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

BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER

I.T.A. No. 1696/Ahd/2024
(Assessment Year: 2020-21)

Milacron India Private Limited, Plot No. 93/2 & 94/1, Phase-1, GIDC, Vatva, Ahmedabad-382445 [PAN : AABCC 0881 D]	Vs.	Deputy Commissioner of Income-tax, Circle 2(1)(1), Ahmedabad
(**Appellant**)	..	(**Respondent**)

Assessee represented by :	Shri Dhinal Shah, AR
Revenue represented by:	Shri Sher Singh, CIT-DR
Date of Hearing	17.03.2026
Date of Pronouncement	27.05.2026

O R D E R

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

By way of this appeal, the assessee-appellant has challenged correctness of the order dated 30.07.2024 passed by the Assessing Officer under section 143(3) r.w.s. 144C (13) r.w.s. 144B of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short], for the Assessment Year 2020-21.

2. The assessee has raised following grounds of appeal :-

> ***"1. Ground No 1 - Upward adjustment of INR 45,19,231 in respect of notional interest on outstanding receivable.***
>
> ***1.1. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, while proposing an upward adjustment of INR 45,19,231 to the total income of the Appellant in respect of notional interest on outstanding receivables from Associated Enterprises ('AEs').***
>
> *1.2. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, in not appreciating the fact that outstanding receivable is not an international transaction, per se, under section 92B of the Act but an integral part of the primary transaction of sale of goods to AEs and cannot be seen in isolation.*

1.3. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, in re-characterizing outstanding receivable as loan / financing transaction.

1.4. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, in proposing to tax hypothetical income and not real income.

1.5. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, in computing notional interest on outstanding receivables from AEs ignoring the fact that the Appellant has not charged any interest on trade receivables both from AEs as well as from Non-AEs.

1.6. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, in computing notional interest on the outstanding receivables from AEs ignoring the fact that Appellant has not paid any interest on trade payables towards the AEs.

1.7. On the facts and in the circumstances of the case and in law, the learned AO/Hon'ble DRP has erred in facts and circumstances of the case and in law, in disregarding the fact that working capital adjustment takes into account the impact of outstanding receivables on the profitability and therefore, no further imputation of interest is warranted.

1.8. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, in disregarding the aggregation of closely linked transactions.

1.9. Without prejudice to above, the learned AO/Hon'ble DRP has erred in facts and circumstances of the case and in law, in providing erroneous benchmarking analysis to determine the arm's length rate for charging interest on outstanding trade receivable which is full of anomalies.

1.10. Without prejudice to above, the learned AO/Hon'ble DRP has erred in facts and circumstances of the case and in law, in not netting-off outstanding trade payables while imputing notional interest on the outstanding trade receivable.

2. Ground No 2 - Erroneous disallowance of claim made under section 80G of the Act of INR 83,20,000.

2.1. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in facts and circumstances of the case and in law, in not allowing the deduction claimed by the Appellant under section 80G of the Act of INR 83,20,000 on the ground that the amount spent towards mandatory CSR obligation cannot be allowed as deduction under section 80G of the Act.

3. Ground No 3-Initiation of penalty proceedings under section 270A of the Act

3.1. On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in initiating the penalty proceedings under section 270A of the Act in respect of disallowance of education cess without appreciating the fact that the appellant had filed Form 69 within the prescribed time i.e. on 22 March 2023 and no penalty is leviable as per proviso to Section 115 (18) of the Act.

4. Ground No.4 – initiation of penalty proceedings u/s 271AA of the Act.

4.1 On the facts and in the circumstances of the case and in law, the learned AO / Hon'ble DRP has erred in initiating the penalty proceedings u/s 271AA of the Act without appreciating the fact that outstanding receivables / payables have been separately reported in Form 3CEB.

3. The assessee has also raised following additional grounds of appeal: -

"On the facts and in the circumstances of the case and in law, the learned Assessing Officer has erred in not granting refund of excess Dividend Distribution Tax ('DDT') paid to the extent of 5.5553% as per the provisions contained in Section 115-O of the Act read with India-USA double taxation avoidance agreement ('DTAA' or 'the treaty')."

4. The brief facts of the case are that the assessee is a company engaged in to manufacturing of plastic processing machinery including injection moulding, extrusion equipment, hot runner systems and temperature controllers. The return of income for the year under consideration was filed by the assessee on 15.02.2021, declaring total income of Rs.130,75,01,613/-. The return was selected for scrutiny under CASS for international transactions, international related party transactions, issues relating to intangible property etc. During the assessing proceedings, the Assessing Officer made a reference u/s 92CA(1) of the Act to the Transfer Pricing Officer for determining Arm's Length Price (ALP) of the international transactions reported in Form 3CEB. The TPO passed an order dated 26.04.2023 u/s 92CA(3) of the Act proposing an upward adjustment of Rs.45,19,231/- on account of outstanding receivables. The Assessing Officer also proposed disallowance of deduction claimed u/s 80G of the Act amounting to Rs.83,20,000/- on account of CSR related donations. A draft assessment order u/s 144C(1) was accordingly passed. The objections filed by the assessee before the DRP came to be rejected and consequently the final assessment order was passed.

5. Aggrieved by the order of the Assessing Officer, the assessee is in appeal before us.

Ground Nos.1.1 to 1.10 – TP Adjustment on Outstanding Receivables

6. We have heard rival submissions and perused the material available on record. The issue involved in Ground Nos.1.1 to 1.10 relates to transfer pricing adjustment of Rs.45,19,231/- made on account of notional interest on outstanding receivables from AEs.

6.1 We note that an identical issue came up for consideration before the Co-ordinate Bench of this Tribunal in assessee's own case for Assessment Year 2021-22 in ITA No.2201/Ahd/2024 order dated 21.05.2025. In the said decision, the Tribunal considered the entire transfer pricing framework governing outstanding receivables including applicability of section 92B, Rule 10B(1)(e)(iii), OECD Transfer Pricing Guidelines, impact of working capital adjustment under TNMM, comparability analysis, aggregation principle and non-charging of interest from both AEs and non-AEs. The Co-ordinate Bench, after detailed examination, held that once the assessee's international transactions are benchmarked under TNMM and working capital adjustment has been granted, the impact of delayed receivables stands subsumed in profitability analysis and no separate adjustment on account of notional interest on receivables is warranted. The Tribunal further held that where the assessee follows uniform policy of not charging interest from AEs as well as non-AEs and no material is brought on record to establish existence of any independent financing arrangement, no separate TP adjustment survives.

6.2 We find that the facts of the year under consideration are materially identical. The outstanding receivables arise from the principal international transaction of sale of goods and do not constitute independent financing transactions. The international transactions have been benchmarked under TNMM as the Most Appropriate Method and working capital adjustment has already been granted while determining the arm's length margin, thereby subsuming the impact of receivables in the profitability analysis. Further, the Revenue has not brought any material on record to establish the existence of any separate financing arrangement warranting an independent adjustment.

Therefore, respectfully following the decision of the Co-ordinate Bench in assessee's own case for AY 2021-22 in ITA No.2201/Ahd/2024 dated 21.05.2025, we hold that the transfer pricing adjustment of Rs.45,19,231/- made towards notional interest on outstanding receivables is unsustainable in law and on facts and the same is directed to be deleted.

Accordingly, Ground Nos.1.1 to 1.10 of the assessee's appeal are allowed.

Issue No. 2 – Disallowance of deduction u/s 80G in respect of CSR expenditure

7. This issue relates to disallowance of deduction claimed by the assessee under section 80G of the Income-tax Act, 1961 in respect of expenditure incurred towards Corporate Social Responsibility (CSR) amounting to Rs. 83,20,000/-.

7.1 The Ld. AR submitted that although CSR expenditure is disallowed u/s 37(1) of the Act in view of Explanation 2 inserted by the Finance (No. 2) Act, 2014, the same does not bar deduction under section 80G, provided the payment is in the nature of eligible donation made to approved funds or institutions. It was further contended that section 80G does not contain any general prohibition against CSR-related donations, except in respect of specific exclusions relating to Swachh Bharat Kosh and Clean Ganga Fund. The CSR obligation u/s 135 of the Companies Act, 2013, according to the Ld. AR, is independent of the Income-tax Act provisions, and the mere fact that the expenditure is statutorily mandated does not alter its character as a donation for the purpose of section 80G.

7.2 Reliance was placed on several Tribunal decisions, including the decisions in the case of First American India Pvt. Ltd. Vs. JCIT, FNF India Pvt. Ltd. Vs. ACIT, JMS Mining (P.) Ltd. Vs. PCIT, Sling Media Pvt. Ltd. Vs. DCIT, lnfinera India (P.) Ltd. Vs. JCIT etc. The Ld. AR also relied upon the following judgements, as relied upon before the Ld. DRP, which are as under;-

"Bangalore Tribunal in Goldman Sachs Services Pvt. Ltd. v. JCIT in IT(TP)A No. 2355/Bang/2019. The relevant extract of the decision is as under:

> *' ...We find that the CSR expenses are required to be incurred by companies as per Section 135 of the Companies Act and the deduction u/s. 37(1) of the Act, is not available from Assessment Year 2015-1 6 as per the Explanation 2 to Section 37(1) of the Act inserted by the Finance Act No.2. 2014.Whereas, the assessee company has made a claim for deduction of CSR expenses u/s. 80G of the Income Tax Act, 1961.But the assessing officer has rejected the assesses claim without verifying the nature of contributions and observed that it is not a donation, and was not spent voluntarily for the eligibility of claim u/s.80G of the Act but due to legal obligation prescribed u/s. 135 r.w. Schedule VII of Companies Act, 2013. We find that the A.O. has allowed deduction u/s.80G of the Act in respect of contribution made to PM Relief Fund which is not disputed. We are of the opinion that the A.O. has not made his observations clear that no CSR expenses are eligible for deduction u/s. 80G of the Act. We consider it appropriate to refer to the Clauses (iiihk) & (iiihl) of subsection 2 of Section 8OG of the Act which are read as under:*
>
> > *" (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 135 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)."*
>
> *Where these two exceptions are provided In Section 80G of the Act It can be Inferred that the other contributions made u/s 135(5) of the Companies Act are also eligible for deduct/on u/s 80G of Income Tax Act subject to assessee satisfying the requisite conditions prescribed for deduct/on u/s 80G of the Act In the present case the A.O. has not dealt on these aspects, prima facie, considered the contributions as not voluntary but a legal obligation and has accepted the genuineness of the contributions. We are of the opinion that the matter has to be considered for examination and verification of facts subject to the assessee satisfying the requirements of claim u/s 806 of the Act*

The Ld. AR has also relied on following decisions:

- *Bangalore Tribunal in case of FNF India (P.) Ltd. v. ACIT - [2021] 133 taxmann.com 251 (Bangalore - Trib.)*
- *Kolkata Tribunal in case of JMS Mining (P.) Ltd. v. PCIT - [2021] 130*

taxmann.com 1 18 (Kolkata - Trib.)

- *Bangalore Tribunal in case of Sling Media (P.) Ltd. v. DCIT - [2022] 135 taxmann.com 164 (Bangalore - Trib.)*
- *Bangalore Tribunal in case of lnfinera India (P.) Ltd. v. JCIT - [2022] 137 taxmann.com 197 (Bangalore - Trib.)*

7.3 The Ld. DR, on the other hand, contended that CSR expenditure is mandatory in nature u/s 135 of the Companies Act, 2013 and therefore lacks the essential element of "voluntary donation". The Ld. DR also submitted that section 80G applies only to voluntary donations and CSR expenditure is an application of income, not eligible for deduction. It was further argued that allowing deduction u/s 80G would defeat legislative intent as CSR expenditure is already treated as non-deductible u/s 37(1) of the Act.

7.4 We have carefully considered the rival submissions and perused the material available on record.

The Assessing Officer disallowed the claim u/s 80G on the ground that the impugned payments were made towards CSR obligations u/s 135 of the Companies Act, 2013, and, therefore, **lacked the essential character of voluntary donation**. The DRP has also upheld the disallowance by holding that CSR expenditure is a statutory obligation and not a voluntary contribution, and hence does not qualify as "donation" under section 80G. It is pertinent to note the findings of the DRP on this issue, which are as under:-

> *".....*
> *(i) CSR outlay is NOT Donation:*
> *Se. 80G deduction pertains to "donations" i.e. voluntary contributions. However, CSR outlays are mandatory payments and not at all "donations". The claim of the assessee is rejected. The CSR outlays are characterised as mandatory payments from capital account, instead of donations. Therefore, provisions of se. 80G would not apply at the threshold it being "Deduction in respect of donations to certain funds, charitable institutions, etc." These outlays are not eligible for 80G deduction.*
>
> *Mandatory Nature:*
> *ln this regard, Explanatory notes to Finance No. (2) Act, 2014 are being reproduced as under:*

Corporate Social Responsibility (CSR)
Under the Companies Act, 2013 certain companies (which have net worth of Rs.500 crore or more, or turnover of Rs. 1000 crore or more, or a net profit of Rs.5 crore or more during any financial year) are required to spend certain percentage of their profit on activities relating to Corporate Social Responsibility (CSR). Under the existing provisions of the Income-tax Act, expenditure incurred wholly and exclusively for the purposes of the business is only allowed as a deduction for computing taxable business income.

The Government of India mandated companies exceeding specified threshold limits linked with Net Worth, Turnover, or Net Profit to undertake Corporate Social Responsibility (CSR) activities. This obligation was established through section 135 read with Schedule VII of the Companies Act, 2013, and the Companies Corporate Social Responsibility Policy Rules, 2014, effective from April 1, 2014. Additionally, the explanatory notes to Finance No. (2) Act, 2014, reinforced this requirement. The concept of CSR entails corporations contributing to economic social and environmental development thereby fostering a positive impact on society as a whole.

"Donation" denotes an act of benevolence performed gratuitously. A donation must be made willingly without any expectation of consideration, whether immediate, historical, or forthcoming. Payments made to fulfill specific legal obligations or responsibilities cannot be classified as donations, as they lack the element of voluntary giving. To be eligible for deduction under seciton80G of the Act, any payment must first meet the criterion of being a donation. In light of this, compulsory Corporate Social Responsibility (CSR) payments, mandated by section 135 of the Companies Act, 2013, cannot be deemed voluntary contributions by any stretch of the imagination. Hence, such payments fail the fundamental requirement of qualifying as contributions eligible for deduction under Section 80G of the Act. In the present case, the payment constituted a compulsory CSR payment (to fulfill legal obligations imposed on the assessee company by section 135 & schedule VII of the Companies Act 2013), and was never voluntary.

Hence, it is not a "voluntary" payment, and lacks the very essence of a "donation" to cross the threshold of section 80G, which deals only with "voluntary" "donations".

(ii) Intention of Legislature:
The 'Memorandum to Finance Bill 2014' had also clarified that this initiative (mandating CSR) is primarily to ensure that companies share the burden of providing social services and granting deduction for CSR outlays would amount to the Government effectively bearing one third of that expenditure.

The explanatory statement accompanying Finance No (2), Act 2014, unequivocally stated the government's stance against providing deductions for Corporate Social

Responsibility (CSR) expenses. It explicitly conveyed that allowing such deductions would effectively finance CSR expenses through tax savings, a course of action the legislature was not inclined to pursue. In clear and unambiguous terms, the Legislature expressed negative intention to forego taxes in support of CSR expenditures.

lf se. 80G deduction is allowed, the same scenario will emerge where there will be the "tax loss" to this extent and thus, the General Exchequer and People of India will bear 30% of the CSR expenditures in form of Revenue forgone. Such a side-effect is not permissible.

Moreover, the objective of CSR is to share burden of the Government in providing social services by companies having net Worth/turnover/profit above a threshold. If such expenses are allowed as tax deduction, this would result in subsidization to the applicant of around one-third of such expenses by the People of India by way of tax expenditure.

With utmost respect to various judicial authorities, it is laid down that the relied upon decisions of the Hon'ble ITAT does, not take the intention of legislature into account - where the intention has been that of disallowance of the claim.

(iii) Embargo for Claim of CSR by Legislature:
Finance Act 2014 (2014-15 was fiscal year from which CSR was made mandatory u/s. 135 of the Indian Companies Act 201 3) had made it clear that "CSR Expenditure" shall not be allowed as "Business Expenditure" under section 37 of Income Tax Act, 1961. However, CSR expenditure which is allowed as deduction under other sections shall be permissible. This same Memorandum also added that if CSR expenditure is of the nature which is covered by specific deductions contained in Sections 30 to 36, the expenditure by virtue of being governed by a specific provision (of Income tax) shall be granted a deduction if the conditions prescribed are satisfied.

In light of the aforementioned facts, the legislature has clearly and unequivocally stated that they are not inclined to forego taxes in this regard. In other words, Legislature has not been inclined to subsidize Corporate Social Responsibility (CSR) expenses through tax deductions. By seeking deductions under section 80G of the Act for certain payments or donations, which were otherwise made as part of the obligation to fulfill social responsibility (an expense that should be borne from own funds without claiming deductions under section 37 of the Act), is tantamount to disregarding the intent and essence of the Government's introduction of provisions under section 135 of the Companies Act and the Companies (CSR Policy) Rules, 2014. This practice results in understating tax liabilities through improper means, which should be halted and discouraged.

In fact, Explanation -2 to section 37 was introduced with the purpose and intention to stop claim of deduction for CSR spends, which is an application of income. However, the Applicant has changed stance and has used a method to claim deduction under a different provision of section 80G. Doctrine of colourable actions prohibit 'Quando aliquid prohibetur ex directo, prohibetur et per obliquum' meaning 'What cannot be done directly, should also not be done indirectly.

Claim of se. 80G relief is hoodwinking the law and bypassing the intention of legislature. It is a colourable method to bypass provision of se. 37 by use of se. 80G. The intention of Legislature embedded in amendment to section 37 is applicable to be claim of the same expenditure under section 80G.

(iv) Incorrect Interpretation of Section 80G.
The assertion that section 80G does not impose any embargo on claiming deduction of donations made out of CSR funds except in case of Swachh Bharat Kosh and Clean Ganga Fund is not acceptable. There has been gross misinterpretation by the applicant.

In fact, "Swachh Bharat Kosh" and "Clean Ganga Fund" even if allowable under section 80G, yet the legislature had had clearly demarcated that provisions of section 80G would be applicable to "sums paid as donations" as per sub-section 80G(2) "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)". In fact, only in these 2 Scheme, section 8OG is allowable if CSR spends are involved, and not in any other Scheme. These Scheme are special Schemes, and form an exception. In all other Schemes, the intention of Legislature is that no amount of CSR spends are to be considered as eligible contribution.

So, even eligible donations are not allowable under section 80G, if made under Scheme of CSR activities. This proves that there is no case for relief in case of non-eligible CSR spends.

(v) CSR outlay is Application of Income:
Further, disallowance of CSR spends are not a case of double disallowance. It is an outlay from capital base of the assessee. It is an "application" of income, not expenditure.

The Legislature has made it clear that no allowance of such application of income shall be allowed."

7.5 Now, the core issue for our consideration is whether CSR expenditure, though incurred under a statutory obligation u/s 135 of the Companies Act, 2013, can be regarded as "donation" eligible for deduction under section 80G of the Income-tax Act. At the outset, it is pertinent to note that section 80G provides deduction in respect of "donations" made to specified funds and institutions subject to prescribed conditions.

The essential character of a donation is that it must be voluntary and made without consideration. CSR expenditure, on the other hand, arises from a statutory mandate u/s 135 of the Companies Act, 2013 and is obligatory for eligible companies meeting prescribed thresholds. However, the Explanation 2 to section 37(1), inserted by the Finance (No. 2) Act, 2014, specifically provides that CSR expenditure shall not be deemed to be an expenditure incurred for the purposes of business or profession. The Memorandum explaining the provisions of the Finance Bill, 2014 further clarifies that CSR expenditure is not intended to be allowed as a tax-deductible outlay, as it represents application of income under a statutory obligation. We further note that section 80G **specifically excludes CSR contributions only in respect of Swachh Bharat Kosh and Clean Ganga Fund, which indicates that other eligible CSR donations are not barred from claiming deduction u/s 80G.**

7.6 We also find merit in the contention of the assessee that the Assessing Officer has rejected the claim solely on the ground that the payments formed part of CSR expenditure, without examining whether the recipient institutions were approved u/s 80G and whether the other statutory conditions stood satisfied. The deduction under section 80G cannot be denied merely because the payment was made in discharge of CSR obligations, provided the contribution otherwise satisfies the requirements of section 80G. We find support for the aforesaid view from the consistent decisions rendered by various Coordinate Benches in the cases referred to supra, wherein it has been held that CSR-related donations are not as such disentitled from deduction under section 80G.

7.7 Respectfully following the aforesaid judicial precedents, we restore this issue to the file of the Assessing Officer for the limited purpose of verifying the factual eligibility of the donations, including approval status of the recipient institutions u/s 80G and compliance with other statutory conditions. The JAO shall decide the issue afresh in accordance with law after affording adequate opportunity of hearing to the assessee.

Ground Nos.3 & 4 – Penalty u/s 270A & 271AA of the Act.

8. Since these grounds are in relation to initiation of penalty and the same are consequential and premature at this stage, the same do not require adjudication. Accordingly, Ground Nos.3 & 4 are dismissed as premature.

Additional Ground – Refund of Excess DDT

9. Since this issue was not examined by lower authorities, we restore the matter to the file of the JAO for fresh adjudication in accordance with law after considering provisions of section 115-O and applicable India-USA DTAA and after providing adequate opportunity of hearing to the assessee.

Accordingly, additional ground is allowed for statistical purposes.

10. In the result, appeal of the assessee is partly allowed for statistical purposes.

The order pronounced in the open Court on 27.05.2026

Sd/-	**Sd/-**
(T.R. SENTHIL KUMAR) **JUDICIAL MEMBER**	**(DR. B.R.R. KUMAR)** **VICE-PRESIDENT**

Ahmedabad; Dated 27/05/2026

***btk*

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True Copy

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / **ITAT, Ahmedabad**