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Infosys Green Forum and Section 12AB: A Test Case on CSR and Charitable Purpose

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Introduction

The intersection of Corporate Social Responsibility (CSR) and Income tax Exemption has increasingly become a contentious space in India, particularly after the 2021 amendments to the CSR Rules. The recent ruling of the Bangalore Income Tax Appellate Tribunal (ITAT) in Infosys Green Forum (IGF) v. Income Tax Officer (Exemptions) [2026] 182 taxmann.com 242 (Bangalore - Trib.) has ignited this debate. The case raises fundamental questions: Can a CSR initiative simultaneously qualify as a charitable activity under the Income Tax Act? Does environmental sustainability automatically satisfy the test of "public benefit"? And where should the line be drawn between commercial activity and charitable purpose?

The Tribunal's decision refusing registration under Section 12AB and denial of recognition under Section 80G to Infosys Green Forum has far-reaching implications for companies using special purpose vehicles to implement large-scale CSR projects, particularly in renewable energy.

Background: Infosys and the Solar Initiative

Infosys Limited had established a 40 MW solar power plant as part of its sustainability and environmental commitments. With the amendment to the CSR framework in 2021 requiring companies to transfer CSR capital assets to eligible entities, Infosys incorporated Infosys Green Forum (IGF) — a Section 8 non-profit company — to hold and manage these assets.

To operationalize the arrangement, Infosys leased the land to IGF and entered into a power supply agreement. Under this structure, IGF injected solar power into the state DISCOM grid, earning energy credits that were adjusted against Infosys's electricity bills. Infosys, in turn, reimbursed IGF for the units generated. IGF remained responsible for operating and maintaining the solar plant.

This model was designed to align with CSR regulations while ensuring that the solar asset remained functional, compliant, and professionally managed.

Infosys Annual Report

Infosys faced a challenge with its CSR initiative through Infosys Green Forum (IGF), a Section 8 company set up to manage transferred solar assets, following amendments to CSR rules in 2021. The Income Tax Officer (Exemptions)

declined exemption viewing the project as self-benefiting rather than charitable. In the consequence Infosys Annual Report for 2024-25 record the following note to the Consolidated Financial Statements:

'Consequent to the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 ("the Rules"), the Company was required to transfer its CSR capital assets installed prior to January 2021. Towards this the Company had incorporated a subsidiary 'Infosys Green Forum' (IGF) under Section 8 of the Companies Act, 2013. During the year ended March 31, 2022 the Company had completed the transfer of assets upon obtaining the required approvals from regulatory authorities, as applicable. During March 31, 2024, the application filed by IGF for registration u/s.12AB of the Income Tax Act was rejected and registration cancelled. IGF has filed an appeal against this order before Income Tax Appellate Tribunal.'

ITAT Ruling

The Income Tax Appellate Tribunal in their decision dated 12.1.2026 in Infosys Green Forum (IGF) v. Income Tax Officer (Exemptions) [2026] 182 taxmann.com 242 (Bangalore - Trib.) has held that in common parlance the Infosys case is no different from the case of a donor who sets up school for his own children and claim it as ' Educational activity" or a company setting up a hospital exclusively for its own promoters / employees and claiming it as medical relief or setting up an own yoga centre for himself and claiming it as ' Yoga' etc. Putting a solar panel over one's house is also preservation of environment, but these are not charitable purposes as these do not have dominant object of benefit to others i.e., public at large. These are benefit to self. In all these cases there is no public benefit at large. As a supplement the bench invited reference to MCA General Circular No. 14 /2021 [E-F.NO.CSR-05/01/2021-CSR-MCA], Dated 25-08-2021 (para no 4.2) based on which it is said that the sole beneficiaries of the solar power plant are employees of Infosys only and therefore vide the Circular any activity designed exclusively for the benefit of employees shall be considered as an "activity benefitting employees" and will not qualify as permissible CSR expenditure. The Tribunal also upheld CIT(Exemptions) premise that the activity of solar power generation is a commercial venture and not charitable for the reason that the power units are sold to Infosys Limited only. The Tribunal thus formed a conclusion that activity for the benefit of one person cannot be a CSR activity and the same is not charitable either. And in that regard it found consonance between the Income Tax Act and CSR regulations with both stating that dominant object must be for the benefit of public or a defined section of public.

Counterarguments against ruling

While the Tribunal's reasoning is legally structured, several counterarguments merit serious consideration.

First, there is no evidence that the solar power was earmarked exclusively for Infosys employees or their families. The power was injected into the state grid — indistinguishable from any other renewable energy source. The mere existence of a billing adjustment mechanism does not negate its public environmental benefit.

Second, renewable energy projects inherently serve a public purpose by reducing carbon emissions and supplementing state electricity resources. The fact that Infosys reimbursed IGF for power credits does not transform environmental conservation into self-benefit. Infosys would have incurred electricity costs regardless — with or without the solar plant. The power generated from the solar plant is released to the power grid where it merges with the other sources of power. There is no other way to release or sell power generated to any other person. The generation of power supplements the power resources of the state and power companies and no other person is directly benefited from the same. IGF supplies power to the discom grid, earning credits on Infosys's bills, with Infosys reimbursing IGF for those units. In any situation Infosys has to book expenditure for the power consumed in its books which is in the corresponding a revenue for the CSR company. That does not bring any advantage to Infosys or its employees because even without solar plant it would have incurred such power expenditure. Also only because it received power at little cheaper price over the discom price it would not make the purpose of environment preservation any less than charitable in the absence of any restriction or conditions imposed under the law.

Third, Infosys is a publicly listed company with diverse stakeholders including investors, clients, suppliers, regulators, lenders, and communities. Any sustainable energy initiative indirectly benefits a broad ecosystem, not merely employees.

Fourth, the proviso to Section 135(5) of the Companies Act encourages companies to prioritize CSR spending in local areas where they operate — which supports, rather than undermines, captive renewable projects feeding local grids.

In the reality IGF Solar power feeds the state grid, supplementing resources without direct employee allocation, and Infosys incurs power costs regardless. This ruling would create uncertainty for companies pursuing large-scale green CSR projects through Section 8 entities. If renewable energy initiatives tied to corporate consumption are deemed "non-charitable," many sustainability models could fall into a legal grey zone. The decision also raises a broader policy question: Should tax law adopt a more expansive view of environmental charity in an era of climate commitments and net-zero targets?

Conclusion

The Infosys Green Forum case reflects a growing tension between CSR compliance and tax exemption law. While the ITAT emphasized strict public-benefit criteria, its approach arguably overlooks the systemic public value of renewable energy projects.

As more corporates invest in sustainability infrastructure, clearer legislative guidance — rather than case-by-case litigation — may be needed to harmonize CSR lead ESG/renewable energy initiatives with charitable tax status.

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