IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD

DR. B.R.R. KUMAR, VICE PRESIDENT
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No.2376, 2377, 2378 & 2379/AHD/2025
(Assessment Year: 2015-2016, 2016-2017, 2018-2019 & 2020-2021)

Deputy Commissioner Of Income Tax
Central Circle-1, Vadodara
Room No. 607, 6th Floor,
AaykarBhavan Race Course Circle,
Vadodara-390007, Gujarat ..... **Appellant**

Vs

Patel Infrastructure
Patel House Beside Prkurti Resort Chhani Road
Chhani Vadodara
Vadodara-391740, Gujarat
[PAN:AADCP2670D] ..... **Respondent**

Appearance

For the Appellant/Department	:	Shri M K Patel
For the Respondent/Assessee	:	Shri Abirama Karthikeyan CIT-DR

Date

Conclusion of hearing	:	15.07.2026
Pronouncement of order	:	13.10.2026

O R D E R

Per Rahul Chaudhary, Judicial Member:

1. These are four appeals preferred by the same Revenue for the Assessment Year 2015-2016, 2016-2017, 2018-2019 & 2020-2021. Since the appeals involved identical issues, the same were taken up together and are being disposed off by way of a common order.

ITA No.2376/AHD/2025 (Assessment Year 2015-2016)

2. We would first take ITA No.2376/AHD/2025 preferred by the Revenue against the Order, dated 11/09/2025, passed by the Commissioner Of Income Tax, Appeal(A)-12 Ahmedabad[hereinafter referred to as the '**CIT(A)'**] whereby the Learned CIT(A) had partly allowedthe appeal against the Assessment Order, dated 26/12/2018, passed under

Case Citation: (2026) taxcode.in 100 ITAT

Section 143(3)of the Income Act, 1961 [hereinafter referred to as 'the **Act**'] for the Assessment Year 2015-2016.

3. The Revenue has raised following grounds of appeal:

1. *Whether on the facts and in the circumstances of the case, the Id CIT(A) is justified, without appreciating the facts of the case, in deleting the disallowance of interest expenses of Rs.1,93,60,739/- u/s 36(1)(iii) of the Act.*

2. *Whether on the facts and in the circumstances of the case, the ld CIT(A) is justified, in allowing the assessee to diverge its profit by giving interest free loan to its subsidiary company, which is taking benefit of deduction u/s 80IA of the Act, under pretence of business exigency.*

3. *Whether , Ld. CII(A) was justified in restricting the disallowance of Rs. 26,18,798/-u/s 14A of the Act to Rs.9,000/- asserting that no disallowance could be made in respect of share of profit from PIPL-KCL (Joint Venture), as no investment was made in the said joint venture during the year under consideration, without appreciating the facts of the case and giving due consideration to mechanism of section 14A of the Act r.w.r. 8 of Income tax Rules.*

4. The relevant facts in brief are that the Assessee is engaged in the business development of roads, bridge, building on contract basis. For the Assessment Year 2015-2016, the Assessee filed return of income on 23/11/2015 declaring total income of INR.20,94,88,170/-. The case of the Assessee was selected for scrutiny. The Assessing Officer completed the assessment under Section 143(3) of the Act vide Assessment Order, dated 26/12/2018, after making the following major disallowances/additions:

(i) Disallowance of INR.26,18,798/- under Section 14A of the Act read with Rule 8D of the Income Tax Rules. 1962 [for short '**IT Rules'**] - The Assessing Officer observed that the Assessee held non-current investments of INR.23,28,41,000/- and had earned exempt income of INR.26,18,798/- (comprising INR.26,09,798/- as share of profit from PIPL-KCL Joint Venture and INR.9,000/- as dividend income). The Assessing Officer held that mixed borrowed funds were utilized for business and investment

www.taxcode.in

activities. The Assessing Officer invoked Rule 8D of IT Rules, however, restricted the disallowance to the total exempt income of INR.26,18,798/-.

(ii) Disallowance of interest of INR.1,93,60,739/- under Section 36(1)(iii) of Act - The Assessing Officer observed that the Assessee had advanced an interest-free loan of INR.19,57,91,000/- to its subsidiary/SPV company (i.e. Bridge Nirman Pvt. Ltd.) while incurring heavy finance costs on cash credit borrowings. Rejecting the Assessee's plea of business expediency, the Assessing Officer disallowed interest @ 12% amounting to INR.1,93,60,739/- on the ground that borrowed interest-bearing funds were diverted to the subsidiary company which was claiming deduction under Section 80IA of the Act.

5. Being aggrieved, the Assessee preferred appeal before the Learned CIT(A). The Learned CIT(A), vide Order dated 11/09/2025, partly allowed the appeal.

The Learned CIT(A) deleted the interest disallowance of INR.1,93,60,739/- under Section 36(1)(iii) of the Act holding that the loan was advanced for commercial expediency to an SPV/subsidiary created solely to execute a government infrastructure project awarded to the Assessee; and only INR.4,99,66,700/- was fresh advance during the relevant year while the balance comprised opening balances accepted in earlier years.

The Learned CIT(A) restricted the disallowance under Section 14A of the Act to INR.9,000/- (being the dividend income earned) and deleted the balance disallowance of INR.26,09,798/-, holding that no disallowance under Section 14A lies against share of profit from a Joint Venture exempt under Section 10(2A) of the Act where no equity investment out of interest-bearing funds was made.

www.taxcode.in

6. Being aggrieved by the relief granted by the Learned CIT(A), the Revenue has preferred the present appeal before us.

7. We have heard the rival submissions and perused the material on record.

Ground Nos. 1 and 2

8. Ground Nos. 1 and 2 raised by the Revenue pertain to the deletion of disallowance of interest expenses of INR.1,93,60,739/- made under Section 36(1)(iii) of the Act in respect of interest-free advances given to the subsidiary company. We have heard both the sides and have perused the material on record. We note that the Revenue has failed to controvert the factual findings returned by the Learned CIT(A) which are supported by the material on record. From the facts emanating from the records, it is clear that that the interest-free advance was extended to the subsidiary/SPV company, which was incorporated specifically as a Special Purpose Vehicle to execute a government-awarded infrastructure project (rail over bridge on BOT Annuity basis) awarded to the Assessee. Under the terms of the Letter of Award and Concession Agreement, the Assessee was solely responsible for the construction activities, and operational revenues generated therefrom came back to the Assessee. Thus, a clear commercial and business expediency was established in advancing funds to the subsidiary for project execution. Also the Assessing Officer has proceeded on incorrect understanding that the advance of INR.19,57,91,000/- was given during the relevant previous year, whereas the Assessee had given further funds aggregating to INR.4,99,66,700/- during the relevant previous year and to this extent the Assessee has interest free own funds at its disposal. The Learned CIT(A) granted relief to the Assessee by applying the judgment of the Hon'ble Supreme Court in the case of S.A. Builders Ltd. v. CIT [2007] 158 Taxman 74 (SC) and the Hon'ble Bombay High Court in PCIT v. ESSEL Infra Projects Ltd. [2024] 161 taxmann.com 214 (Bom).

www.taxcode.in

9. In view of the above settled legal position and factual matrix, we find no infirmity in the order of the Learned CIT(A) deleting the disallowance of interest of INR.1,93,60,739/- under Section 36(1)(iii) of the Act. Ground Nos. 1 and 2 raised by the Revenue are, accordingly, dismissed.

Ground No. 3

10. Ground No. 3 raised by the Revenue pertains to restricting the disallowance under Section 14A of the Act read with Rule 8D of the IT Rules to INR.9,000/- being exempt dividend income earned during the relevant previous year. We have heard both the sides on this issue and have perused the material on record. We note that the Learned CIT(A) deleted the disallowance made under Section 14A of the Act to the extent of exempt income of INR.26,09,798/- being Assessee's share of profit from a Joint Venture (PIPL-KCL JV), which is specifically exempt under Section 10(2A) of the Act. The Learned CIT(A) has noted that the Assessee had not made any capital investment in the JV during the year, and the marginal increase in capital balance reflected accrued operational profits. The Pune Bench of the Tribunal has, in the case of Desai Infra Projects (I) (P.) Ltd. v. PCIT [2025] 175 taxmann.com 137 (Pune - Trib.), held that no disallowance under Section 14A of the Act is attracted in respect of share of profit from a Joint Venture exempt under Section 10(2A) of the Act when no investment out of interest-bearing funds was made. Following the aforesaid decision the Learned CIT(A) granted relief to the Assessee. Since the Revenue has failed to distinguish the aforesaid decision followed by the Learned CIT(A) either on facts or in law, we decline to interfere with the order passed by the Learned CIT(A) in this regard. Accordingly, Ground No. 3 raised by the Revenue is dismissed.

11. In the result, the appeal preferred by the Revenue (ITA No.2376/AHD/2025) for the Assessment Year 2015-2016 is dismissed.

www.taxcode.in

ITA No.2377/AHD/2025 (Assessment Year 2016-2017)

12. Next we would take ITA No.2376/AHD/2025 preferred by the Revenue against the Order, dated 12/09/2025, whereby the Learned CIT(A) had partly allowed the appeal against the Assessment Order, dated 31/12/2019, passed under Section 143(3) of the Act for the Assessment Year 2016-2017.

13. The Revenue has raised following grounds of appeal:

1. *Whether on the facts and in the circumstances of the case, the ld CIT(A) is justified in considering the assessee as a developer fulfilling the statutory conditions under section 80-IA(4), based on general contention of the assessee without going into specific details of each project separately and without giving an opportunity to the AO.*

2. *Whether on the facts and in the circumstances of the case, the ld CIT(A) is justified, without giving any objective reasoning, in considering work related to the 'Rajkot-Bhavnagar Highway' project, as 'New Infrastructure Projects'*

3. *Whether on the facts and in the circumstances of the case, the Id CIT(A) is justified, without giving any objective and specific reasoning, in considering work related to the project i.e. Sangrur Bypass and Dhanula bypass' Project as 'New Infrastructure Projects', where no widening of road is involved.*

4. *Whether on the facts and in the circumstances of the case, the ldCIT(A) is justified in allowing the claim of the assessee for deduction u/s 801A (4) ignoring that no such claim was made in return filed u/s 139(1) and same was claimed for the first time in return filed u/s 139(5) of the Act and therefore claim is not allowable as per section 80AC of the Act.*

5. *Whether on the facts and in the circumstances of the case, the ld CIT(A) is justified in not considering the AOs, project wise elaborate discussion unambiguously demarcating the nature of work done by the assessee as a contractor and not as a developer*

6. *Whether on the facts and in the circumstances of the case, the Id CIT(A) is justified, without appreciating the facts of the case, in deleting the disallowance of interest expenses of Rs.2,97,68,487/- u/s 36(1)(iii) of the Act.*

14. The relevant facts of the case, as emanating from the records, are that for the Assessment Year 2016-2017, the Assessee filed original return of income on 23/11/2016 declaring total income of INR.74,71,61,030/- under Section 139(1) of the Act. Subsequently, on 31/10/2017, the

www.taxcode.in

Assessee filed a revised return of income under Section 139(5) of the Act declaring total income of INR.42,94,26,700/-, claiming for the first time a deduction of INR 31,77,42,719/- under Section 80-IA(4) of the Act. The deduction claimed under Section 80IA(4) pertained to two infrastructure projects, namely (i) Sangrur Bypass and Dhanula Bypass Road Project [Turnover INR.81,18,96,205/-; Deduction INR.28,41,63,991/-], and (ii) Rajkot-Bhavnagar Road Project with [Turnover INR.3,69,28,989/-; Deduction INR.3,35,78,728/-]. The Assessing Officer completed scrutiny assessment under Section 143(3) of the Act vide Assessment Order, dated 31/12/2019, after making the following additions/disallowances:

(a) Disallowance of claim of deduction under Section 80IA(4) of the Act amounting to INR.31,77,42,719/- on the grounds that the claim was not made in the original return filed under Section 139(1) violating Section 80AC, and on merits that the Assessee executed works contracts as a contractor rather than a developer for existing roads without creating a 'new infrastructure facility', falling under Explanation to Section 80-IA(13) of the Act.

(b) Disallowance of interest expenditure under Section 36(1)(iii) of the Act amounting to INR.2,97,68,487/- computed @ 12% per annum on short-term loans and advances of INR.24,80,70,729/- holding that the Assessee had failed to establish commercial expediency or business purpose for advancing interest-free funds while incurring interest-bearing borrowings.

15. The appeal preferred by the Assessee, was partly allowed by the Learned CIT(A) vide Order, dated 12/09/2025. The Learned CIT(A) deleted both the above additions/disallowances.

16. Being aggrieved by the above relief granted by the Learned CIT(A), the

Revenue has preferred the present appeal on the grounds reproduced above.

17. We have heard the rival submissions and perused the material on record.

Ground Nos. 1 to 5

18. Ground Nos. 1 to 5 raised by the Revenue pertain to the allowability of deduction under Section 80-IA(4) of the Act. These connected grounds pertain to the status of the Assessee as a 'developer' (as opposed to a 'works contractor'), nature of projects being undertaken by the Assessee qualifying as 'new infrastructure facilities' and applicability of provisions contained in Section 80AC of the Act in respect of Section 80IA(4) deduction having been claimed by way of a revised return.

19. The main contention of the Revenue is that the Assessee is a mere works contractor not eligible to claim deduction under Section 80IA of the Act in view of the provisions contained in Explanation to Section 80IA(13) of the Act. Further, the work undertaken by the Assessee was merely road widening which did not qualify as establishing a new infrastructure facility.

20. On the other hand, the Assessee asserted its status as a developer assuming entrepreneurial risk, designing, funding, and deploying machinery and technical expertise. It was submitted that in identical facts and circumstances, the Rajkot Bench of the Tribunal had allowed identical claim of the Assessee in ITA No. 627/Rjt/2014, dated 30/07/2020. Reliance was placed upon the order passed by the Learned CIT(A) and the judicial precedents cited therein by the Learned CIT(A).

21. Upon careful consideration of the facts, we find that the core issue regarding the classification of road widening projects under Section 80IA(4) is governed by CBDT Circular No. 04/2010 dated 18/05/2010, which explicitly clarifies:

"The issue has been examined by the Board. It has been decided that widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking would be regarded as a new infrastructure facility for the purpose of Section 80IA (4)(i). However, simply relaying of an existing road would not be classifiable as a new infrastructure facility for this purpose." (Emphasis Supplied)

22. Further, we note that the issue of distinction between a works contractor and an infrastructure developer had come up for consideration before the Hon'ble Jurisdictional High Court of Gujarat in the case of ACIT v. Montecarlo Construction Ltd., [R/Tax Appeal No. 786 of 2023, dated 19/10/2023]. Confirming the decision of the Ahmedabad Bench of the Tribunal in ITA No. 1892/AHD/2013, dated 28/06/2023, the Hon'ble High Court held that where an entity undertakes infrastructure development with full financial responsibility, deployment of specialized plant and machinery, and assumption of operational risk during execution and defect liability periods, it functions as a developer and cannot be treated as a mere works contractor. We note that in the Assessee's own case (ITA No. 627/Rjt/2014, dated 30/07/2020, AY 2010-11), the Rajkot Bench of the Tribunal has, after taking into consideration the aforesaid judgment, held that the mere nomenclature of 'contractor' used in project agreements does not disentitle an entity from claiming deduction under Section 80IA(4) when it performs functions in the capacity of a developer-cum-contractor assuming project risks. The Revenue has failed to bring on record any material to distinguish the aforesaid decision of co-ordinate Bench of the Tribunal followed by the Learned CIT(A) either on facts or in law. In the case before us, vide Order Sheet Entry, dated 03/03/2026, following directions were issued by the Tribunal:

"Since the issue as to whether the work pertains to widening of the road or strengthening of the existing road is not readily decipherable from the material available on record before us, the Ld. DR is directed to depute the Inspector and the ITO to

www.taxcode.in

Bhavnagar along with the paper book filed by the assessee to obtain a report from the Executive Engineer of the R&B Department, Bhavnagar as to whether the work out to creation of a new road carried amounts strengthening of the existing road and any other.

The Ld. AR is also granted liberty to during the course of inspection send his and representative verification proceedings."

23. In compliance, a report, dated 30/04/2026, was received from Executive Engineer, R&B Division, Bhavnagar wherein it was stated as under:

"With reference to the above Subject & reference letter, the Income tax officer, CIT(DR), ITAT-3(1). Ahmedabad, is requesting a report on the direction of the Hon'ble ITAT, Ahmedabad, regarding the Rajkot-Bhavnagar Highway project, to request clarification on two points mentioned below.

Sr. No.	***Description***	***Clarification Report***
(i)	*Kindly submit complete description of the nature and scope of work allotted in" Rajkot-Bhavnagar Highway" project along with all the necessary documents in support of your description along with photos of "Before the Work started" and "After Completion of the work"*	*The work executed under the Work Order dated 22-09-2012.The project was a road widening project from 10.0 mtr to four lanes, which has involved the engineering design, construction, and commissioning of a new and independent carriageway along with all associated drainage and cross-drainage infrastructure. (Cross Section Attached Herewith) Photographs of before work started are not available on record and photographs of after completion of the work are attached herewith.*

www.taxcode.in

(ii)	*Kindly also submit specifically whether the work done by M/s. Patel Infrastructure Ltd. In Rajkot-Bhavnagar highway project amount "Creation of New road" or "Strengthening of the existing road"*	*From the record available and as per the attached Enolosure (Road cross section), Work done by M/s. Patel Infrastructure Ltd, in Rajkot-Bhavnagar Highway project, amounts to "Creation of New Road."*

Executive Engineer
R&B Division
Bhavnagar"

24. Taking into consideration the above report and the Circular No. 04/2010 issued by the CBDT, we hold that the Assessee is entitled to claim benefit of Section 80IA(4) of the Act in respect of road widening work which, in the facts and circumstances of the present case, would be regarded as a new infrastructure facility for the purpose of section 80IA(4)(i) of the Act.

25. On the issue of application of Section 80AC of the Act, we note that the Assessee filed original return of income for the Assessment Year 2016-2017 within the time specified under Section 139(1) of the Act disclosing fully the revenue receipts and the relevant financial transactions. Subsequently, discovering omission regarding the claim of deduction under Section 80IA(4) of the Act, the Assessee filed a revised return under Section 139(5) of the Act within the statutory time limit, incorporating the said claim. The Assessing Officer disallowed the claim by invoking Section 80AC of the Act taking the view that since the deduction under Section 80IA(4) was not explicitly claimed in the original return filed under Section 139(1) of the Act, the statutory bar under Section 80AC was attracted. In appeal the Learned CIT(A) reversed the decision of the Assessing Officer and allowed the deduction claimed by the Assessee under Section 80IA(4) of the Act. Being aggrieved, the Revenue has carried the issue in appeal before this Tribunal.

26. Section 80AC of the Act provides that no deduction under profit-linked

www.taxcode.in

provisions (including Section 80-IA) shall be allowed unless the return of income is furnished on or before the due date specified under Section 139(1) of the Act. The explicit legislative object of Section 80AC of the Act was to enforce discipline against belated filings under Section 139(4) or claims set up during reassessment/search actions. At the same time we note that Section 139(5) of the Act empowers an assessee to rectify any "omission or wrong statement" by filing a revised return. Once a valid revised return under Section 139(5) of the Act is filed, the same substitutes and replaces the original return for all legal purposes from the date on which the original return was furnished. In our view, in case Section 80AC of the Act is interpreted strictly to mean that the claim must strictly exist only in the original income tax return filed under Section 139(1) of the Act without any scope for revision under Section 139(5) of the Act, it would render Section 139(5) completely redundant for any omission/wrong committed in relation to all Chapter VI-A deductions. Therefore, a distinction is required to be drawn between a bona fide revision and an attempt to claim deduction against undisclosed income. In a case where income or turnover was suppressed in the original return and is subsequently unearthed during assessment, audit, or search, or where no return was filed under Section 139(1) of the Act, Section 80AC may operate as an absolute statutory bar. However, in our view, where there is no such suppression or non-disclosure and the original return of income is filed within the prescribed time under Section 139(1) of the Act, a subsequent revision of return under Section 139(5) of the Act for claiming Chapter VI-A deductions is not bared by Section 80AC of the Act. Our aforesaid view draws strength from the decision of the Pune Bench of the Tribunal in the case of Sharp Designer and Engineers India Pvt. Ltd. Vs. ACIT, Circle -9, Pune [ITA No.2263/PUN/2014, Assessment Year 2010-2011, Dated 29.01.2018]

27. In view of the above legal position and factual matrix, we find no infirmity in the findings recorded by the Learned CIT(A) while

accepting Assessee's claim for deduction under Section 80-IA(4) of the Act. Consequently, Ground Nos. 1 to 5 raised by the Revenue are dismissed.

Ground No. 6

28. Ground No. 6 raised by the Revenue challenges the Order of the Learned CIT(A) deleting disallowance of interest expenses of INR.2,97,68,487/- disallowed by the Assessing Officer invoking the provisions contained in Section 36(1)(iii) of the Act. We have heard both the sides on this issue and have perused the material on record.

29. The Assessing Officer had disallowed interest expenditure computed at the rate of 12% per annum on short-term loans and advances of INR.24,80,70,729/- holding that the Assessee failed to prove commercial expediency or business purpose for advancing interest-free funds while incurring interest-bearing borrowings. In appeal, the Learned CIT(A) deleted the disallowance observing that the short-term advances of INR 24,80,70,729/- were mobilization advances and operational payments made in the ordinary course of business to suppliers, sub-contractors, and service providers for procurement of goods, services, and capital goods, and included prepaid expenses of INR 6,11,71,704/-. The Learned CIT(A) held that advance payments to suppliers and sub-contractors represented commercial expediency and standard industry practice in the infrastructure sector. Taking note of the fact that similar advances were allowed in earlier and subsequent assessment years while framing assessment under Section 143(3) of the Act, the Learned CIT(A) deleted the disallowance. In the appellate proceedings before us, the Revenue has failed to bring on record any material on controvert the aforesaid findings returned by the Learned CIT(A). There is nothing on record to infer diversion interest bearing borrowed funds for non-business purposes. Further, in earlier and subsequent assessment years no such disallowance has been made. Therefore, we decline to interfere with the order passed by the Learned CIT(A) deleting the disallowance of INR.2,97,68,487/- under Section

www.taxcode.in

36(1)(iii) of the Act. Thus, Ground No. 6 raised by the Revenue is dismissed.

30. In result, appeal preferred by the Revenue is dismissed.

ITA No.2378/AHD/2025 (Assessment Year 2018-2019)

31. We would next take up ITA No.2378/AHD/2025 preferred by the Revenue against the Order, dated 11/09/2025, whereby the Learned CIT(A) had partly allowed the appeal against the Assessment Order, dated 06/09/2021, passed under Section 143(3) of the Act for the Assessment Year 2018-2019.

32. The Revenue has raised following grounds of appeal:

1. *Whether on the facts and in the circumstances of the case, the id CIT(A) is justified in considering the assessee as a developer fulfilling the statutory conditions under section 80-IA(4), based on general contention of the assessee without going into specific details and without giving an opportunity to the AO.*

2. *Whether on the facts and in the circumstances of the case, the Id CIT(A) is justified, without giving any objective reasoning, in considering work related to the two projects ie. Sangrur-Mansa-Bathinda Road Project and Katni-Umaria section of NH-78, as 'New Infrastructure Projects' where no widening of road is involved.*

3. *Whether on the facts and in the circumstances of the case, the ld CIT(A) is justified in not considering the AOs, project wise elaborate discussion unambiguously demarcating the nature of work done by the assessee as a contractor and not as a developer.*

4. *Whether on the facts and in the circumstances of the case, the lid CIT(A) is justified in allowing the assessee's appeal against the addition made on the issue of disallowance of interest on income tax amounting to Rs.27,16,470/-, without any discussion on the issue.*

Ground No.1 to 3

33. Issues raised by the Revenue in Ground No.1, 2 and 3 of the present appeal are identical to Ground No.1 to 5 raised by the Revenue in appeal pertaining to Assessment Year 2016-2017.

34. For the Assessment Year 2018-2019, the Assessing Officer disallowed deduction aggregating to INR.12,22,51,006/- claimed by the Assessee under Section 80IA(4) of the Act, in respect of the

www.taxcode.in

following 6 specific road infrastructure projects on the ground that the Assessee acted as a contractor rather than a developer, thus, adopting the reasoning identical to the Assessment year 2016-2017.

SNo..	Name of the Project	Appointing Authority	Profit / Deduction Claimed (INR.)
1	Widening to four lane of Rajkot Bhavnagar road K.M. 96/6 to 166/2, dist.- Bhavnagar	The Executive Engineer, R&B Division	2,73,01,476/-
2	Widening to Two Lane with paved shoulders with provisions of 4-Lane in urban stretches and geometric improvement, wherever required as per accepted alignment from km. 180+500 (end of Nagur Bypass) to km. 267+500 (Netra village near Jodhpur) of NH-65 on EPC Mode	FWD NH Division, Public Works Department	2,11,82,115/-
3	Output & Performance Based road contract for improvement, Rehabilitation, Resurfacing & Routine maintenance works of roads of Sangrur Mansa-Bhatinda area in the State of Punjab	The Executive Engineer, Construction Division	5,18,47,471/-
4	Four Laning of Sangrur Bypass & Dhanoula Bypass (Patiala-Sangrur Barnala-Bhatinda section) of NH-64 from design Km. 110.720 to Km. 123.900 Dhanoula Bypass	Central Works Department, PB. PWD B&R Branch Sangrur at Patiala	68,78,714/-
5	Widening to two/four Lane with paved shoulders from km. 0.000 to km. 54.370 (Maharashtra Border to Bidar) section of NH-50 in	The Chief Engineer, National Highways	1,50,41,230/-

	the state of Karnataka		
6	Rehabilitation and up-gradation of Katni Umaria section of NH-78 from existing Km. 0/00 to 7/950 and from Km 4/600 to 68/400 in the state of Madhya Pradesh on EPC mode under NHDP-IV	Anil Chansoria, Chief Engineer (BOT), MP Road Development Corporation Ltd. Bhopal	(50,51,460/-)
	Total Deduction Disallowed under Sec 80-IA(4)		12,22,51,006/-

35. In appeal the Learned CIT(A) deleted the disallowance giving reasoning identical to the Assessment Year 2016-2017.

36. Being aggrieved the Revenue has carried the issue in appeal before this Tribunal by way of Ground No. 1 to 3 raised in the present appeal.

37. During the course of hearing both the sides had agreed that our findings/adjudication on corresponding grounds raised in appeal for the Assessment Year 2016-2017 shall apply mutatis-mutandis to Ground No. 1, 2 and 3 raised in the present appeal. Accordingly, in view of the paragraph 18 to 27 above, adopting the reasoning/adjudication given while disposing corresponding grounds in appeal for the Assessment Year 2016-2017 (ITA No.2377/AHD/2025) hereinabove, we decline to interfere with the order passed by the Learned CIT(A) in respect of projects listed at SNo. 1,2,4,5 and 6 in Table in paragraph 34 above. As regards the project listed at SNo. 3 in Table in paragraph 34 above, we direct the Assessing Officer to allow deduction under Section 80IA(4) of the Act in respect of revenues from the project excluding the revenues relating to resurfacing and routine maintenance work. Thus, Ground No.1 to 3 raised by the Revenue are partly allowed.

www.taxcode.in

Ground No.4

38. As regards Ground No.4 raised by the Revenue is concerned, both sides agreed that the same was not adjudicated by the Learned CIT(A), therefore, the issue be restored back to the file of Learned CIT(A). Accordingly, the issue raised in Ground No. 4 pertaining to the disallowance interest expenses of INR.2716470/- is restored to the file of Leaned CIT(A) for adjudication afresh. Thus, Ground No. 4 raised by the Revenue is allowed for statistical purposes.

39. In result, present appeal preferred by the Revenue is partly allowed.

ITA No.2379/AHD/2025

40. We would next take up ITA No.2379/AHD/2025 preferred by the Revenue against the Order, dated 12/09/2025, whereby the Learned CIT(A) had partly allowed the appeal against the Assessment Order, dated 29/09/2022, passed under Section 143(3) of the Act for the Assessment Year 2020-2021.

41. The Revenue has raised following grounds of appeal:

1. *Whether on the facts and in the circumstances of the case, the Id CIT(A) is justified in considering the assessee as a developer fulfilling the statutory conditions under section 80-IA(4), based on general contention of the assessee without going into specific details of the each project separately and without giving an opportunity to the AO.*

2. *Whether on the facts and in the circumstances of the case, the ld CIT(A) is justified, without giving any objective reasoning, in considering work related to the projects i.e. NH-65, Sangrur-Mansa-Bhatinda Road Project and Sangrur&Dhanoula Bypass project, as 'New Infrastructure Projects'.*

3. *Whether on the facts and in the circumstances of the case, the ld CIT(A) is justified, without giving any objective and specific reasoning, in considering work related to the project ie. Sangrur-Mansa-Bhatinda Road Project as 'New Infrastructure Projects', where no widening of road is involved.*

4. *Whether, Ld. CIT(A) was justified in not considering the AOs, project wise elaborate discussion unambiguously demarcating the nature of work done by the assesses as a contractor and not as a developer.*

42. Issues raised by the Revenue in Ground No.1 to 4 of the present

appeal are identical to Ground No.1 to 5 raised by the Revenue in appeal pertaining to Assessment Year 2016-2017.

43. For the Assessment Year 2020-21, the Assessing Officer disallowed deduction aggregating to INR.10,22,89,643/- claimed by the Assessee under Section 80IA(4) of the Act, in respect of the following 3 specific road infrastructure projects on the ground that the Assessee acted as a contractor rather than a developer, thus, adopting the reasoning identical to the Assessment year 2016-2017.

S. No.	Name of the Project	Appointing Authority	Profit / Deduction Claimed (INR.)
1	Improvement Rehabilitation, Resurfacing & routine Maintenance works of roads of Sangrur-Mansa-Bathinda Road	The Chief Engineer, Mohali	3,79,07,759/-
2	Widening and strengthening of NH-65 to two lanes with paved shoulders from existing Km 180+500 to Km 267+500 [End of Nagaur Bypass to Netra Village Section] in Rajasthan	Chief Engineer, PWD Jodhpur	3,03,74,767/-
3	Four laning of Sangrur Bypass of NH 64 from KM 106.170 to 116.950 Sangrur Bypass and from KM 144.900 to Km 149.960 Dhanoula Bypass	Chief Engineer, Patiala	3,40,07,117/-
	Total Deduction Disallowed under Sec 80IA(4)		10,22,89,643/-

44. In appeal the Learned CIT(A) deleted the disallowance giving reasoning identical to the Assessment Year 2016-2017.

www.taxcode.in

Case Citation: (2026) taxcode in 100 ITAT

45. Being aggrieved the Revenue has carried the issue in appeal before this Tribunal by way of Ground No. 1 to 4 raised in the present appeal.

46. During the course of hearing both the sides had agreed that our findings/adjudication on corresponding grounds raised in appeal for the Assessment Year 2016-2017 shall apply mutatis-mutandis to Ground No. 1 to 4 raised in the present appeal. Accordingly, in view of the paragraph 18 to 27 above, adopting the reasoning/adjudication given while disposing corresponding grounds in appeal for the Assessment Year 2016-2017 (ITA No.2377/AHD/2025) hereinabove, we decline to interfere with the order passed by the Learned CIT(A) in respect of projects listed at SNo. 2 and 3 in Table in paragraph 43 above. As regards the project listed at SNo.1 in Table in paragraph 43 above, we direct the Assessing Officer to allow deduction under Section 80IA(4) of the Act in respect of revenues from the project excluding the revenues relating to resurfacing and routine maintenance work. Thus, Ground No.1 to 4 raised by the Revenue are partly allowed.

47. In result, present appeal preferred by the Revenue is partly allowed.

48. In conclusion, the appeal preferred by the Revenue for the Assessment Year 2015-2016 and 2016-2017 are dismissed while appeal for the Assessment Year 2018-2019 and 2020-2021 are partly allowed.

Order pronounced on 13.10.2026

Sd/-	**Sd/-**
(Dr. B.R.R. Kumar)	**(Rahul Chaudhary)**
Vice President	**Judicial Member**

दिनांकDated :13.10.2026
अहमदाबाद Ahmedabad; **True Copy**
HC.PS

www.taxcode.in

Case Citation: (2026) taxcode.in 100 ITAT

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त (अपील) / The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण/ DR, ITAT,
6. गार्डफाईल /Guard file.

आदेशानुसार/BY ORDER,
उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad

www.taxcode.in