

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH, MUMBAI**

**BEFORE JUSTICE (RETD.) C V BHADANG, PRESIDENT &  
MS PADMAVATHY S, AM**

**I.T.A. No. 2562/Mum/2025  
(Assessment Year: 2020-21)**

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| <b>Gandhi Special Tubes Limited</b><br>201/204, 2 <sup>nd</sup> Floor Plaza, 55,<br>Hughes Road Next To Dharam Palace,<br>Mumbai-400007.<br><b>PAN: AAACG1261C</b> | Vs. | <b>Assistant Commissioner of Income<br/>Tax , Circle-5(1)(1),</b><br>Aayakar Bhavan, M.K. Road,<br>Mumbai-400020. |
| <b>Appellant)</b>  | :   | <b>Respondent)</b>  |

**Appellant /Assessee by** : Shri Chaitanya D. Joshi, AR

**Revenue / Respondent by** : Shri Swapnil Choudhary, Sr. DR

**Date of Hearing** : 05.06.2025

**Date of Pronouncement** : 20.06.2025

ORDER

**Per Padmavathy S, AM:**

This appeal by the assessee is against the order of the Pr. Commissioner of Income Tax, Mumbai-26 (in short "PCIT") dated 11.03.2025 passed under section 263 of the Income Tax Act, 1961 (the Act) for Assessment Year (AY) 2020-21. The assessee raised the following grounds:

**“1. GROUND NO. 1: REVISION ORDER PASSED BY THE LD. PCIT U/S. 263 OF THE ACT AGAINST THE ASSESSMENT ORDER PASSED U/S. 143(3) R.W.S. 144B OF THE ACT DATED 21.09.2022 IS BAD IN LAW:**

*1.1 On the facts and in the circumstances of the case and in law, the Ld. PCIT erred in invoking the revision proceedings and consequently passing the order u/s. 263, by holding the assessment order u/s. 143(3) r.w.s. 144B to be erroneous and prejudicial to the interest of the revenue.*

*1.2 The Appellant prays that the revision order passed by the Ld. PCIT u/s. 263 of the Act be quashed.*

**WITHOUT PREJUDICE TO GROUND NO. 1;**

**2. GROUND NO. 2: DISALLOWANCE OF DEDUCTION OF RS. 56,22,625/-CLAIMED U/S. 80G OF THE ACT:**

*2.1 On the facts and in the circumstances of the case and in law, the ld. PCIT erred in directing the Id. AO to disallow the deduction of Rs. 56,22,625/- claimed under section 80G of the Act.*

*2.2 The Appellant prays that the disallowance u/s. 80G of the Act be deleted.”*

2. The assessee is a company and filed the return of income for AY 2020-21 on 29.01.2021 declaring a total income of Rs. 26,72,02,280/- after claiming deduction under chapter VIA to the tune of Rs. 56,60,125/-. The case was selected for scrutiny and the AO while completing the assessment under section 143(3) accepted the income returned by the assessee. On perusal of records the PCIT notice that in the return of income the assessee has disallowed a sum of Rs. 1,12,45,250/- towards expenses on Corporate Social Responsibility (CSR) activities. The PCIT further noticed that the assessee has claimed 50% of the amount disallowed as deduction under section 80G of the Act. The PCIT was of the view that the amount incurred towards CSR which is not allowable under section 37(1) of the Act cannot be claimed as a deduction under section 80G of the Act. To this extent the PCIT held the order of the AO to be erroneous and prejudicial to the interest of the revenue and

accordingly invoked the provisions of section 263 of the Act by issuing a show-cause notice to the assessee. The assessee submitted before the PCIT that the amount incurred towards CSR expenses are donations to Institutions which are registered under section 80G of the Act and accordingly, the assessee is eligible to claim deduction. The PCIT did not accept the submissions of the assessee for the reason that the CSR expenditure are not voluntary social contributions and are incurred to comply with statutory mandate. The PCIT by placing reliance on the decision of the Hon'ble Supreme Court in the case of PVG Raju [(1976) SCR 1017] held that the donations need to be voluntary and therefore the CSR expenditure cannot be allowed as a deduction under section 80G. Since the AO has not made the disallowance towards the deduction claimed under section 80G, the PCIT held the order of the AO to be erroneous and prejudicial to the interest of the revenue and directed the AO to modify the assessment accordingly. The assessee is in appeal against the order of the PCIT.

3. The Id. AR submitted that during the course of assessment proceedings the AO raised query pertaining to the deduction claimed by the assessee and that the assessee has filed the necessary response. Accordingly, the Id. AR submitted that the AO has taken a conscious decision to allow the claim and therefore the PCIT cannot invoke the provisions of section 263 of the Act on the ground that the AO has not made enquiries. The Id. AR further submitted that there is no restriction under the law to claim CSR expenditure which is disallowed under section 37(1) as a deduction under section 80G of the Act with the conditions prescribed under the said section are complied with. The Id. AR also submitted that this view has been consistently held by the Co-ordinate Bench in various cases which are compiled and submitted as Paper Book. The Id. AR argued that even otherwise the impugned issue is debatable and therefore the PCIT cannot invoke the provisions of section 263

when two views are possible and that the AO after considering the details furnished by the assessee has taken one plausible view. On merits the ld. AR submitted that the assessee has made donations to Institutions as part of CSR expenditure and since the donations are eligible for deduction under section 80G the same is claimed as deduction. Ld. AR in this regard drew our attention to copies of the donations receipts (page 62 to 67 of PB).

4. The ld. DR on the other hand argued that when the statute does not allow the claim of deduction towards CSR expenditure the assessee cannot claim the deduction indirectly under section 80G. The ld. DR further submitted that since the AO has allowed the claim of deduction under section 80G to the assessee, the order of the AO to this extent has been correctly held to be erroneous and prejudicial to the interest of the revenue by the PCIT.

5. We heard the parties and perused the material on record. The reason for the PCIT to invoke the provisions of section 263 is that the AO has erroneously allowed the deduction claimed by the assessee under section 80G of the Act. In this regard we notice that the Co-ordinate Bench in various cases have been consistently holding that there is no restriction under the law for the assessee to claim the expenses incurred towards CSR as deduction under section 80G provided the payments made are otherwise eligible for deduction under the said section. The revenue's argument is that the payments made towards CSR expenditure are not voluntary and therefore cannot be regarded as donation by placing reliance on the decision of the Hon'ble Supreme Court. The reliance placed on the decision of Supreme Court in Shri PVG Raju (supra), is misplaced. That was a case, which arose u/s. 5 of the Expenditure Tax Act, 1957. The Supreme Court held that the expenditure incurred by the assessee wholly and exclusively for the purpose of

business, profession or vocation and any expenditure incurred by way of donation, cannot attract expenditure tax. The facts are clearly distinguishable. From these discussions it is clear that whether the expenditure disallowed under section 37(1) towards CSR whether can be claimed as a deduction under section 80G is a debatable issue though the issue is reasonably settled at Tribunal level. The Hon'ble Supreme Court in the case of Malabar Industries Co. Ltd. [(2000) 243 ITR 83 (SC)] has laid down the ratio that when the issue is debatable and where there are two views are possible and where the AO has taken one of the plausible views, the revision proceedings cannot be initiated on the ground of the order being erroneous. In our considered view the above said ratio lay down by the Hon'ble Supreme Court is applicable in assessee's case and accordingly we hold that the PCIT is not correct in invoking the provisions of section 263. The order of the PCIT thus is quashed.

6. In result the appeal of the assessee is allowed.

*Order pronounced in the open court on 20-06-2025.*

**Sd/-**  
**(JUSTICE (RETD.) C V BHADANG,)**  
**President**

*\*SK, Sr. PS*

**Sd/-**  
**(PADMAVATHY S)**  
**Accountant Member**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai