

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "बी", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री नरेन्द्र प्रसाद सिन्हा, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member

आयकर अपील सं/ITA No.543/Ahd/2025
निर्धारण वर्ष /Assessment Year : 2020-21

Jay Chemical Industries Private Limited Jay House, Near Panchvati Circle Ambawadi Ahmedabad - 380 006	<u>बनाम/ v/s.</u>	The Pr.CIT Ahmedabad-1 Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AAACJ 7628 J		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Nimis Vayawala, AR	
Revenue by :	Shri R.P. Rastogi, CIT-DR	

सुनवाई की तारीख/Date of Hearing : 05/06/2025
घोषणा की तारीख /Date of Pronouncement: 26/08/2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal preferred by the assessee is against the order of learned Principal Commissioner of Income-Tax-1, Ahmedabad [hereinafter referred to as "Ld. PCIT" for short] dated 07/03/2025 passed in exercise of his revision jurisdiction under Section 263 of the Income-Tax Act, 1961 [hereinafter referred to as "the Act" for short] for Assessment Year (AY) 2020-2021.

2. The sole issue involved in this appeal is as to whether the Ld.PCIT was justified in exercising his revision jurisdiction u/s.263 of the Act, on an issue where there are divergent views of the Tribunal, one in favour of assessee and the other in favour the Revenue.

3. The PCIT observed from the assessment records that the AO had allowed a deduction of Rs.3,36,70,305/- (being 50% of total donation paid by the assessee of Rs.6,73,40,611/-) u/s.80G of the Income Tax Act, 1961. The PCIT observed that a big portion of Corporate Social Responsibility (CSR) expenditure has been claimed as deduction u/s.80G of the Act, which otherwise was not an allowable expenditure u/s.37 of the Act. He, therefore, held that the AO has committed an error in allowing the aforesaid deduction, which was prejudicial to the interests of Revenue. He, accordingly, set aside the impugned assessment order for *de novo* assessment on this issue.

4. Being aggrieved of the said order of the Ld.PCIT, the assessee has come in appeal before us.

5. Admittedly, the assessee, in this case, has made donation to eligible institutions as provided under the relevant provisions of section 80G of the Act, however, out of CSR expenditure, which the assessee otherwise was mandatorily liable to incur u/s.135 of the Companies Act, 2013. We note that the issue as to whether the donation made out of the expenditure earmarked and mandated for CSR u/s.135 of the Companies Act, 2013, can be allowed as deduction u/s.80G of the I.T. Act, has come for consideration before various Benches of the Tribunal. The Kolkata Bench of this Tribunal in the case of L&T Finance Ltd. v. DCIT (Judgment dated September 30, 2024),

reported in [2024] 167 taxmann.com 503 (Kolkata - Trib.) has held that corporate donations made to eligible institutions, even when constituting part of mandated Corporate Social Responsibility (CSR) expenditure, qualify for a deduction under Section 80G of the Income-tax Act, 1961. The Co-ordinate Kolkata Bench, in this respect, observed that while CSR expenditure may be ineligible for deduction under Section 37(1), the distinct provisions of Section 80G allow deductions for donations made to approved institutions, unless explicitly excluded by the Act. That since the donations were made to institutions eligible under Section 80G, and there was no specific legislative restriction barring CSR-related donations from this deduction, hence the same were eligible for deduction, except for contributions to the Swachh Bharat Kosh and Clean Ganga Fund, which were explicitly excluded. Identical view in favour of the assessee on this issue has been taken by the Co-ordinate Ahmedabad Bench of the Tribunal in the case of "Gujarat State Financial Services Ltd. vs. DCIT" [174 Taxmann.com 461 (Ahmedabad-Trib.)] and the Delhi Bench in the case of "Interglobe Technology Quotient (P.) Ltd. vs. ACIT" [163 taxmann.com 542 (Delhi-Trib.)].

5.1. However, Delhi Bench of the Tribunal in the case of "Agilent Technologies (International) (P.) Ltd. vs. ACIT/NFAC, Delhi" [2024] 160 taxmann.com 238 (Delhi-Trib.) has taken a view on this issue in favour of the Revenue by holding that the CSR expenditure is not an allowable business expenditure u/s.37(1) of the Act, and further that no deduction u/s.80G of the Act, was allowable on such expenditure. Similar view in favour of Revenue has been taken by the Ahmedabad Bench in the case of "Gujarat State Fertilizers & Chemicals Ltd. vs. The ACIT"(supra).

5.2. So, as noted above, there are divergent views of the Tribunal, i.e. one in favour of the assessee and the other against the assessee and in favour of the Revenue. The view taken by the AO, thus, was one of the plausible views. These are two mandatory conditions for the PCIT to assume revision jurisdiction u/s.263 of the Act, one that the order sought to be revised must be erroneous and secondly, the same should be prejudicial to the interests of Revenue. In this case, the issue is a debatable issue. As per legal position available as on date, two views are possible; one in favour of assessee, the other in favour of the Revenue. Under such circumstances, the view taken by the AO cannot be said to be erroneous. The AO has taken one of the plausible views, therefore, first condition, that the order sought to be revised must be erroneous, is not fulfilled. It has been held, time and again, that on a debatable issue, the PCIT cannot substitute his own views with that of the AO, merely because his views on the issue do not match with the view of the AO. It has been held time and again that if the view taken by the AO is one of the plausible views, then, the exercise of the revision jurisdiction by the PCIT will not be justified. In view of this, the Ld.PCIT has wrongly exercised his revision jurisdiction in this case in setting aside the impugned assessment order. The order passed by the Ld.PCIT u/s.263 of the Act is, thus, not sustainable and the same is hereby quashed.

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

Order pronounced in the Open Court on 26/08/2025.

Sd/-
(Narendra Prasad Sinha)
Accountant Member

Sd/-
(Sanjay Garg)
Judicial Member

अहमदाबाद/Ahmedabad, दिनांक/Dated 26/08/2025

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The PCIT-1, Ahmedabad-1
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण ,अहमदाबाद /DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad