IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "G" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

ITA No. 3778/Mum/2025
Assessment Year : 2020-21

Gallagher Insurance Brokers Private Limited, Unit No. 34, Tower-3, 4th Floor, Wing-B, Kohinoor City Mall, Kohinoor City, Kirol Road, Kurla West, Mumbai-400070. PAN : AAACI7196J	vs.	The Principal Commissioner of Income Tax-3, Room No. 612, 6th Floor, Aayakar Bhavan, Maharshi Karve Road, Mumbai-400020.
(Appellant)		(Respondent)

Assessee by : Shri Mahadev P. Lohia
Revenue by : Shri Swapnil Choudhary

Date of Hearing : 31-07-2025
Date of Pronouncement : 05-08-2025

O R D E R

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the assessee against the order of the Learned Principal Commissioner of Income Tax-Mumbai-3 ['Ld.PCIT'], dated 28-03-2025 passed u/s. 263 of the Income Tax Act, 1961 ('the Act'), pertaining to Assessment Year (AY) 2020-21.

2. During the course of hearing, the Ld.AR taken us through the findings of the Ld.PCIT, which are contained at paragraph No. 7.2 and 7.3 of the impugned order and the contents thereof read as under:

"7.2 DEDUCTION OF RS. 11,50,000/- CLAIMED AS DEDUCTION U/S 80G OF THE ACT:

On perusal of the submission, it is observed that the assessee has paid Rs. 23,00,000/- as EdelGive Foundation on 31.7.2020 within the extended time limit as per the Taxation and Other Laws(Relaxation of Certain Provisions) Ordinance, 2020 on 31.3.2020 and the CBDT's Notification No. 35 of 2020, wherein the date for making deduction in respect of certain payments for AY 2020-21 has been extended to 31.7.2020. Therefore, the assessee has claimed 50% of this amount, i,e Rs. 11,50,000/- (50% of Rs. 23,00,000/-)as deduction under section 80G of the Act for the AY 2020-21 in its Return of Income and in the computation of income.

Now the question arises as to whether this payment is a Corporate Social Responsibility expenditure or not. As per the statutory audit report for the FY 2020-21, this amount of Rs. 23,00,000/- has been claimed as Corporate Social Responsibility, as it has been paid in July 2020. However, the claim of deduction under section 80G has been made in FY 19-20 relevant to AY 2020-21 in the Income Tax Return and in the computation of Income. Further, as per note 2.51 to the statutory audit report for the FY 19-20, EdelGive Foundation is the CSR Arm of the Edelweiss Group. Therefore, any payment to the CSR Arm of the Edelweiss Group by its entities partake the character of Corporate Social Responsibility expenses.

Therefore, it is concluded that the amount of Rs. 23,00,000/- paid on 31.7.2020 to EdelGive Foundation is a Corporate Social Responsibility Expenses. Once it is a corporate social responsibility, the assessee cannot claim 50% of this amount as deduction under section 80G of the Act. It is a fact that some of the Hon'ble Tribunals have decided the allowability of CSR Expenses as a deduction u/s 80G in favour of the assessee. However, the department has not accepted the view of the tribunal and revenue has filed appeals before the Hon'ble High Courts.

If this view of the assessee to allow the CSR expenses as a deduction u/s 80G is allowed, then it would set a precedent for the future assessments and the revenue shall not able to able to present the case before the Hon'ble High Courts. The High Court of Madras in Venkatakrishna Rice Co. v. CIT [1987] 163 ITR 129 interpreting 'prejudicial to the interests of the revenue'. The High Court held, "In this context, it must be regarded as involving a conception of acts or orders which are subversive of the administration of revenue. There must be some grievous error in the Order passed by the ITO, which might set a bad trend or pattern for similar assessments, which on abroad reckoning, the Commissioner might think to be prejudicial to the interests of Revenue Administration". Therefore, the assessment order is erroneous in so far as it is prejudicial to the interest of the revenue and it is set aside to the AO on this issue with the following direction.

DIRECTION:

The AO is directed to disallow this amount of Rs. 11,50,000/- claimed as deduction under Section 80G, as the assessee has paid Rs. 23,00,000/- as CSR to EdelGive Foundation and claimed 50% of this amount as deduction u/s 80G of the Act in the computation of Income.

7.3 DEDUCTION OF RS. 15,77,192/- ON ACCOUNT OF CESS:

In this regard, the assessee has submitted that the assessee has claimed Rs. 15,77,192/- on account of Education Cess in its computation of Income. However, pursuant to the retrospective amendment to section 40a(ii) brought in by Finance Act, 2022, it has withdrawn its claim of education cess by Filing Form 69 and discharged its tax liability.

The FAO has not examined this issue. The FAO has not brought on record the Form 69 and has not verified the claim of the assessee. Therefore, the the assessment order is erroneous in so far as it is prejudicial to the interest of the revenue and it is set aside to the AO on this issue with the following direction,

DIRECTION:

The AO is directed to very the claim of the assessee. From 69 and the payment of tax and allow it."

3. In this regard it was submitted that as far as the claim of deduction u/s. 80G of the Act is concerned, the Ld.PCIT has himself stated that there are decisions of the Co-ordinate Benches of the Tribunal, wherein the CSR expenses have been held eligible for deduction u/s. 80G of the Act. In this regard, our reference was drawn to the decision of the Co-ordinate Benches in the case of Mahansaria Enterprises (P.) Ltd. vs. PCIT (2025) 175 taxmann.com 885 (Mumbai-Trib), Axis Securities Ltd. vs. PCIT (2025) 175 taxmann.com 982 (Mumbai-Trib), ACG Pam Pharma Technologies Private Limited vs. PCIT-4, ITA No. 2734/Mum/2025, dt. 01-07-2025. It was accordingly submitted that there are series of decisions rendered by the Co-ordinate Benches of the Tribunal wherein it has been held that there is no bar on claim of the CSR expenditure u/s. 80G of the Act. It was accordingly submitted that the findings of the Ld.PCIT deserve to be

set aside as the assessment order so passed by the AO cannot be held to be erroneous in so far as it is prejudicial to the interest of the Revenue.

4. Regarding the claim of deduction amounting to Rs. 15,77,192/- on account of the Education Cess, it was submitted that the assessee has already withdrawn its claim by filing the requisite Form 69 and has duly discharged the tax liability and Form and challans have been duly placed on record and part of the assessment records and, therefore, on this count as well, the order so passed by the AO cannot be held to be erroneous insofar as the it is prejudicial to the interest of the Revenue.

5. Per contra, the Ld. DR is heard, who has relied on the order passed by the Ld.PCIT.

6. We have heard the rival contentions and perused the material available on record. As far as the claim of deduction u/s. 80G of the Act, we find that the matter is no more *res integra* and we can refer to the recent decision of the Co-ordinate Bench of the Tribunal in the case of Mahansaria Enterprises (P.) Ltd. vs. PCIT (supra) wherein it was held as under:

> *"15. We have heard the rival contentions and perused the material available on record. The issue under consideration relates to whether the AO has erred in allowing expenditure incurred by the assessee by way of is CSR obligation by way of deduction u's 80G of the Act even though the same has been suo moto disallowed by the assessee while computing the income under the head income from business or profession" where admittedly, other conditions for claiming deduction u/s 80G are satisfied in the instant case.*
>
> *16. We find that the matter is no more res-integra and has been dealt with by various Coordinate Benches and we can gainfully refer to the recent decision of the Coordinate Mumbai Benches in case of Sikka Ports and Terminals Led. (supra), wherein the relevant findings are contained in para Nos. 5 to 13 and the same read as under:*

"5. We heard the parties and perused the material on records. The assessee during the year disallowed a sum of Rs.33,85,00,000 under section 37 of the Act towards the CSR Spend in compliance with section 135 of the Act. Since the institutions to which the said amounts are given are registered under section BOG of the Act, the assessee claimed 50% Le. 16,92,50,000 of the same as deduction. The argument of the revenue is that the payment are made to comply with the mandate under the Companies Act, and therefore it cannot be treated as donations which are "voluntary" payments. The further argument of the revenue is that when the statute has denied the direct claim of the CSR spend under section 37, the assessee claiming the deduction indirectly under section 80G is against the intention of the legislature and cannot be allowed. The assessee's contention is that there is no restriction under section 80G to the effect that the contribution should be voluntary and that the CSR spend is an application of income which is eligible for deduction from the gross total income of the assessee as per the provisions of section 80G.

6. The word "donation" has not been defined under the Act. However the Hon'ble Supreme Court in the context of Expenditure Tax Act in the case of P.V.G. Raju (supra) has described the meaning of the word "donation" in the following words-When a person gives money to another without any material return, he donates that am. An act by which the owner of a thing voluntarily transfers the title and understand the meaning of what many people do every day, viz., giving donations to some fund or other, or to some person or other. Indeed, many rich people out of diverse motives make donations to political parties. The hope of spiritual benefit or political goodwill, the spontaneous affection that benefaction brings, the popularization of a good cause or the prestige that publicized bounty fetches these and other myriad consequences or feelings may not mar a donation to make it a grant for a quid pro quo. Wholly motiveless donation is rare, but material return alone negates a gift or donation."

7. Therefore to examine if CSR spending of the assessee would be a donation it is essential to examine whether the donations given by the assessee to M/s. Reliance Foundation and M/s Shyam Kothari Foundation without any material return and without any consideration and whether it was a grant for quid pro quo. It is not the case of the revenue that the assessee has made contributions to these institutions with an intention get something in return. The only contention of the revenue is that the contributions are made as part of a mandate and not voluntary. However, the Hon'ble Supreme Court in the above case has laid down the basic principle that a payment made without any material return and without any consideration and not for quid pro quo is a donation. Therefore in our considered view, the payment made whether voluntarily or as part of a mandate does not negate the intention of the contribution made. The reliance placed by the Id DR on the decision of Agilent Technologies (International) Pvt. Ltd (supra) is factually distinguishable. The DRP whose order was upheld in the said case, had placed reliance on the decision of

the Hon'ble High Court in the case of DCIT v. Hindustan Darr Oliver Ltd (1994) 45 TTJ Mumbai 552 where the payment made was held as not a donation since it was found that the intention behind making the donation was to get reserved seats in the college run by the institute to whom the payments are made as part of CSR spending. As already mentioned, the revenue is not contending that the assessee in the present case has made payments to get something material in return.

8. Now coming to the intention of legislature while amending the provisions of section 37 whereby the CSR spend are not allowed to be claimed as a deduction under the said section. Finance (No.2) Act, 2014 brought in the amendment to section 37 by inserting Explanation 2 to the said section w.e.f.01.04.2015, It is relevant to look at the provisions of section 37 of the said Act which read as under "37. (1)Any expenditure (not being expenditure of the nature described in sections 30 to 36 [***] and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

Explanation 2. For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013) shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession."

9. The "Explanatory Notes to the provisions of Finance (No.2) Act, 2014" issued by the Central Board of Direct Taxes vide its Circular No.01/2015 dated 21.1.2015 explaining the aforesaid amendment, read as under:

"13. Corporate Social Responsibility (CSR)

13.1 Corporate Social Responsibility (CSR) Under the Companies Act, 2013 certain companies (which have net worth of Rs.500 crore or more, or turnover of Rs.1000 crore or more, or a net profit of Rs. 5 crore or more during any financial year) are required to spend certain percentage of their profit on activities relating to Corporate Social Responsibility (CSR). Under the existing provisions of the Act expenditure incurred wholly and exclusively for the purposes of the business is only allowed as a deduction for computing taxable business income.

13.2 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 compoting 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 with subsidiz profit

above a threshold. If such expenses are allowed as tax deduction, this would result in subsidizing around one-third of such expenses by the Government by way of tax expenditure.

13.3 The provisions of section 37(1) of the Income-tax Act provide that deduction for any expenditure, which is not mentioned specifically in section 30 to section 36 of the Income-tax Act, shall be allowed if the same is incurred wholly and exclusively for the purposes of carrying on business or profession. As the CSR expenditure (being an application of income) is not incurred for the purposes of carrying on business, such expenditures cannot be allowed under the existing provisions of section 37 of the Incometax Act. Therefore, in order to provide certainty on this issue, it is proposed to clarify that for the purposes of section 37(1) any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence shall not be allowed as deduction under section 37. However, the CSR expenditure which is of the nature described in section 30 to section 36 of the Incometax Act shall be allowed deduction under those sections subject to fulfilment of conditions, if any, specified therein.

13.4 Applicability: This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years."

(emphasis supplied)

The intention behind insertion of the explanation as explained above is that 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 and that 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. However, it is pertinent to note that in para 13.3 above, it has been mentioned that though, the expenditure incurred towards CSRs is not an expenditure incurred for the purpose of business, if the spend is of the nature described in section 30 to section 36 of the Act deduction shall be allowed under those sections subject to fulfillment of conditions, specified therein. For example if the contribution is made to a scientific research association, or to a university or to a college or other institution to be used for scientific research etc. which are approved under section 35 of the Act as part of CSR spending then deduction can be allowed subject to the fulfillment of conditions prescribed under section 35 of the Act. This explanatory note though self-contradictary i.e. denying deduction under section 37 but allowing the assessee to claim deduction under section 30 to 36, also makes it clear that there is no bar regarding the admissibility of CSR expenditure under any other provision of the Act, except under section 37(1) of the Act. In other words, the intention of the legislature is not to restrict the right of the assessee to claim deduction towards the CSR spend if the payment is otherwise allowable under a

specific provision of the Act. Further wherever the intention is to restrict the claim of deduction under any other provisions of the Act the same is explicitly provided for to that effect by the legislature. This view is supported by the Explanatory Memorandum Finance Bill 2015 which brought in the specific restriction for claiming deduction under section 80G of the Act towards CSR spend towards donation to Swachh Bharat Kosh and Clean Ganga Fund. Therefore we are unable to appreciate the contention that the CSR spend being claimed as a deduction under section 80G of the Act is against the intention of the legislature which restrict the same to be claimed as a deduction under section 37 of the Act.

11. The next issue is whether the impugned payments are otherwise eligible for deduction under section 80G of the Act. We have already established that the payments made by the assessee are donations and therefore if the other conditions for the deduction under section 80G is are fulfilled then there should not be any restriction for the assessee to claim the deduction. Before holding so we will address the contention of the revenue that the payments made towards CSR spend are monitored and controlled by the assessee and are not voluntary. In this regard it is relevant to note that though there is a statutory obligation of CSR expenditure under section 135 of Companies Act 2013, there are many prescribed modes and activities under Schedule VII of the Companies Act for spending the CSR expenditure, (the list is not exhaustive but inclusive). Further neither section 135 of the Companies Act nor Schedule VII to the Companies Act nor the CSR Rules, mandates donations to the institutes/funds prescribed under section 80G of the Act. Therefore, in our considered view there is merit in the submission of the Id AR that though the quantum of CSR spend is mandatory there is no mandate on how amount is to be spent or to whom the contribution is to be made. Accordingly the act of the assessee to choose to M/s.Reliance Foundation and M/s Shyam Kothari Foundation which are eligible to accept donations under section 80G of the Act is volumary and is not mandated under section 135 of the Companies Act 2013. Further from the perusal of CSR applicable in assessee's case, we notice that the monitoring of the CSR spend is to ensure that the same is as per the CSR policy of the company and it does not provide for monitoring the utilization of the funds by the third party donees. In any case the donations made for a specific cause does not result denial of deduction which is otherwise allowable as per the provisions of section 80G of the Act. The Kolkata Bench of the Tribunal in the case of L&T Finance Ltd v. DCIT [2024] 167 taxmann.com 503 (Kolkata Trib.), has elaborately discussed the allowability of CSR spend as a deduction under section 80G of the Act and it is relevant to take note of the following observations made regarding monitoring of CSR spend by the donor i.e. assessee-

12.2. The contribution made by a company toward the discharge of it's CSR to a registered charitable institution, in our view, is akin to corpus donations. Section 11(1)(d) of the Income Tax Act speaks of the specific or

corpus, donations, although it has not been defined under Income Tax Act, 1961, Corpus donations are donations wherein, the donor makes the donations to the donee for a specific purpose or object. Prior to the amendment made by amended CSR Rules of 2021, Rule 7 of the erstwhile CSR Rules permitted corpus contributions to charitable institutions as cligible CSR expenditure. Further, the Ministry of Corporate Affairs vide Circular No.21/2014 dated 18th June 2014 had also clarified that contribution to Corpus of a Trust/ society/ section 8 companies etc. will qualify as CSR expenditure, if such a donee institution or the said corpus has been created exclusively for a purpose related to the activities provided under the CSR framework. However, under the old rules, the mechanism to monitor and ensure that such donation has been actually spent on CSR activity was missing. The donor company would get absolved of its liability of CSR by just donating to the eligible trust/society/company, without ensuring that the amount has been actually spent by the donee on such specific object or purpose (CSR activity) for which it was donated. Therefore, Rule 7 of the CSR Rules, which permitted corpus contributions as eligible CSR expenditure, has been substituted and under the amended CSR Rules of 2021, corpus contributions to any entity shall not be admissible as CSR expenditure. The object and purpose of the aforesaid amendment is to ensure that the expenditure made is actually utilised towards CSR activities,

12. One more point that needs to be considered while deciding the deduction under section 80G for CSR spend is that the restriction on the allowability of the said spend as provided in Explanation 2 to section 37 is for computing the business income under the provision of Section 28-44DB whereas the deduction under section 80G is claimed under Chapter VIA ie. after computing the Gross Total Income. The provisions of section 80G does not impose any condition that the contribution should be voluntary and therefore when the CSR spend is evaluated independently under the provisions of the Act, in our considered view there is no restriction for the assessee to claim deduction under section 80G provided the CSR spend meets the conditions specified therein. In other words, the provisions of section 37 computation provision whereas section 80G is a beneficial provision which allows deduction towards payments made by the assessee for charitable purposes and therefore these two sections are independent each other. Let us assume a situation when a company which is not required to comply with the provisions of section 135 of the Companies Act 2013 makes a donation or a company makes donations in excess of 2% even then the payment may get disallowed under section 37 but in that case the revenue would not impose any restriction to evaluate the payment for claiming deduction under section BOG. If the same analogy is applied to the CSR spend in our view the assessee should be able to claim deduction under section 80G if the other conditions are fulfilled. Denying the claim for the reason that there is a specific mention under section 37 for disallowance and that the payments are made in compliance with section 135 of the Companies Act in our view is not legally tenable unless there is

an explicit provision for e.g. contributions towards 'Swacha Bharat Kosh' and 'Clean Ganga Fund'. This view of ours is supported by the decision of the coordinate bench of the Tribunal in the case of Blue Dart Express Limited v. PCIT (ITA No.1101/Mum/2024 dated 03.09.2024) where in the context of revision under section 263 of the Act, the bench has considered the issue of allowing deduction under section 80G towards CSR spend and held that -

10. On merits also, we find that view of Id. AO is correct in law. Claiming a deduction from computation of business income as provided from sections 28 to 44DB is different from claiming a deduction under chapter VIA of the Act which is allowed from Total Income. As per Explanation 2 to Section 37, CSR expenditure is not allowable as deduction while computing the business income under the provision of Section 28-44DB, whereas deduction u/s.80G is allowed while computing the total income under Chapter VIA. There is no precondition that claim for deduction u/s.80G on a donation should be voluntary. It is independent of computation of business income as it is allowed from Gross Total Income. The assessee had disallowed the CSR expenses while computing business income. Further, there is no dispute that the assessee has filed complete details of donation and also filed the certificate w/s.80G which was enclosed before the AO. Section 80G (1) of the Act provides that in computing total income of the assessee, they shall be deducted in accordance with the provision of Section, such sum paid by the assessee in the previous year as a donation. Deduction under Chapter VIA provides deduction from the gross total income which is computed after making necessary allowances/disallowances in accordance with Section 28-44BB of the Act including Explanation to Section 37(1). Thus, Section 37(1) and Section BDG of the Act are independent and the principles governing what is not allowable u/s. 37(1) have been provided in the section itself. Even in section BOG also, what is not allowable has also been provided under the Act. For instance, Section 80G specifically mentions two clauses, viz., section 800(2)(8)(ühk) and (iiihl), Le.. contributions towards Swacha Bharat Kosh' and 'Clean Ganga Fund, where donation in the nature of CSR Expenditure is not allowable as deduction under section 80G of the Act. Therefore, the disallowances for deduction under section 80G vis-a-vis CSR can be restricted to contributions made to these Funds mentioned in Section 800(2)(a)(iiihk) and (iiihl) only. It is an undisputed fact that the assessee has not claimed any deduction against the aforesaid clauses of 80G (2) (a) of the Act and as such entire donation claimed by the assessee is allowable u/s. 80G. The Ministry of Corporate Affairs ("MCA") has issued "FAQ through General circular no. 01/2016 dated January 12, 2016 (FAO No. 6) and has clarified on the issue as follows: "Question No. 6: What tax benefits can be availed under CSR Answer: No specific tax exemptions have been extended to CSR expenditure per se. The Finance Acq 2014 also clarifies that expenditure on CSR does not form part of business expenditure. While no specific tax exemptions have been extended to expenditure incurred on CSR, spending on several activities like Prime

Minister's Relief Fund, scientific research, rural development projects, skill development projects, agriculture extension projects etc, which fund place in Schedule VII, already enjoys exemptions under different sections of the Income-tax Act, 1961."

11. This clarification being issued by the Ministry of Corporate Affairs, Government of India clarifies that donation covered under CSR Expenses which not are eligible for the deduction under section 80G of the Income-tax Act, 1961, but are allowed under different sections. Ergo, there is nothing that if any expenditure is disallowable u/s 37 the same cannot be allowed under other provisions of Act, if the conditions of allowability are satisfied. Thus, allowing the claim of deduction u/s.80G by the Id. AO cannot be held to be unsustainable in law or amounts to erroneous and prejudicial to the interest of the Revenue. Thus order of the Ld. PCIT is reversed on this point.

12. Thus, we hold that ld.PCIT is not correct in law in cancelling the assessment order by the ld.AO on this issue. Accordingly, the order of the ld. PCIT is quashed. Consequently, the appeal of the assessee is allowed.

13. In view these discussions and considering the judicial precedence in this regard, we are of the view that there is no infirmity in the order of the CIT(A) in allowing the deduction under section 80G to the assessee towards donations made to M/s. Reliance Foundation and M/s.Shyam Kothari Foundation by placing reliance on the decision of the coordinate bench in the case of M/s. Naik Seafoods Pvt Ltd v. Pr. CIT (ITA No.490/MUM/2021). Accordingly the grounds raised by the revenue are dismissed."

17. We find that contention advanced by the Id PCIT wherein he has referred to the explanation 2 to Section 37(1) of the Act, the explanatory notes to the Finance Bill 2014 and Section 135 of the Companies Act to hold that CSR expenditure is not to be allowed as deduction in any form and the same goes against the basic intent of the provisions and what cannot be allowed in view of the specific provisions cannot be allowed indirectly under specifically provided in the Act and secondly, where he has held that the payments made by the assessee towards CSR payments are mandated by law and therefore, cannot be construed as voluntary donations eligible for deduction u/s 80G of the Act have been adequately addressed by the Coordinate Bench in the aforesaid decision. In the instant case, we find that Id PCIT has also fairly admitted that though there are decisions of the Coordinate Benches in favour of the assessee, since the department has filed appeal and the matter is sub-judice before the Hon'ble Bombay High Court, he is setting aside the assessment order. We therefore find that where the view adopted by the AO is supported by various decisions of the Coordinate Benches including the Jurisdictional Benches, how such a view can be held as erroneous in nature is beyond our comprehension.

18. We further find that AO has made detailed enquiries and verification in respect of claim of deduction u/s 80G on the CSR expenditure incurred by the assessee during the year under consideration and only after such enquiry and verification, claim of deduction has been allowed by him.

19. In light of the same, we are of the considered view that the Id PCIT has erred in exercise of his jurisdiction u/s 263 and the order so passed u/s 263 of the Act by the Id. PCIT is not sustainable and the same is hereby quashed and that of the AO is sustained."

7. In the instant case as well, admittedly, the Ld.PCIT has stated that there are decisions of the Co-ordinate Benches of the Tribunal which support the view taken by the AO and in such a situation, the order so passed by the AO cannot be held to be erroneous especially where the same is supported by the decisions of the Jurisdictional Benches of the Tribunal. In light of the same, we set aside the findings of the Ld.PCIT and allow the ground of appeal so raised by the assessee.

8. Regarding claim of education cess of Rs 15,77,192/-, admittedly, the assessee has claimed the said amount in its return of income, however, the same was subsequently suo-moto withdrawn by filing the requisite Form 69 on 08-03-2023 and which has been duly intimated to the AO on 22-06-2023 and are thus part of the assessment records which were available at the time of examination of Ld.PCIT. The said documentation have again been placed by the assessee before the Ld.PCIT during the revisionary proceedings. Nothing has been pointed out by the Ld.PCIT as to how the said withdrawal of claim is prejudicial to the interest of Revenue and in the result, we set-aside the said findings of the ld PCIT as well.

9. In light of the same, we are of the considered view that the Ld.PCIT has erred in exercise of his jurisdiction u/s. 263 and the order so passed

u/s.263 of the Act by the Ld.PCIT is not sustainable and the same is hereby quashed and that of the AO is sustained.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 05-08-2025

Sd/-	Sd/-
[SANDEEP GOSAIN]	[VIKRAM SINGH YADAV]
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai,
Dated: 05-08-2025

TNMM

Copy to :

1) The Appellant
2) The Respondent
3) The CIT concerned
4) The D.R, ITAT, Mumbai
5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai