आयकर अपीलीय अधिकरण
कोलकाता 'ए' बेंच कोलकाता मे

IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'A' BENCH AT KOLKATA

Before

SHRI YOGESH KUMAR US, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER

ITA No(s). 753/KOL/2026
Assessment Year(s) 2018-19

Associated Road Carriers Limited 9th Floor Om Towers, 32, J. L. Nehru Road Kolkata, West Bengal, 700071	Vs.	**Assistant Commissioner of Income Tax** WBG-C-1-107-Circle 7(1), Kolkata, West Bengal, 700069
(अपीलार्थी/Appellant)		***(प्रत्यर्थी/Respondent)***
***स्थायी खाता संख्या*/PAN: AACCA4861C**		

उपस्थिति/Appearance:

अपीलार्थी के ओर से/

Assessee represented by (AR) **:** Ashish Rustagi, FCA.

प्रत्यर्थी के ओर से/

Department represented by (DR) **:** Kalyan Kumar Das, Sr. DR.

सुनवाई की तिथि/
Date of concluding the hearing : 06.10.2026

आदेश उद्घोषणा की तिथि/
Date of pronouncing the order : 16.10.2026

आदेश/ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 for AY 2018-19 dated 29.12.2025.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. That on the facts and in the circumstances of the case the Ld. C.I.T. (A) has erred in appreciating the facts and circumstances of the case.

2. That on the facts and circumstances of the case the Ld. C.I.T. (A) has erred in upholding the decision of the Assessing Officer in disallowing the deduction claimed u/s 80G of the Income Tax Act 1961, in respect of certain Donation payments, which were incurred on account of CSR expenses amounting to Rs. 1,44,69,500/-

3. That the appellant company craves leave to supplement, cancel or otherwise amend any of the grounds hereinabove before or at the time of the hearing of the appeal."

3. Brief facts of the case are that the assessee had filed the return of income for AY 2018-19 on 10.10.2018 declaring the total income at ₹71,11,35,090/-. The Assessing Officer [Ld. 'AO'] observed that the assessee had claimed deduction u/s 80G of the Act amounting to ₹72,34,750/- out of the expenditure on account of corporate social responsibility activities totalling to ₹1,44,69,500/-. The Ld. AO disallowed this claim, holding that the expenditure was mandatory under Section 135 of the Companies Act, 2013, lacked the voluntary nature of a donation, and was thus not eligible for deduction u/s 80G of the Act, disallowed the claim of deduction u/s 80G of the Act and assessed the total income at ₹71,83,69,840/- u/s 143(3) r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A), who condoned the delay in filing the appeal but relying upon the Circular No. 01/2015 dated 21.01.2015 referred to in the assessment order, confirmed the disallowance made by the Ld. AO and partly allowed the appeal of the assessee vide his findings as under:

"6.3 Decision: I have carefully examined the assessment order and the written submissions filed by the appellant, it is noticed that the AO has clearly mentioned in the assessment order as follows:

"2.10 Further, the contention of the assessee that sub section (iiihk) and sub section (iiihl) of Section 80G exclusively specify the phrase that, "other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013 (18 of 2013)" whereas the other sub sections u/s 80G do not, implies the fact that this condition does not hold for the other sub sections of Section 80G is not only incorrect but also a very superficial reading of the law. These sub sections were introduced in the Income-tax Act, 1961 by the Finance Act, 2015. This is the same finance act which categorically also specified that only that expenditure on CSR activities is deductible for tax purposes which falls within the provisions of Sections 30 to 36 of the Income Tax Act, 1961. Thus, the legislative intent is only further strengthened by the introduction of the phrase "other than the sum spent by the assessee in pursuance of Corporate Social Responsibility" that the deduction u/s 80G of the Income-tax Act, 1961 is allowed only to those voluntary contributions made by the assessee over and above its Corporate Social Responsibility. The assessee has deliberately applied the mischief rule of interpretation for the said statute to twist the law in his favour.

2.11 As expenditure for which deduction is claimed is purely CSR expenditure on which 80G deduction is not allowable as:

CSR expenditure by the assessee forms part of the mandatory requirement of the Companies Act 2013 and consequently not eligible for deduction u/s 80G of the IT Act.

Allowing deduction under section 80G will result in subsidizing these expenses incurred by the corporates which is not the intent of the legislature."

In view of the findings given by the AO in the assessment order, the addition amounting to Rs.72,34,750/- done by the AO is being upheld. Hence, ground nos. 1 to 4 are dismissed."

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted that the Ld. AO had disallowed the claim u/s 80G of the Act on the ground of CSR expenses as in the

opinion of the Ld. AO there was no charity involved. It is pertinent to reproduce the extract of the assessment order as under:

> *"2.6. The above submissions of the assessee have been carefully considered and based on the verification of information and material available on record, facts of the case and provision of the law, the same has been found to be not acceptable as per discussion in Para 2.3. and below.*
>
> *2.7. In the case of First American (India) Private Limited [2019] ITA No. 1762/Bang/2019, Allegis Services (India) Private Limited v/s. ACIT [2019] ITA No. 1693/Bang/2019 (Bang. ITAT) and Goldman Sachs Services Private Limited v/s. JCIT [2019] IT(TP)A No. 2355/Bang/2019 (Bang. ITAT), the Hon'ble ITAT remitted the issue back to the AO.*
>
> *2.8. Further, CSR expense being a contribution mandated by the Companies Act, 2013 is a necessary obligation of the company which was introduced by the legislature with the objective that companies having net worth/turnover/profit above a threshold should share the burden of the government in providing social services. Thus, a CSR expense cannot at the same time be a donation. For this purpose, the government also categorically mentioned that the amount relating to the CSR should be 2% of the average net profit. If tax deduction is allowed on such CSR expenses, this would result in subsidizing these expenses by one-third amount. The same has also been specifically mentioned in the explanatory notes to the provisions of the Finance Act, 2015 vide circular 01/2015 dated 21st January 2015. The relevant extract is produced below:*
>
> *"13.2.....If such expenses are allowed as tax deduction, this would result in subsidizing of around one-third of such expenses by the government by way of tax expenditure....."*
>
> *If the assessee takes a 50% deduction of these CSR expenses by calling them donations for the purpose of Section 80G of the Income-tax Act, 1961 then the assessee is further subsidizing these expenses over and above the one-third amount.*
>
> *In addition to the above,*
>
> *"13.3.....any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence shall not be allowed as deduction under said section 37. However, the CSR expenditure which is of the nature described in Section 30 to Section 36 of the Income Tax Act shall be allowed as deduction*

under those sections subject to fulfilment of conditions, if any, specified therein."

2.9. As can be seen from the above highlighted portion of the Explanatory Notes to the provisions of the Finance Act, 2015 that only that CSR expenditure is allowed as a deduction (disallowed u/s 37 of the Income-tax Act, 1961) which is of the nature described in Section 30 to Section 36 of the Income-tax Act, 1961. Thus, when the law explicitly states the nature of the expenses allowed for deduction to be that of Section 30 to Section 36, the assessee cannot suo-moto expand the scope of such a law to imply Section 80G.

It is thus, clear that the expenditure on CSR activities is non-deductible for tax purposes unless falling within provisions of Sections 30 to 36 of the Income Tax Act, 1961.

2.10. Further, the contention of the assessee that sub section (iiihk) and sub section (iiihl) of Section 80G exclusively specify the phrase that, "other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013 (18 of 2013)" whereas the other sub sections u/s 80G do not, implies the fact that this condition does not hold for the other sub sections of Section 80G is not only incorrect but also a very superficial reading of the law. These sub sections were introduced in the Income-tax Act, 1961 by the Finance Act, 2015. This is the same finance act which categorically also specified that only that expenditure on CSR activities is deductible for tax purposes which falls within the provisions of Sections 30 to 36 of the Income Tax Act, 1961. Thus, the legislative intent is only further strengthened by the introduction of the phrase "other than the sum spent by the assessee in pursuance of Corporate Social Responsibility" that the deduction u/s 80G of the Income-tax Act, 1961 is allowed only to those voluntary contributions made by the assessee over and above its Corporate Social Responsibility. The assessee has deliberately applied the mischief rule of interpretation for the said statute to twist the law in his favour.

2.11. As expenditure for which deduction is claimed is purely CSR expenditure on which 80G deduction is not allowable as:

- *CSR expenditure by the assessee forms part of the mandatory requirement of the Companies Act 2013 and consequently not eligible for deduction u/s 80G of the IT Act.*
- *Allowing deduction under section 80G will result in subsidizing these expenses incurred by the corporates which is not the intent of the legislature.*

In the light of the above, the deduction claimed by the assessee u/s 80G of the Act out of the CSR expenses of Rs. 72,34,750/- is disallowed and added back to the total income of the assessee. Penalty proceedings u/s 270A of the Act is initiated separately for furnishing under reporting of income."

6. The Ld. AR relied upon several judicial pronouncements in support of the claim that the deduction even on CSR expenses which have been disallowed by the assessee the deduction can be claimed u/s 80G of the Act as only the contribution to Swachh Bharat Kosh and the Clean Ganga Fund are specifically prohibited as regards deduction u/s 80G of the Act relating to CSR expenses and the same are allowable for other than the sum spent by the assessee in pursuance of corporate social responsibility under section 135(5) of the Companies Act, 2013 and the rest of the contributions are allowable. It was submitted that the Ld. CIT(A) relied solely on the order of the Ld. Assessing Officer and confirmed the disallowance.

7. The Ld. DR in the rejoinder drew our attention to page 15 of the order of the Ld. CIT(A) wherein a mention has been made of the Circular No. 1/2015 dated 21.01.2015 was relied upon by the Ld. AO. Our attention was also drawn to page 28 of the order of the Ld. CIT(A) which has been extracted in preceding paragraphs and requested that the order of the Ld. CIT(A) may be confirmed.

8. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). This issue came up before us in the case of **M/s. Tega Industries Limited vs. DCIT** in **ITA No. 1875/KOL/2024** for AY 2020-21 order dated 11.12.2025 in which reliance has been placed upon the order of the coordinate bench in the case of **Deputy Commissioner of Income-**

tax vs. Phillips Carbon Black Ltd. [2025] 175 taxmann.com 352 (Kolkata - Trib.) and the relevant findings are extracted as under:

> *"7.1. Before us the assessee has relied upon the decision of the Hon'ble Kolkata Tribunal in the case of JMS Mining (P.) Ltd. vs. PCIT [2021] 130 taxmann.com 118 (Kolkata - Trib.) and Hon'ble Bangalore Tribunal in the case of Goldman Sachs Services (P.) Ltd. vs. Jt. CIT [2020] 117 taxmann.com 535 wherein it has been held that "CSR made under section 135(5) of the Companies Act are also eligible for deduction under section 80G of Income-tax Act subject to assessee satisfying the requisite conditions prescribed for deduction under section 80G of the Act, which is squarely applicable to the facts of the instant case.". Further reliance has been made in the case of Cheil India (P.) Ltd. vs. Deputy Commissioner of Income-tax [2024] 169 taxmann.com 507 (Delhi - Trib.)/[2025] 122 ITR(T) 194 (Delhi - Trib.)[28-10-2024] as also the decision of the Coordinate Bench of the ITAT, Kolkata in the case of Britannia Industries Ltd. vs. Deputy Commissioner of Income-tax. [2024] 161 taxmann.com 393 (Kolkata - Trib.)[14-12-2023]. Recently, the coordinate Bench of the Tribunal in the case of Deputy Commissioner of Income-tax vs. Phillips Carbon Black Ltd. [2025] 175 taxmann.com 352 (Kolkata - Trib.)[10-06-2025] have held as under:*
>
> > *"■ It is submitted that the reason given by the Assessing Officer for disallowing the deduction claimed under section 80G in respect of CSR donations to registered charitable trusts is unjustified as nowhere do the provisions of section 80G provide that the sums paid to charitable trusts have to be 'voluntary' in nature so as to become eligible for deduction under the said provision. It is further submitted that, it was the assessee's sole prerogative to decide as to the manner in which it proposes to contribute towards CSR activities. It was not a case that the assessee has contributed to the registered charitable trust in question under any specific mandate or compulsion. Instead, the appellant has voluntarily decided to contribute to the registered charitable trust(s). Hence, the Assessing Officer's action that the donation was not made at the assessee's own volition was untenable. It is imperative to mention that the Legislature was well aware that the companies may spend on CSR activities by contributing to charitable trusts recognized under section 80G and therefore wherever the Legislature intended that CSR contributions to any specific charitable trusts should be denied deduction, necessary provisions were incorporated in the specified sub-clauses. It shall be noted that section 80G contains certain restrictions in respect of deduction to only two projects [sub-clauses (iiihk) and (iiihi)). The Parliament has clearly expressed its intention by*

debarring claim of deduction under section 80G in respect of CSR expenditure spent by an assessee appellant to Swachh Bharat Kosh and Clean Ganga Fund. No such restriction has otherwise been set out for any other donations made by an assessee. Meaning thereby, if CSR expenses are incurred by way of donation given to any other eligible charitable trusts (except Swachh Bharat Kosh and Clean Ganga Fund), then the same shall be eligible for deduction under section 80G. In the facts of the present case, the assessee has made donations to registered charitable trusts which have been approved under section 80G(6)(vi) and unlike sub-clauses (iiihk) and (iiihi), there is no restriction or prohibition set out in the said sub-clause denying deduction under section 80G for CSR contributions. [Para 13]"

7.2. It is further noticed that CSR expenditure is an obligation of the company specified in section 135 of the Companies Act, 2013 and the activities which may be included by the company in the CSR policies are mentioned in the schedule VII of the Companies Act, 2013. Incidentally, contribution to the Swatch Bharat Kosh set-up by the Central Government for the promotion of sanitation, contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga, contribution to the Prime Minister's National Relief Fund or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) are mentioned in schedule VII besides several other activities. However, sub-section (2) of section 80G allows deduction in respect of Swachh Bharat Kosh and Clean Ganga Fund only for the donation other than the sums spent for CSR as under:

86[(iiihk) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 13587 of the Companies Act, 2013 (18 of 2013); or

(iiihl) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013 (18 of 2013); ….."

7.3 Incidentally, no such restriction has been placed in respect of donations to the Prime Minister's National Relief Fund or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund), even though both these funds are also mentioned in clause (viii) of schedule VII relating to section 135 of the Companies Act, 2013 thereby implying that

there is no such limitation as regards claim of deduction u/s 80G of the Act in respect of these two funds. Therefore, the assessee's contention in this regard is accepted in view of the decision of the coordinate Bench in the case of Phillips Carbon Black Ltd. (supra) and other decisions mentioned in the preceding paras and the Ld. AO is directed to allow deduction u/s 80G of the Act as per law. Hence, Ground no. 4 of the appeal is allowed."

9. Therefore, in view of the finding in the case of **M/s. Tega Industries Limited** (supra), we direct the Ld. AO to allow the claim of deduction u/s 80G of the Act on account of CSR expenses if the expenditure otherwise qualifies for the deduction u/s 80G of the Act as per law. Hence, Hence, Ground No. 2 is allowed and the findings of the Ld. CIT(A) are reversed. Ground Nos. 1 and 3 are general in nature and do not require any separate adjudication.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 16th October, 2026.

Sd/-	*Sd/-*
[**Yogesh Kumar US**]	[**Rakesh Mishra**]
Judicial Member	Accountant Member

Dated: 16.10.2026

Bidhan (Sr. P.S.)

Copy of the order forwarded to:

1. ***Associated Road Carriers Limited.***
2. ***Assistant Commissioner of Income Tax.***
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.