

3. *The ld. PCIT has erred in passing order u/s 263 of the Act directing the ld. AO to disallow the deduction u/s 80G of the Act amounting to INR 13,68,08,500/- in respect of donation claimed out of CSR expenditure.*

4. *The appellant craves leave to add, amend, modify, alter and/or delete any of the above grounds of appeal before or during the course of appeal.”*

2. Fact in brief is that return of income declaring total income of Rs. 5,55,71,68,580/- under normal provisions and Rs. 12,53,32,88,780/- u/s 115JB of the Act was filed on 30.11.2018. The assessment u/s 143(3) r.w.s. 144C(3) of the Act was passed on 21.10.2021 assessing total income at Rs. 11,54,27,57,596/- under normal provisions of the Act after making addition of Rs. 24,86,97,705/- u/s 92CA of the Act to the ALP. Subsequently, the ld. PCIT noticed that assessee has claimed deduction of Rs. 13,68,08,500/- being 50% u/s 80G of the Act in respect of the amount incurred towards corporate social responsibility which was not allowable expenditure under section 37(1) of the Act. The ld. PCIT observed that assessing officer has allowed the claim of the assessee without examination of the allowbilty of deduction u/s 80G of the Act with reference to CSR expenditure. The assessee explained that relevant enquiries have been made by the AO by calling for details of deduction claimed u/s 80G of the Act. However, the ld. PCIT was of the view that ld. AO has not specifically enquired into the allowbilty of the claim of deduction u/s 80G of the Act and held that order passed u/s 143(3) dated 21.10.2021 is erroneous in so far as it is prejudicial to the interest of revenue.

3. During the course of appellate proceedings before us, the ld. Counsel submitted that it is settled issue by the various decisions of ITAT, Mumbai that deduction u/s 80G is allowable on the CSR expenditure incurred by the assessee. The ld. Counsel referred the copies of various documents placed in the paper book showing that during the course of assessment, the assessing officer has made relevant enquiry on the issue of claim of deduction made by the assessee u/s 80G on the CSR expenditure and also referred the various documents filed by the assessee during the course of assessment proceedings.

4. On the other hand, ld. DR supported the order of ld. PCIT and also submitted that no deduction at all to be allowed in respect of CSR expenditure incurred by the assessee even deduction u/s 80G cannot be allowed.

5. Heard both the sides and perused the material on record. The case of the assessee was subject to scrutiny assessment u/s 143(3) of the Act and assessment order was passed on 21.10.2021. During the course of assessment, the assessing officer had issued notice u/s 142(1) of the Act on 13.01.2021 and as per serial no. 8 of the Annexure to the notice, the assessee was asked to submit detail of donation claimed u/s 80G to the amount of Rs. 13,90,06,528/- along with documentary evidences. In response, the assessee vide submission dated January 22nd, 2021 has made detailed submission in respect of deduction claimed u/s 80G of the Act. During the course of appellate proceedings before us, the

ld. Counsel has also referred the judicial pronouncement of ITAT, Mumbai in the case of M/s. Alubound Dacs India Private Limited vs DCIT ITA No. 3663/Mum/2023 wherein it is held that assessee is entitled to claim u/s 80G of the Act towards CSR expenditure incurred by it. Further, on the same proposition, the ld. Counsel has also referred decision of ITAT, Mumbai in the case of Synergia Lifesciences Pvt. Ltd. vs DCIT ITA No. 938/Mum/2023 wherein it is held that the claim of deduction u/s 80G of the Act in respect of CSR expenses cannot be denied.

6. We have also perused the decision of ITAT, Mumbai in the case of Societe Generale Securities India Pvt. Ltd. vs PCIT referred to by the ld. Counsel wherein the order of ld. PCIT u/s 263 of the Act was set aside on the issue of claim of deduction u/s 80G made on CSR expenditure. Looking to the above facts and findings it is evident that during the course of assessment proceedings, the assessing officer has asked the information pertaining to claim of deduction made by the assessee u/s 80G of the Act along with relevant documentary evidences and the assessee had made compliance to the query raised by the assessing officer. Further, we consider that the issue of allowbilty of deduction u/s 80G in respect of CSR expenditure is squarely covered by the decision of coordinate bench of ITAT, Mumbai wherein it is held that the deduction u/s 80G is allowable on the CSR expenditure incurred by the assessee. In view of the above facts and findings, we consider that the order passed u/s 263 of the Act by the ld. PCIT

is not sustainable in law, therefore, the order passed u/s 263 is quashed. Accordingly, the appeal of the assessee is allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 28.08.2024.

Sd/-
(MS. KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Mumbai, Dated: 28.08.2024
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The DR

//True Copy//

By Order

Assistant Registrar
ITAT, Mumbai Benches, Mumbai