

**IN THE INCOME TAX APPELLATE TRIBUNAL "F" BENCH
MUMBAI
BEFORE MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER
AND
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 4375/MUM/2025
(Arising out of C.O. No. 221/Mum/2025)
Assessment Year: 2013-14**

Deputy Commissioner of Income-Tax, Central Circle – 3(4), Mumbai Room NO. 559, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai 40020	Vs.	Johnson & Johnson Private Limited 501, Arena Space Off JVLR, Jogeshwari East, S.O. Mumbai 400060
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACJo866E		
(Appellant)		(Respondent)

निर्धारिती की ओर से / Assessee by:	Shri. Nikhil Tiwari/Shri Pranay Gandhi
/Revenue by:	Shri Vivek Perampurna CIT-DR

Date of Hearing	19.08.2025
Date of Pronouncement	15.09.2025

आदेश/ORDER

PER RENU JAUHRI [A.M]:

This appeal is filed by the Revenue against the order of the National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as "CIT(A)") dated 16.04.2025 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for Assessment Year [A.Y.] 2013-14 and assessee has filed a cross objection.

2. The Revenue has raised the following grounds of appeal:

ITA No. 4375/Mum/2025 (A.Y.2013-14)

"Whether on the facts and in the circumstances of the case, the Ld. CIT(A) was justified in allowing a second claim of 100% deduction u/s 80-1C of the Act for a unit

which had already availed 100% deduction for the initial 5 years, by treating the year of substantial expansion as a fresh initial assessment year, contrary to the provisions of section 80-1C(6)?"

The Appellant craves leave to add, amend and/or vary the grounds of Appeal before or during the course of hearing."

CO No. 221/Mum/2025 (A.Y. 2013-14)

"General Ground:

1. Erred in not accepting the impugned order of the learned CIT(A) passed in line with the order of the Co-ordinate Bench of Hon'ble Jurisdictional Tribunal quashing the proceedings under section 263 of the Act.

Appeal is barred by limitation:

2. Erred in filing the captioned appeal on 2 July 2025 which is beyond the time allowed to file an appeal in terms of section 253(3) of the Act.

Issues in appeal are settled and accepted by the Department:

3. Failed to appreciate that the Co-ordinate Bench of Hon'ble Jurisdictional Tribunal has quashed the proceedings under section 263 of the Act which has been accepted by the Department by not filing an appeal before the Hon'ble Jurisdictional High Court and therefore, the proceedings under section 143(3) read with section 263 of the Act are bad in law and liable to be quashed:

4. even otherwise, failed to appreciate that the issue on merits [Le. allowability of deduction under section 80-IC of the Act on substantial expansion of undertaking) is squarely covered in favour of the Appellant by the decision of the Hon'ble Supreme Court in case of Aarham Softronics (412 ITR 623 (SC)] which is law of the land in view of Article 141 of the Constitution of India, 1950 and therefore, the proceedings under section 143(3) read with section 263 of the Act are bad in law and liable to be quashed:

The Respondent craves to consider each of the above grounds of cross-objection without prejudice to each other and craves leave to add, alter, delete or modify all or any of the above grounds of cross-objection."

3. At the outset, it is noticed that the appeal is delayed by 2 days. After hearing the Ld. DR on the issue of condonation, the minor delay of 2 days is hereby condoned.

4. Brief facts of the case are that assessee filed return declaring income of Rs. 3,61,53,36,790/- under normal provisions and book profit at Rs. 5,48,45,67,693/- u/s. 115JB for AY 2013-14 on 13.11.2013. The case was selected

for scrutiny and assessment was completed u/s. 143(3) r.w.s. 144C(3) of the Act. Therefore Ld. PCIT on perusal of the record, observed that the assessee has been claiming deduction u/s. 80IC of the Act, in respect of three eligible undertakings. He was, of the view that the deduction claimed by the assessee @ 100% on eligible profits in respect of one of the units viz. customer division was incorrect. Vide order u/s. 263 dated 25.06.2018, Ld. PCIT held that the assessee had wrongly claimed deduction u/s. 80IC in respect of consumer division in the 6th year of operation @100% as against the admissible claim @ 30% of the eligible profit in violation of the provisions of Section 80IC of the Act. Aggrieved with the order of the Ld. PCIT, the assessee preferred an appeal before the Tribunal and vide order dated 17.07.2019, the revision order passed by the PCIT was quashed by the coordinate bench (ITA No. 4947/MUM/2018). Meanwhile, the Assessing Officer has passed the order u/s. 143(3) r.w.s. 263 dated 31.10.2018 revising the earlier assessment order as per the deductions in revision order of PCIT dated 25.06.2018. Aggrieved by the order the assessee filed an appeal before Ld. CIT(A) vide order dated 16.04.2025.

4.1 Present appeal before Tribunal has been filed by the Revenue against this order of Ld. CIT(A) dated 16.04.2025 vide which the order u/s. 143(3) r.w.s 263 has been set aside.

5. We have heard the rival submissions. At the outset, Ld. AR has submitted that since the order u/s. 263 has already been quashed by the co-ordinate bench, therefore, the order u/s. 143(3) r.w.s. 263 also deserved to be quashed, and for this reason, Ld. CIT(A) has justifiably held that this order does not survive. In

view of the fact that the order u/s. 263 has been quashed, we are of the view that the subsequent order u/s. 143(3) r.w.s. 263 which is the subject matter of this appeal also deserves to be quashed. Accordingly, order of the Ld. CIT(A) is upheld.

6. In the result, revenue's appeal is dismissed and assessee's cross objection is allowed.

Order is pronounced in the open court on 15.09.2025

Sd/-
KAVITHA RAJAGOPAL
(JUDICIAL MEMBER)

Sd/-
RENU JAUHRI
(ACCOUNTANT MEMBER)

Place: Mumbai

Dated: 15.09.2025

Divya R. Nandgaonkar
Stenographer

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार / BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण / ITAT, Bench,
Mumbai.