

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH: CHENNAI**

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं  
श्री जी. मंजूनाथा, माननीय लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND**  
**SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.455, 456 & 457/Chny/2021  
निर्धारण वर्ष /Assessment Years: 2014-15, 2015-16 & 2017-18

M/s.Sri Ranganathar –  
Industries Pvt. Ltd.,  
12/45, Thadagam Road,  
Edayapalayam,  
Coimbatore-641 025.

v. The Dy. Commissioner-  
of Income Tax,  
Central Circle-1,  
Coimbatore.

[PAN: AADCS 0183 Q]  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.S.Sathyanarayanan, Adv.  
प्रत्यर्थी की ओर से /Respondent by : Mr.D. Hema Bhupal, JCIT  
सुनवाई की तारीख/Date of Hearing : 05.01.2023  
घोषणा की तारीख /Date of Pronouncement : 11.01.2023

**आदेश / ORDER**

**PER G. MANJUNATHA, ACCOUNTANT MEMBER:**

These three appeals filed by the assessee are directed against separate, but identical orders of the Commissioner of Income Tax (Appeals)-19, Chennai, all dated 04.10.2021 and pertains to assessment years 2014-15, 2015-16 & 2017-18. Since, the facts are identical and issues are common, for the sake of convenience, these appeals are being heard together and disposed off, by this consolidated order.

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**2.** The brief facts of the case are that the assessee company is in the business of manufacturing of steel castings in machined and un-machined condition, filed its return of income on 20.09.2014 for the AY 2014-15, declaring a total income of Rs.15,76,72,010/-, on 23.09.2015 for the AY 2015-16 declaring a total income of Rs.12,77,52,370/- and on 14.10.2017 for the AY 2017-18 declaring a total income of Rs.10,92,53,130/-. A survey u/s.133A of the Act, was conducted in the case of the assessee on 15.12.2017 and consequently, the assessment has been re-opened u/s.147 of the Act. During the financial year relevant to the AYs 2014-15, 2015-16 & 2017-18, the assessee company has claimed deduction u/s.80G of the Act, in respect of donations paid to M/s.Sri Ranganathar Trust, which is also registered u/s.12AA of the Act, and also enjoying the benefit of registration u/s.80G of the Act. The assessee has paid donation partly through bank for the relevant assessment year and partly converted loans given to Trust in earlier financial year as donations for the impugned assessment years. During the financial year relevant to AY 2014-15, the assessee has claimed deduction u/s.80G of the Act, in respect of total donation amounting to Rs.1 Cr., and out of which, a sum of Rs.44,44,555/- has been paid through bank and balance amount of Rs.56 lakhs has been adjusted out of loan given to Trust in earlier financial years. For the AY 2015-16, the assessee has claimed deduction towards donations for Rs.12,50,000/- out of conversion of loan given in earlier financial years. For the AY 2017-18, the assessee has claimed deduction u/s.80G of the Act, for Rs.1 Cr., and out of which, a

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sum of Rs.44,45,555/- has been paid during the financial year and balance sum of Rs.55,54,445/- has been adjusted out of loans given in earlier financial years. The AO has disallowed deduction claimed u/s.80G of the Act, towards donations considered out of loan given in earlier financial years by holding that as per the provisions of Sec.80G of the Act, only donations paid in cash during the relevant previous year can only be allowed as deduction, but not donations paid in kind. The AO further observed that conversion of loan into donation amounts to donation given in kind and thus, the assessee is not entitled to claim deduction u/s.80G of the Act. Therefore, disallowed deduction claimed u/s.80G of the Act, on amount which is converted out of loans.

**3.** Being aggrieved by the assessment order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee has reiterated its arguments taken before the AO and submitted that the AO never disputed the fact that all donations are paid through proper banking channel. However, rejected deduction on amount pertains to conversion of loans into donation only on the ground that the said donation is in the nature of donation paid in kind. The Ld.CIT(A) after considering relevant submissions of the assessee and also be relied upon the decision of the Hon'ble Gujrat High Court in the case of CIT v. Miss. Yeraben R. Amin reported in 115 CTR 120 held that donations paid in kind are not eligible for deduction u/s.80G of the Act. Therefore, the Ld.CIT(A) rejected the arguments of the assessee that substance over form should be considered

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while deciding issue by referring to provisions of Sec.80G of the Act, and sustained additions made by the AO towards disallowance of donation. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

**4.** The Ld.AR for the assessee referring to the decision of ITAT Allahabad Bench in the case of M/s.General Capital and Holding Co. Pvt. Ltd. v. ITO in ITA No.538/Ahd/2016 dated 12.02.2018 submitted that substance over form should be considered while deciding the issue and if you apply said principle, there is no dispute with regard to the fact that the assessee had given donation to a Trust which is enjoying the benefit of provisions of Sec.80G of the Act. It is also not in dispute that the assessee company had given loan to Trust through proper banking channel and the same has been subsequently converted into donations for which the Trust has issued proper receipts with registration certificates u/s.12AA & u/s.80G of the Act. Therefore, there is no reason for the AO and the Ld.CIT(A) to sustain the additions made towards disallowance of deduction claimed u/s.80G of the Act.

**5.** The Ld.DR, by referring to the provisions of Sec.80G of the Act, submitted that it is only donations paid in cash during the relevant previous year is eligible for deduction u/s.80G of the Act. Further, donations paid in kind is not eligible for deduction u/s.80G of the Act, and in this regard, he relied upon the decision of the Hon'ble Gujrat High Court in the case of Miss. Yeraben R. Amin (supra).

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**6.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that the deduction claimed by the assessee u/s.80G of the Act, towards donation paid to M/s.Sri Ranganathar Trust, is registered u/s.12AA of the Act & u/s.80G of the Act. It is also not in dispute that all donations including amounts converted out of loans given to Trust in earlier financial years, is through proper banking channel. It was also not in dispute that the Trust has acknowledged the donations and issued proper receipts with registrations numbers u/s.12AA of the Act & u/s.80G of the Act. In fact, all these facts are not disputed by the AO as well as the Ld.CIT(A), but the only dispute is with regard to manner in which the donations have been paid by the assessee company. The assessee company has paid part donations through proper banking channel during the relevant previous year. The remaining part of donations have been converted out of loans given to Trust in earlier financial years. The AO treated donations converted out of loans given in earlier financial years as donations in kind and denied deduction claimed u/s.80G of the Act.

**7.** We have given our thoughtful consideration to the reasons given by the AO in light of various arguments of the Ld.Counsel for the assessee and we ourselves do not subscribe to the reasons given by the AO to treat donations given out of conversion of loan given in earlier financial years as

:: 6 ::

donations in kind to deny the benefit of deduction u/s.80G of the Act, for simple reason that donations paid in cash and donations paid in kind are entirely different. Donations paid in kind is something which is paid in the form of some goods and articles, whereas, donations paid in cash means any payment by cash or by cheque or by any electronic mode of transfer of funds. In this case, there is no dispute with regard to the fact that the assessee had given loans to Trust in earlier financial years through proper banking channel and further, said loans have been converted into donations during the impugned assessment years. Therefore, in our considered view donations paid by the assessee by conversion of loans into donations comes under the nature of donations paid in cash and thus, the assessee is entitled for deduction u/s.80G of the Act. This view is fortified by the decision of the ITAT Allahabad Bench in the case of M/s.General Capital and Holding Co. Pvt. Ltd., where the Tribunal after considering relevant facts held that conversion of loans given in earlier financial years into donations are eligible for the benefit of deduction u/s.80G of the Act, and relevant findings of the Tribunal are as under:

*".....5. Coming to merits, we find that this is not the Revenue's case that the donation trust is not an approved institution or it has not issued the corresponding acceptance receipt. There is further no quarrel on basic facts inter alia the assessee having actually transferred the money to donee trust through banking channel only on 14.08.2008. Its books recognized the said amount on asset side till the relevant previous year wherein it decided to forgo its loan right by way of donating the amount in question to the donee in lieu of the corresponding acceptance receipt. We are of the opinion that both the lower authorities have erred in law as well as on facts in this peculiar circumstances to interpret the relevant statutory provision Section 80G of the Act in an unsustainable manner which tantamounts to denying the necessary relief in both assessment years i.e. the year of actual payment as well as that of getting the necessary donation receipt. In our considered opinion, the purpose of using the crucial expression "in relevant previous year" in statute is to ensure actual payment on or before the relevant previous year rather than altogether rejecting a case alike the instant facts only. We therefore accept*

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*assessee's first substantive ground to delete the impugned Section 80G disallowance of Rs.11,11,111/- under challenge.....".*

**8.** In so far as the decision relied upon by the AO and the Ld.CIT(A) in the case of the Hon'ble Apex Court in the case of H.H. Sri Rama Verma v. CIT reported in [1991] 187 ITR 308 and the Hon'ble Gujarat High Court in the case of Miss. Yeraben R. Amin (supra), no doubt about ratio laid down by the Hon'ble Courts on the issue of deduction u/s.80G of the Act, and held that deduction should be allowed to donations which are in the form of cash and not otherwise and further, the donations should be made during the relevant financial year. In our considered view, said decision goes in favour of the assessee, if you apply the ratio laid down by the Hon'ble Courts in real sense, because, in the present cases, the assessee has paid donations in cash, but not in any other manner as understood by the lower authorities and further, said donations have been paid during the relevant financial year itself. Therefore, we are of the considered view that the AO and the Ld.CIT(A) has misunderstood the ratio laid down by the Hon'ble Supreme Court to decide the issue against the assessee.

**9.** In this view of the matter and considering the facts and circumstances of the cases, we are of the considered view that the assessee is entitled for deduction u/s.80G of the Act, towards donations paid to Trust, including amount paid during the previous year and also amount paid out of loans given in earlier financial years. Therefore, we direct the AO to

:: 8 ::

allow deduction u/s.80G of the Act, as claimed by the assessee for all assessment years.

**10.** In the result, appeals filed by the assessee are allowed for all the three assessment years.

Order pronounced on the 11<sup>th</sup> day of January, 2023, in Chennai.

**Sd/-**  
(महावीर सिंह)  
(MAHAVIR SINGH)  
उपाध्यक्ष /VICE PRESIDENT

**Sd/-**  
(जी. मंजूनाथा)  
(G. MANJUNATHA)  
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,  
दिनांक/Dated: 11<sup>th</sup> January, 2023.  
**TLN**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF