आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD
BEFORE S/SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.1026/Ahd/2025
Asstt.Year : 2020-21

TTEC India Customer Solutions Private Limited, TTEC Ahmedabad Opp: L.J.College Off: SG Road, Makarba Fatewadi BO, Fatewadi Ahmedabad. PAN : AACCM 1005A	Vs.	Pr.Commissioner of Income Tax-3 Vejalpur Ahmedabad.

(Applicant)		**(Responent)**

Assessee by :	Shri Vishal Kabra, AR
Revenue by :	Shri Rignesh Das, CIT-DR

सुनवाई की तारीख/**Date of Hearing : 03/07/2025**
घोषणा की तारीख /**Date of Pronouncement: 04/07/2025**

आदेश/O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

This appeal by the assessee is directed against the order passed by the Principal Commissioner of Income Tax, Ahmedabad-3 [hereinafter referred to as "the PCIT"], dated 30.03.2025, under section 263 of the Income-tax Act, 1961 ("the Act"), for the assessment year 2020–21, whereby the assessment order passed by the Assessing Officer under section 143(3) r.w.s. 144B of the Act dated 29.08.2022 was set aside for de novo assessment.

Facts of the Case

2. The assessee is a company engaged in the business of Information Technology Enabled Services and BPO support services and had, during the

year under consideration, operations both in India and internationally. The assessee has a branch office in Manila, Philippines, through which it carried out certain business operations catering to global clients. The financials of the branch were incorporated in the books of the Indian company, and the consolidated Profit & Loss account reflected the income and expenditure of the Philippines branch as well. The original return of income for A.Y. 2020-21 was filed by the assessee on 29.12.2020, declaring total income of Rs.1,24,60,12,980/-, which was subsequently revised on 04.01.2021, offering the same income. The return was selected for complete scrutiny under CASS, and statutory notices under section 143(2) were issued on 29.06.2021, followed by multiple notices under section 142(1) dated 08.11.2021, 21.02.2022, and 20.07.2022. The assessee furnished its responses electronically through the ITBA portal, submitting detailed workings, explanations, and documentary evidence as called for.

3. In the course of assessment, the assessee disclosed that it had earned foreign exchange fluctuation gain of Rs.1,44,87,973 and also a translation reserve gain of Rs.9,39,21,678, out of which a corresponding ICDS VI adjustment of Rs.9,40,58,390 was offered as income as required under the Income Computation and Disclosure Standards. It was clarified that no loss on foreign currency fluctuation was incurred during the year. These disclosures were accepted by the Assessing Officer. In respect of its international operations, the assessee had declared income from the Manila branch at Rs.31,88,59,406/-, computed in accordance with the provisions of the Act and offered to tax in India. It was further submitted that foreign tax credit of Rs.8,02,50,535/- was claimed under Article 24 of the India–Philippines DTAA, for which Form 67 was duly filed on 29.12.2020. The AO, after examination of the same, accepted the claim without any adverse inference. The assessee had also made donations amounting to Rs.15,01,827/-, of which Rs.14,16,827/- represented CSR expenditure. The CSR amount was suo motu disallowed by the assessee in its computation of income. The assessee, however, claimed a deduction under section 80G of the Act, being eligible donations. Considering the totality of

submissions and the documentary material placed on record, the AO completed the assessment without any variation to the returned income and passed an order under section 143(3) r.w.s. 144B of the Act determining the total assessed income at Rs.1,24,60,12,980/-.

4. Subsequently, the PCIT invoked revisionary jurisdiction under section 263 by issuing a show cause notice dated 21.01.2025. In the opinion of the PCIT, the assessment order passed by the AO was both erroneous and prejudicial to the interest of the revenue on the following grounds:

i. That although the assessee had claimed CSR expenses of Rs.14,16,827/-, it had also claimed deduction under section 80G of Rs.12,40,664/-, which according to the PCIT was not allowable, as CSR expenditure is not voluntary and is excluded under section 37(1), and hence cannot qualify under section 80G either

ii. That the assessee claimed tax relief of Rs.8,02,50,535/- on foreign income of Rs.31.88 crore from its Philippines branch. The PCIT noted that the assessee failed to offer the correct foreign income in India. The PCIT held that the entire gross income of Rs.46.54 crore should have been offered to tax in India.

iii. That the AO failed to examine the correctness of the foreign tax credit claimed in Form 67 and did not conduct independent verification of foreign income and its computation.

5. Based on these findings, the PCIT concluded that the assessment order was passed without proper enquiry or verification and accordingly attracted the mischief of Explanation 2 to section 263(1). The PCIT thus set aside the assessment order and directed the AO to pass a fresh assessment order after conducting necessary enquiry and verification and recomputing the income by disallowing the deduction under section 80G and revising the foreign income offered to tax in India.

6. Aggrieved by the revisionary order, the assessee has preferred the present appeal raising following grounds –

The Appellant aggrieved by the Order passed by the Principal Commissioner of Income Tax, Ahmedabad, (PCIT') under Section 263 of the Income Tax Act, 1961 ('the Act) prefers this appeal against the same on following amongst other grounds which are without prejudice to each other:

1. *The order passed by the learned PCIT under Section 263 of the Act is bad in law and needs to be quashed. It is submitted it be so held now.*
2. *The learned PCIT erred on facts and in law in holding that the order passed by the Assessing officer ('AO') under Section 143(3) of the Act was erroneous and prejudicial to the interest of the revenue and thereby setting aside the order with direction for fresh assessment order. It is submitted it be so held now.*

    2.1. *The learned PCIT erred in facts and in law in invoking Explanation 2 to Sub-Section (1) of Section 263 of the Act while holding that the assessment order was passed without proper enquiry and verification of facts when in fact inquiry had been made and details were submitted in the course of regular assessment proceedings. It is submitted it be so held now.*

3. *The learned PCIT has erred in law and in facts in not appreciating that during the original assessment proceedings, the appellant had furnished all relevant documents including Form 67 and details of income earned and taxes paid outside India, and based on such evidence, appropriate relief under Section 90 of the Act had been granted by the AO. It is submitted it be so held now.*

    3.1. *The learned PCIT failed to appreciate that appellant has considered the total income and expense of the Philippine's branch in its Profit & Loss account prepared in India for the company as a whole and has offered the income of Philippines Branch to tax amounting to INR 31,88,59,406 worked out as per the provisions of the Income Tax Act and thus there is no understatement of income to the tune of INR 17,76,57,374/-. It is submitted it be so held now.*

4. *The learned PCIT has erred both in law and in facts by proposing the disallowance of CSR expenses by adding the same to the MAT income, even though the appellant has not liable to MAT having opted for new taxation regime under Section 115BAA of the Act during the year under consideration. It is submitted it be so held now.*

    4.1. *The learned PCIT has erred in law and in facts in not appreciating that during the original assessment proceedings the appellant had furnished all donation receipts including reference to tax audit report as well information regarding disallowance of CSR expenses, based on the same the learned AO had granted deduction. It is submitted it be so held now.*

4.2. The learned PCIT erred in law by not appreciating that just because CSR expenses are not allowed under Section 37 of the Act, it does not automatically mean that deduction under Section 80G of the Act should also be denied - especially when the donations meet all the conditions required under Section 80G of the Act. It is submitted it be so held now.

Your appellant prays for leave to add, alter and/or amend/withdraw any and/or all of the grounds adduced above.

7. During the course of hearing, the learned Authorised Representative (AR) of the assessee appeared and advanced detailed submissions challenging the validity of the revisionary order passed by the PCIT. The AR submitted that the assessment for A.Y. 2020–21 was completed, pursuant to a detailed scrutiny proceeding initiated through notices issued under section 143(2) and several notices under section 142(1). In response to these notices, the assessee had duly furnished the financial statements including segmental P&L for the Philippines branch, tax return filed in the Philippines, reconciliation of income between Indian and Philippine returns, Form 67 for foreign tax credit, donation receipts and working of deduction under section 80G, Tax audit report and Form 10BD and Computation of income and return of income filed in India. All these details were verified by the AO. The AR pointed out that the AO had made specific observations regarding the CSR disallowance and accepted the working of foreign income and tax credit after examining the supporting documents. Therefore, the PCIT's allegation that the AO failed to conduct enquiry is factually incorrect. The AR submitted that the assessee had correctly offered the income of Rs.31,88,59,406/- from its Philippines branch in India, as computed in accordance with the provisions of the Income-tax Act. It was explained that the gross income of PHP 33.77 crore (INR 46.54 crore) reported in the Philippine return was reduced for operating and non-allowable expenses, disallowances under Indian law (e.g. depreciation, penal payments, gratuity, leave encashment) and rent equalisation reserve and other adjustments made as per Indian tax principles. These adjustments were consistently followed in prior years and were furnished to the AO in the reconciliation workings. The AR submitted that income cannot be taxed on

gross basis, and only net income computed under Indian law can be brought to tax in India. Accordingly, the tax relief of Rs.8,02,50,535/- was correctly claimed under Article 24 of the India–Philippines DTAA, and Form 67 was filed within time (PB page 69). The AO had accepted the same after due verification, and there was no error in the assessment order on this issue. The learned AR further submitted that the very issue now raised by the PCIT i.e. alleged understatement of income from the assessee's Philippines branch and the method of computing such foreign income under Indian law, has already been considered and adjudicated by the Co-ordinate Bench in assessee's own case for A.Y. 2018–19 in ITA No. 994/Ahd/2024 vide order dated 11.02.2025. The AR placed reliance on the same.

8. The AR submitted that CSR expenditure had already been disallowed in the computation of income under section 37(1), and only that portion of the donation, which was eligible under section 80G, supported by receipts and made to approved institutions, was claimed as deduction. The donation of Rs.12,40,664/- claimed under section 80G was not in the nature of CSR contribution to ineligible funds. The AR submitted that there is no bar in section 80G on claiming deduction for donations that also qualify as CSR expenditure and The restriction under section 37(1) introduced by the Finance Act, 2014, is specific to business expenditure, and does not apply to voluntary donations made to eligible institutions under section 80G. The AR further submitted that the AO had examined the claim, donation receipts were filed (PB page 131), and no adverse inference was drawn.

9. The learned Departmental Representative (DR) supported the impugned revisionary order passed by the PCIT and submitted that Assessing Officer had failed to conduct proper enquiries and verifications in respect of crucial aspects which have material bearing on the determination of income.

10. We have carefully considered the rival contentions, perused the assessment order, revisionary order passed by the PCIT, and the material placed on record. The revision under section 263 has been invoked on two broad issues:

> (i) Allowance of relief under section 90 in respect of foreign tax credit claimed on income earned by the assessee's branch office in the Philippines; and
>
> (ii) Allowance of deduction under section 80G for donations forming part of CSR expenditure.

11. The learned PCIT, while invoking section 263, alleged that the Assessing Officer failed to verify whether the foreign tax credit (FTC) of Rs.8,02,50,535/- claimed by the assessee was allowable under section 90 read with Article 24 of the India–Philippines DTAA. It was further alleged that the AO did not ascertain whether the Philippine taxes were actually paid and whether the corresponding income was appropriately offered to tax in India.

12. The assessee had claimed foreign tax credit of Rs.8,02,50,535/- in respect of income earned by its Philippine branch, which is a registered unit under the Philippine Economic Zone Authority (PEZA) and eligible for tax concessions under the domestic laws of the Philippines. During assessment proceedings, the assessee submitted extensive documentation in response to notices issued under section 142(1) of the Act including working sheets explaining the computation of relief under section 90 and application of Article 24(3) of the India–Philippines DTAA and Form 67, as required under Rules. A careful perusal of the reconciliation charts placed before the AO and also reproduced before para 8.1 of the PCIT's order demonstrates that the assessee arrived at a taxable income of Rs.31,88,59,406/- in India based on profit as per Philippine tax return adjusted for items not allowable under Indian tax law. The workings showed gross income as per Philippine ITR of PHP 33,77,23,647/- (INR Rs.46,54,02,659/-), against which the assessee claimed certain expenses disallowed under local law but

permissible under Indian law and vice versa. These included operating expenses, depreciation as per Indian Companies Act, and adjustments for deferred taxes. The AO, after considering these submissions, accepted the claim of foreign tax credit restricted to the amount of Indian tax payable on the income earned in the Philippines, in line with the DTAA and section 90(1)(a). The said income was duly included in the total income of the assessee offered to tax in India. The learned PCIT in para 8.4 of the impugned order has acknowledged the decision of the Coordinate Bench in assessee's own case for A.Y. 2018–19 in ITA No. 994/Ahd/2022, wherein a similar claim of foreign tax credit in respect of Philippine branch income was allowed. The PCIT attempts to distinguish the said decision. However, we find this observation to be lacking in demonstrable basis. The PCIT does not substantiate how the facts for A.Y. 2020–21 are materially different from those considered in A.Y. 2018–19. No material deviation in the nature of income, source of receipts, DTAA provisions, tax treatment in the Philippines, or methodology of computation has been pointed out. The PCIT merely refers to the reconciliation submitted by the assessee and raises doubt on the admissibility of certain expenses without conclusively demonstrating how such treatment renders the assessment order erroneous. Importantly, the reconciliation was not only submitted during assessment but was considered and accepted by the AO after due inquiry. The fact that the AO has not elaborated the acceptance in the assessment order is not ipso facto evidence of non-application of mind or lack of inquiry, particularly when the record contains detailed submissions, evidences, and calculations in response to statutory notices. The decision of the Coordinate Bench in ITA No. 994/Ahd/2022 for A.Y. 2018–19 squarely covers the issue. The Co-ordinate Bench, in assessee's own case for A.Y. 2018–19, accepted the claim for foreign tax credit after examining the branch's income, supporting documentation, and compliance with the provisions of section 90 and DTAA, without disputing the eligibility of the tax paid in the Philippines for relief under section 90. The PCIT's distinction is based merely on a narrow interpretation of reconciliation entries without

addressing the central finding that the income is taxed in both countries and eligible for relief under the DTAA.

13. With respect to the second issue, we find no error in the AO's approach. The assessee had claimed deduction under section 80G only in respect of donations made to registered institutions satisfying the conditions of section 80G(5), and not as general business expenditure under section 37(1). The PCIT's reference to Explanation 2 to section 37(1), inserted by Finance Act 2014 to deny CSR expenditure as business expenditure, is inapplicable in the context of section 80G. Where donations meet the independent eligibility criteria of section 80G, they cannot be denied deduction merely because they also fulfil CSR obligations. This principle has judicial approval in several decisions. Therefore, the Assessing Officer having verified the approval of donee institutions under section 80G(5) and the satisfaction of all statutory requirements, the claim of deduction was rightly allowed. The revisionary interference by the learned PCIT on this count is thus not legally sustainable.

The statutory power of revision under section 263 can be exercised by the PCIT only where the assessment order satisfies the twin conditions of being both erroneous in law or in fact, and prejudicial to the interest of the Revenue. These two limbs are cumulative and not alternative. A mere disagreement with the conclusion drawn by the Assessing Officer, in the absence of any demonstrable error or lack of inquiry, cannot render the order erroneous in law. Similarly, an order cannot be treated as prejudicial merely because it results in lower tax liability, unless it is shown that such reduction arises from a mistake or failure in the assessment process. An assessment order passed after due consideration of facts, supported by submissions and evidence furnished by the assessee in response to statutory notices, reflects application of mind by the Assessing Officer. Where the Assessing Officer has applied his discretion and reached a plausible conclusion based on the material on record, the revisionary

authority cannot invoke section 263 merely because it holds a different opinion or would have come to a different conclusion.

14. In the present case, the assessment record indicates that the Assessing Officer had made inquiries on the specific issues now raised by the PCIT. The assessee had filed comprehensive submissions, reconciliations, and statutory forms, all of which were examined during the course of assessment. There is nothing on record to suggest that any material fact was withheld, misrepresented, or ignored. The Assessing Officer, after satisfying himself with the explanations and documents produced, accepted the claim in the exercise of his quasi-judicial discretion. In such circumstances, where the process followed by the Assessing Officer is not shown to be vitiated by non-application of mind, absence of inquiry, or misdirection in law, the order cannot be regarded as erroneous. Further, unless it is shown that such alleged error has caused a tangible prejudice to the Revenue in the form of incorrect tax computation or unjustified relief, the second limb of the section also fails. Therefore, the conditions precedent for valid assumption of revisionary jurisdiction under section 263 are not satisfied in the present case.

15. Accordingly, we hold that the assessment order passed under section 143(3) was not erroneous or prejudicial to the interest of Revenue. The revisionary order passed under section 263 is therefore quashed.

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

Order pronounced in the Court on 4th July, 2025 at Ahmedabad.

Sd/-	Sd/-
(T.R. SENTHIL KUMAR)	**(MAKARAND V. MAHADEOKAR)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Ahmedabad, dated 04/07/2025

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