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### Corporate social responsibility (CSR) expenditure eligible for deduction under section 80G

The Bangalore Bench of the Indian Income-tax Appellate Tribunal (ITAT) has given its decision that corporate social responsibility (CSR) expenditure is eligible for deduction under section 80G of the Income-tax Act, 1961, subject to satisfaction of the conditions mentioned in the said section.

#### Facts of the case:

- The taxpayer<sup>1</sup> is a company engaged in the business of software development and export and information technology enabled services.
- During the Financial Year (FY) 2014-15, corresponding to the Assessment Year (AY) 2015-16, the taxpayer incurred corporate social responsibility (CSR) expenditure as per the requirements of the Indian corporate law.
- The taxpayer did not claim a deduction for the CSR expenditure, as business expenditure under section 37 of the Income-tax Act, 1961 (ITA). But the taxpayer claimed a deduction for the qualifying CSR expenditure, as donation under Section 80G of the Income-tax Act, 1961 (ITA).
- During the course of audit of the income-tax return, the Assessing Officer (AO) disallowed deduction for CSR expenditure as donation (except for direct contribution to the Prime Minister's National Relief Fund), since it was not voluntary in nature and was incurred to comply with the Indian corporate law provisions / requirements.
- On appeal, the Dispute Resolution Panel (DRP) upheld the AO's draft order.
- Aggrieved by the AO's final order and DRP's directions, the taxpayer filed an appeal before the Bangalore Bench of the Income-tax Appellate Tribunal ("ITAT").

#### Decision of the ITAT:

- The ITAT noted the following:
  - CSR expenditure was required to be incurred as per the Indian corporate law and as per the amendments introduced to section 37 of the ITA, vide Finance (No 2) Act, 2014, a deduction for the same was not available under section 37 of the ITA as business expenditure.

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<sup>1</sup> M/s. Goldman Sachs Services Pvt. Ltd. v. JCIT IT(TP)A No.2355/Bang/2019

- The taxpayer had claimed deduction under section 80G of the ITA and not under section 37 of the ITA.
- The AO had allowed deduction under section 80G of the ITA with respect to donation made by the taxpayer to Prime Minister’s National Relief Fund.
- CSR contributions to Swachh Bharat Kosh and Clean Ganga Fund, were specifically excluded from the ambit of section 80G of the ITA.
- In view of the above and considering that unlike Swachh Bharat Kosh and Clean Ganga Fund, specific exceptions were not made under section 80G of the ITA for other qualifying CSR contributions, the ITAT held that:
  - The AO had not made his observations clear that no CSR expenditure was eligible for deduction under section 80G of the ITA.
  - Other qualifying CSR contributions / expenditure were eligible for deduction under section 80G of the ITA, subject to satisfaction of conditions mentioned under the said section.

**Comments:**

- This ruling lays down the principle that in the absence of specific exclusion under section 80G of the ITA, taxpayers can claim deduction 80G of the ITA for CSR expenditure, subject to satisfaction of conditions mentioned under the said section.
- This is a welcome ruling and will support taxpayers’ claim for deduction (under section 80G of the ITA) of qualifying CSR expenditure.



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