IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 2614/MUM/2025
Assessment Year: 2020-21

Jashan Jewels Pvt. Ltd., 301-B Aman Chambers Premises Co. Soc. Ltd., Mama Paramand Marg, Opera House, Girgaon, Mumbai-400 004. **PAN NO. AABCJ 7040 D** **Appellant**	***Vs.***	PCIT, Mumbai-5, Room No. 515, 5th floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai-400020. **Respondent**

Assessee by	:	Mr. Ishraq Contractor
Revenue by	:	Mr. Vivek Perampurna, CIT-DR

Date of Hearing	:	10/07/2025
Date of pronouncement	:	17/07/2025

ORDER

PER OM PRAKASH KANT, AM

The present appeal arises from an revision order 12.03.2025 passed under Section 263 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), whereby the Principal Commissioner of Income-tax, Mumbai -5 (hereinafter, "PCIT") has invoked revisionary jurisdiction for assessment year 2020-21, holding that the assessment order passed by the Assessing Officer was both *erroneous* and *prejudicial to the interests of the Revenue*, within the

meaning of Section 263 of the Act. Relevant grounds raised are reproduced as under:

> *The Appellant appeals against the impugned 12.03.2025 passed by Learned Principal Commissioner of Income Tax (PCIT), Mumbai-5, (hereinafter referred to as 'PCIT") under section 263 of the Income- tax Act, 1961 ('the Act'), on the following ground amongst the other grounds each of which are independent of and without prejudice to, one another:*
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> *1. That on the facts and in the circumstances of the case and in law, the Ld. PCIT erred in invoking jurisdiction under Section 263 of the Act and passing an order dated 12.03.2025, holding that the assessment order dated 14.07.2022 passed under Section 143(3) r.w.s. 144B of the Act is erroneous and prejudicial to the interest of the Revenue.*
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> *2. That the Ld. PCIT erred in holding that the deduction claimed under Section 80G for donations made to eligible charitable institutions out of Corporate Social Responsibility (CSR) expenditure is not allowable. The PCIT in coming to this conclusion has ignored the fact that it is only under Explanation 2 to section 37(1) which denies deduction for CSR expenses while computing 'business income' under Chapter IV-D and; that there is no bar from claiming the given benefit under section 80G, which falls under Chapter VI-A.*
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> *3. That Ld. PCIT erred in holding that since CSR donations are not voluntary, benefit of section 80G is not available. The PCIT has ignored the fact that there is no provision under Chapter VI-A which states that just because CSR donations are mandatory benefit of 80G cannot be claimed. This position is also supported by various judicial precedents which states that so long as donations are made to charitable funds, having valid 80G registration, even though these donations form part of CSR obligations, 80G benefit cannot be denied unless specifically barred by law.*
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> *4. That Ld. PCIT erred in applying Section 263 without substantiating as to how the order of the AO was erroneous and prejudicial to the interest of the Revenue. The appellant in the return of income had given details of each of the charitable trusts to whom donations were given and therefore the AO was aware of the entire break-up of donations on which deduction under section 80G was claimed. Since none of the*

donations were to organisations specifically prohibited, there was no reason for the PCIT to have tareted the order passed under section 143(3) as erroneous as well as prejudicial to the interest of revenue.

5. The Ld. PCIT erred in also directing a further addition of INR 5,05,000 under Section 37 of the Act, being the difference between donation of INR 23,25,000 on which 80G benefit was claimed and INR 18,20,000 charged to profit and loss account which was voluntarily disallowed by the appellant under section 37 of the Act. The Ld. PCIT failed to appreciate the facts that the appellant had always suo Moto disallowed under section 37(1) the entire amount charged to the profit and loss account towards CSR expenditure including disallowing INR 18,20,000. The amount of INR 23,25,000 had therefore already suffered the disallowance under section 37(1) and what was claimed under 80G was 50% of INR 23,25,000 at INR 11,62,500 as payment towards these donations were made during the year and deduction under section 80G is available on payment basis. Accordingly, the Ld. PCIT failed to appreciate that there is no link between the amount charged to profit and loss account of INR 18,20,000 and INR 23,25,000 considered while claiming 80G deduction.

2. Briefly stated, the facts are that the assessee filed its return of income on 18.01.2021, declaring total income of ₹12,38,42,550/-. The case was selected for scrutiny and assessment was completed under Section 143(3) read with Section 144B of the Act on 14.07.2022. The Assessing Officer, after due verification, accepted the returned income. Subsequently, the learned PCIT called for the assessment records and, upon examination, formed the view that the order passed by the Assessing Officer was erroneous in so far as it was prejudicial to the interests of the Revenue. The basis for such a conclusion was that the Assessing Officer had allowed a deduction of ₹11,62,500/- under Section 80G of the Act, which formed part of the assessee's corporate social responsibility (CSR)

expenditure. A show cause notice under Section 263 was issued on 14.03.2025.

2.1 After considering the submissions of the assessee, the PCIT held that the nature of CSR expenditure being statutorily mandated, lacked the element of voluntariness and, therefore, could not qualify for deduction under Section 80G. It was further observed that only voluntary donations, and not statutory obligations, could qualify under Section 80G. In support, the PCIT relied upon the CBDT Circular No. 01/2015 dated 21.01.2015 and various judicial precedents. The PCIT further noted that the assessee had suo motu disallowed ₹18,20,000/- out of the total CSR expenditure of ₹23,25,000/-, and therefore the remaining ₹5,05,000/- ought also to have been disallowed under Explanation 2 to Section 37(1) of the Act. Accordingly, the PCIT held the assessment order to be erroneous and directed the Assessing Officer to pass a fresh assessment order after proper examination and also initiate penalty proceedings.The relevant finding the Ld. PCIT is reproduced as under:

> *"5. I have perused the facts of the case and submissions made by the assessee. The assessee has stated that it has incurred CSR expenses of Rs.23,25,000/- during FY 2019-20 relevant to AY 2020-21. From perusal of the details furnished, it is seen that the assessee has suo-moto added back only Rs.18,20,000/- as per the provisions of Explanation 2 to Section 37(1) of the Act while computing its total income. However, the total CSR expenditure of Rs.23,25,000/- is disallowable as per the provisions of Explanation 2 to Section 37(1) of the Act. Accordingly, the difference of Rs.5,05,000/-*

also needs to be disallowed and added back as per the provisions of Explanation 2 to Section 37(1) of the Act while computing its total income. Further, contention of the assessee that expenditure on Corporate Social Responsibility (CSR) can be claimedas deduction u/s 80G of the Act for any eligible donation cannot be accepted for the following reasons:-

5.1 Section 37(1) of the Act allows for deduction of business expenses provided they are incurred "wholly and exclusively" for the purposes of business. Explanation2 to Section 37(1), introduced through the Finance (No. 2) Act, 2014, specifically disallows CSR expenses, noting that these expenses are not considered business- related and thus cannot be deducted. This provision underscores the legislative intent to impose CSR obligations without tax relief. CSR expenditures were never intended to provide fiscal advantages to companies but to ensure they fulfill their statutory obligations under Section 135 of the Companies Act, 2013. The legislative intent of introduction of Explanation 2 to Section 37(1) of the Act, introduced through the Finance (No. 2) Act, 2014, is elaborated in the Explanatory Notes to the Finance Bill 2014 (CBDT Circular No.1/2015 dated 21.01.2015) which is reproduced below:-

> *"CSR expenditure, being an application of income, is not incurred wholly and exclusively for the purposes of carrying on business. As the application of income is not allowed as deduction for the purposes of computing taxable income of a company, amount spent on CSR cannot be allowed as deduction for computing the taxable income of the company. Moreover, the objective of CSR is to share burden of the Government in providing social services by companies having net worth/turnover/profit above a threshold. If such expenses are allowed as tax deduction, this would result in subsidizing of around one-third of such expenses by the Government by way of tax expenditure."*

From the above, it is clear that the CSR expenditure is CSR in any form to avoid subsidizing of CSR expenditure by government and therefore re is not to be allowed as deduction claim of the assessee and the contention of the assessee regarding allowability of CSR expenditure under section 80G is against the basic intent of the provision. It is trite law that what cannot be allowed in view of specific provisions cannot be allowed indirectly unless specifically provided in the Act.

5.2 Section 80G of the Act provides tax deductions for voluntary donations made to specified charitable institutions or funds. The core purpose of this section is to encourage philanthropy and voluntary social contributions. The issue at hand is whether mandatory CSR contributions can be reclassified as donations under this section. It is imperative to note that Section 80G was designed to incentivize purely voluntary donations, not statutorily mandated CSR obligations. Allowing CSR expenditures to qualify under Section 80G would undermine the legislative intent behind the disallowance introduced in Section 37(1).CSR expenses are mandated by law, and as such, they lack the essential characteristic of voluntariness, which is a core requirement for claiming deductions under Section 80G.The essence of a donation, as confirmed by several judicial precedents, is its voluntary nature, which is absent in the case of CSR expenditures. The Hon'ble Supreme Court in the case of PVG Raju, Raja of Vizianagaram [1976 SCR (1) 1017] has specifically held that donations refer to payments made voluntarily, without coercion or legal obligation. This principle is directly applicable here since CSR payments are mandated by law. The payments made by the assessee towards CSR, therefore, cannot be construed as voluntary donations eligible for deductions under Section 80G. While contributions to the Swachh Bharat Kosh and Clean Ganga Fund are recognized as eligible for deductions under Section 80G, this eligibility is confined to voluntary contributions. However, when these contributions are made as part of the statutory CSR obligations under Section 135r.w. Schedule VII of the Companies Act, 2013, they cease to qualify as voluntary donations. The exclusion for deduction u/s80G of the Act for Prime Minister's National Relief Fund, Swachh Bharat Kosh, Clean Ganga Fund or other specified funds does not necessarily mean that all other donations made out of CSR expenditures are entitled for claim u/s80Gof the Act. These exceptions are provided for claiming deduction under Section 80G of the Act, hence it cannot be inferred that the amount spent under section 135(5) of the Companies Act, 2013, the assessee is also eligible for deduction u/s80G of the Act even though the assessee may be satisfying the requisite conditions prescribed for deduction u/s 80G of the Act.

5.3 The provisions of Sections 37(1) (including Explanation 2) and Section 80Gof the Act must be read harmoniously. Allowing CSR expenditures to be deductible under Section 80G of the Act would render Explanation 2 to Section 37(1) of the Act nugatory and would effectively nullify the specific

disallowance legislated by the Parliament. The principle of harmonious construction requires that statutes be interpreted in a manner that gives effect to all provisions without rendering any part redundant. The Hon'ble Supreme Court in the case of South India Corporation (Pvt.) Ltd. V/s. Secretary, Board of Revenue, Trivandrum &Anr. [AIR 1964 SC 207] haslaid down the principle that statutes must be read as a whole and construction must be adopted that gives effect to all parts of the statute. The principle of harmonious construction mandates that provisions must be interpreted to avoid conflicts and each part of the statute should be given meaningful effect. Accordingly, allowing CSR expenditures to be claimed under Section 80G would negate the specific statutory disallowance under Section 37(1) and result in unintended tax benefits which would be inconsistent with the legislative framework governing CSR and tax deductions. The intention of the legislature was never to allow deduction u/s 80G for CSR expenditure carried out, else it would result in subsidizing the CSR expenditure.

5.4 CSR expenditure has to be mandatorily incurred by certain specified companies as per provisions of Section 135 of the Companies Act. Accordingly, it is a statutory obligation cast upon certain companies to share certain portion of profits to the activities towards social responsibilities. It is for this reason that this expenditure was clarified to be an expenditure not incurred fully and wholly for the purpose of business through Explanation 2 to the section 37(1) of the Act. Further, Ministry of Corporate Affairs Circular No. 01/2016 dated 12.01.2016 clarifies that no specific tax exemptions have been extended to CSR expenditures. The Circular explicitly reinforces that CSR expenditures are not eligible for tax deductions as business expenditures under Section 37(1) and by extension should not qualify as voluntary donations under Section 80G. The expression "shall ensure" used in Section 135(5) of the Companies Act, 2013 clearly implies that there is a mandate to spend 2% of average net profits of the preceding three years on CSR activity."

2.2 It was further recorded that appeals filed by the Revenue before the Hon'ble Bombay High Court, against ITAT orders allowing CSR-related deductions under Section 80G, are pending consideration, and therefore reliance on such decisions by the

assessee was misplaced. The relevant noting of the Ld. PCIT is reproduced as under:

> *"5.5 As regards the judicial pronouncements cited by the assessee, it is stated that appeals filed by the Department before the Hon'ble Bombay High Court on this issue are pending for adjudication in the following cases:-*

Sr. No	*Name of the Assessee*	*PAN*	*ITAT Order No.*	*High Court Loading No.*
1.	*Blue Cross Laboratories Pvt. Ltd.*	*AAACB1549G*	*1806/Mum/2023*	*ITXAL/30782/2024*
2.	*Worley Services Industries Pvt. Ltd.*	*AAACH0456J*	*554/Mum/2024*	*ITXAL/4392/2025*

> *Since the issue is sub-judice before the jurisdictional Bombay High Court, the contention of the assessee cannot be accepted."*

2.3 After considering the various decisions referred in the impugned order, the Ld. PCIT directed the Assessing Officer to pass a fresh assessment order. The relevant finding of the Ld. PCIT is reproduced as under:

> *"9. Further, under normal circumstances the Commissioner oversees the issues and directs the Assessing Officer to examine the same. As per provisions of Section 263 of the Act of the Act the power of suo-moto revision exercisable by the Commissioner of Income Tax is undoubtedly supervisory in nature. A bare reading of Section 263 of the Act of the Act also makes it clear that the Commissioner has to be satisfied of twin conditions namely, (i) the order of the Assessing Officer sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the Revenue. It has also been held in many cases that the Commissioner is not necessarily required to record a final conclusion on the issue at hand.*
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> *10. Considering the above facts and circumstances, it is held that the assessment order dated 14.07.2022 passed u/s.143(3) r.w.s. 144Bof the Act is erroneous in so far as it is prejudicial to the interests of the revenue within the meaning*

of Section 263 of the Act. Accordingly, Assessing Officer is directed to modify the assessment by passing a speaking order and also initiate penalty proceedings as per provisions of the Act."

3. Before us, learned counsel appearing for the assessee filed a Paper Book containing pages 1 to 265 and submitted that the issue regarding allowability of deduction under Section 80G in respect of CSR expenditure is a debatable one, with conflicting views taken by various Benches of the Income Tax Appellate Tribunal (ITAT). He further submitted that the Assessing Officer, having raised specific queries and examined the matter during the assessment proceedings, had adopted one of the plausible legal views, and such action cannot be deemed erroneous merely because the PCIT holds a different opinion.

4. On the other hand, learned Departmental Representative supported the order passed by the PCIT and submitted that CSR expenditure, being statutory in nature, cannot be said to satisfy the condition of voluntariness essential for a valid deduction under Section 80G of the Act.

5. We have heard rival submissions of the parties and perused the relevant materials on record. As far as eligibility of the CSR expenditure for deduction u/s 80G of the Act there are divergent views of various benches of the Income-tax Appellate Tribunal . The Bangalore Bench of the Income-tax Appellate Tribunal in *FNF India Private Limited v. ACIT* [(2021) 85 ITR (T) 18 (Bang.)] and the

Kolkata Bench in *JMS Mining Private Limited v. PCIT* [(2021) 136 taxmann.com 118 (Kol-Trib.)], has held that CSR expenditure is allowable for deduction u/s 80G of the Act. The Ld. PCIT in the impugned order has also referred two decision of the Mumbai Bench of the Tribunal in the case of Blue Cross Laboratories Pvt. Ltd. in ITA No. 1806/Mum/2023 and Worley Services Industries Pvt. Ltd. in ITA No. 554/Mum/2024, wherein the CSR activities expenses have been allowed u/s 80G of the Act. Conversely, the Delhi Bench in *Agilent Technologies (International) Pvt. Ltd. v. ACIT* **[(2024) 160 taxmann.com 238]** has taken a contrary view and disallowed such claim.

5.1 In the face of such conflicting judicial precedents, the legal position that emerges is that two views are reasonably possible on the issue. It is trite law that where the Assessing Officer adopts one such plausible view, the mere fact that the Commissioner prefers an alternative view does not render the assessment erroneous. In this context, reference may be made to the decision of Hon'ble Supreme Court in *CIT v. Max India Ltd.* [(2007) 295 ITR 282 (SC)], wherein it is laid down that where two views are reasonably possible on a particular issue, and the Assessing Officer has taken one such view, the mere preference of the Commissioner for an alternative interpretation does not justify the invocation of revisionary jurisdiction under section 263 of the Act.

5.2 It is also relevant to observe that the PCIT, in the present case, has not invoked Explanation 2 to Section 263 of the Act so as to contend that the assessment order is deemed to be erroneous due to lack of proper enquiry. On the contrary, the record indicates that the Assessing Officer had raised a specific query and the assessee had responded in detail, providing the requisite information. There is, thus, no material to support the conclusion that the Assessing Officer failed to conduct the enquiry that was warranted in the facts of the case. The jurisdiction under Section 263 cannot be exercised merely because the Commissioner has a different understanding of the law or prefers an alternate interpretation. In absence of any demonstrable error in the assessment order, or failure of the Assessing Officer to apply his mind to the relevant issue, the essential preconditions for invoking Section 263 are not satisfied.

5.3 In light of the above discussion, we are of the considered opinion that the order passed by the Assessing Officer cannot be characterized as erroneous or prejudicial to the interests of the Revenue. Accordingly, the revisionary order passed by the learned PCIT under Section 263 of the Act is not sustainable in law and is hereby quashed.

5.4 The grounds of appeal of the assessee are accordingly allowed.

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

Order pronounced in the open Court on 17/07/2025.

Sd/-	**Sd/-**
(KAVITHA RAJAGOPAL)	**(OM PRAKASH KANT)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai;
Dated: 17/07/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai