorities has no meaning especially when it was found that the assessee's name figured in the list of beneficiary in the broker-wise ledger maintained by the SHGPH. Further, when the AO confronted the assessee to explain its case, the onus was shifted to the assessee to establish its claim being genuine and the assessee failed to discharge the said onus. The claim of the assessee that report of the Investigation Wing was not provided or shown to the assessee/Counsel of the assessee, also deserves to be discarded as the AO had specifically noted in his order that opportunities were extended to the assessee. The argument

that assessee was not extended any cross examination of persons whose statements have been relied upon by the Assessing Officer, is also rejected as being specious and afterthought considering the fact that the CIT(A) has given a clear finding of fact that the assessee never produced any document/evidence that it had requested the AO for an opportunity to cross examine the deponents during the assessment proceedings.

17. We further find that the CIT(A) has also noted that the assessee is not saved by the Explanation to section 35(1) as the denial of deduction u/s 35(1)(ii) is not on account of withdrawal of approval granted to SHGPH but was done on account of assessee participation in fraudulent activity by the Donee agency in connivance with some brokers. We also note that subsequent to the unearthing of the fraud perpetrated by SHGPH, CBDT vide Notification No SO 2961(E) dated 15.09.2016 rescinded the approval granted to it u/s 35(1)(ii) as deemed to have never been issued.

18. In the above factual matrix of the instant case, we are of the considered view that the Income Tax Department unearthed a fraud of substantial magnitude perpetrated on the State Exchequer in the form of the organized bogus donation scam by SHGPH and has evidence and cogent materials to establish the participation of the assessee in evading

the tax. The CIT(A) has referred to hundreds of entities across India giving donations to one entity SHGPC and participating in criminal conspiracy for defrauding the nation. The name of the assessee, found in the broker-wise ledger as beneficiary, establishes that the AO has based his conclusions on hard facts unearthed and no recourse to conjectures and surmises was taken. The assessee's argument that assessee had no knowledge, intent, or complicity, can only be dismissed as being superficial and unsubstantiated by any cogent evidence/materials. We are therefore, of the considered view that in the instant case, the law laid down by the Hon'ble Supreme Court in the case of *CIT V Durga Prasad More* (1971) 82 ITR 540(SC) and *Sumati Dayal V CIT* (1995) 214 ITR 801(SC), in the context of the surrounding circumstances as well as the human probabilities, aptly and fully apply. We are also fortified by the decision of ITAT Kolkata Bench dated 07.03.2023, rendered in the case of *Tarasafe International P. Ltd. vs. DCIT* reported in (2023) 153 taxmann.com 282 (Kolkata Trib.) wherein it was held that where it was revealed that benefit of claim u/s. 35(1)(ii) was outcome of an organized fraud with help of certain manipulators, the assessee was not entitled for deduction u/s. 35(1)(ii) of the Act. In view of the above discussion, we find no reasons to interfere with the

decision of the CIT(A) in sustaining the disallowance claimed u/s 35(1)(ii). The ground no 1 is accordingly dismissed.

19. Ground No. 2 and 3 pertains to disallowance of expense on account of festival expenses amounting Rs. 6,25,000/- and other expenses amounting to Rs. 23,44,179/-. The assessee defense is that books of account have been duly audited, and no discrepancies have been identified by the authorities and that the expenditure has been incurred through banking channel with the legitimate purpose of maintaining healthy and productive relationships with clients, which is integral to the assessee's business operations purpose. On the other hand, the AO disallowed the above expense on ad-hoc basis as the assessee could not fully substantiate the expense with supporting bills/vouchers.

20. We have heard the rival submissions and have perused the relevant material on record. We find that the assessee could not fully substantiate the expenses and on the other hand the Revenue has made the disallowance on ad-hoc basis only. Considering the balance of convenience and in the interest of justice, without making it a precedence, we sustain an addition of Rs 50,000/- only in respect to Festival expense and Rs 2,00,000/- in respect of Other expense. The ground 2 and 3 are partly allowed.

21. In the result, appeal of assessee in ITA No. 3480/DEL/2023 is partly allowed.

Order pronounced in open court on 12.01.2026.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Sd/-
[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated : 16/02/2026
VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

I No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	