

**IN THE INCOME-TAX APPELLATE TRIBUNAL “E” BENCH,
MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.2756/MUM/2025
(A.Y. 2020-21)**

M/s Enam Asset Management Company Private Limited 810, Raheja Chambers, Free Press Journal Road, Nariman Point, Mumbai -400021, Maharashtra	v/s. बनाम	Principal Commissioner of Income Tax – 3, Income Tax Department, 6 th Floor, Aaykar Bhawan, Maharishi Karve Road, Mumbai-400020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACE3554C		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Dharan Gandhi,AR
Respondent by :	Shri Hemanshu Joshi, (Sr. DR)

Date of Hearing	23.07.2025
Date of Pronouncement	19.09.2025

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the Revision order u/s 263 of the Act order dated 13.03.2025 is filed by the assessee against the order passed by the Principal Commissioner of Income-tax, PCIT, Mumbai - 3[hereinafter referred to as “PCIT”] pertaining to assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 25.09.2022 for the Assessment Year [A.Y.] 2020-21.



2. The grounds of appeal are as under:-

1. *On the facts and the circumstances of the case and in law, the learned PCIT has erred in invoking revisional jurisdiction u/s 263 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') to hold that the assessment order dated 22-09-2022 passed u/s. 143(3) of the Act is erroneous and prejudicial to the interest of the revenue.*
2. *On the facts and in circumstances of the case and in law, the PCIT has erred in directing the AO to disallow the deduction claimed /s 80G of the Act of Rs. 1,41,02,512/-in respect of donation claimed out of CSR expenditure.*

3. Facts of the case are that the assessee filed return of income for the relevant year declaring total income of Rs. 66,45,98,130/-.The case was selected for scrutiny and the assessee order was assessed under section 143(3) r.w.s 144B of the Act at total income of Rs 67,96,32,293/-.

4. Subsequently, the ld.PCIT after going through the assessment records noticed that the issue pertaining to 80G/CSR expenses did not find any mention in the order. The assessee had claimed deduction i.e. 2,27,53,017/- towards Corporate Social Responsibility Expenses('CSR') and Donations respectively u/s 80G of the Act Rs 1,41,02,512/-. On perusal of the details available on record, it was found that the assessee had made donations towards CSR expenses and not paid voluntarily. According to him, this aspect required verification because the claim with respect to CSR expenses was not allowable as per the provisions of section 37 of the Act. Moreover, perusal of the details on record clearly



indicated that the payments towards charity which was purely voluntary in nature did not require any legal obligation to make that contribution. The expenditure for which deduction had been claimed by the assessee was CSR expenditure on which 80G deduction was not allowable as this expenditure forms part of mandatory requirement of the Companies Act, 2013 and consequently was not eligible for deduction u/s. 80G of the Act. Further, there is no provision to allow such expenditure under the existing provisions of section 37 of the Act. The Finance (No.2) Act, 2014 introduced Explanation 2 to Section 37(1) (w.e.f. 01.04.2015) to disallow any expenditure incurred by the taxpayer on the activities relating to CSR referred to in section 135 of the Companies Act. According to the Id.PCIT, allowing such deduction would result in subsidizing these expenses incurred by the corporate which is not the intent of the legislature. Hence, deduction u/s, 80G of the Act to the claimed by the assessee was held to be not eligible for deduction. He observed that in none of the submissions made before the AO, the assessee made any reference to the issue and argued that deduction of CSR expenses was allowable. Therefore, in terms of above, the assessment order was erroneous and prejudicial to the interest of the Revenue. The assessment order was set aside on the issue relating to disallowance of deduction claimed u/s 80G of the Act and the AO was directed to disallow the



deduction claimed out of CSR expenses after due verification and providing sufficient opportunity of being heard to the assessee.

5. Before us, the ld.AR has made written as well as oral submissions and also filed a paper book with supporting details. He argued that specific query was raised during assessment proceedings and the AO as per annexure to notice u/s 142(1) of the Act (Paper Book page-91) which was duly responded by the assessee as per page-94/95 point no.4, having examined the facts, adopted a view which cannot be treated as erroneous. It is contented that in response to notice u/s. 143(2) of the Act at, the assessee, furnished details of donation made. During the course of assessment proceedings, the AO raised specific query on donations made and their eligibility under Section 80G of the Act It is further submitted that in response to the above-mentioned notices, the assessee, furnished party-wise details of donations made and furnished 80G Certificate of the donees, receipts and bank account statement highlighting the payments made. Reliance has also been placed on a plethora of decisions of various coordinate benches of ITAT, including Mumbai which has consistently allowed the claim of CSR expenses in terms of section 80G of the Act holding there is no bar on deduction claimed. Therefore, impugned invocation of section 263 was



liable to be quashed as the assessment order was not erroneous only on the ground that the PCIT did not agree with the views of the AO. Reference is made of Ruby Mills Ltd ITA No.3025/Mum/2025,Elan Pharma ITA No.2419/Mum/2025,Axis Securities Ld. ITA No.2736/Mum/2025 etc., wherein the twin issue of section 263 and section 80G of the Act were duly considered and decided in favour of the respective assessees.

5.1 Based on the above factual position, it is pleaded that details of donation and CSR expenditure were enquired by the AO and explanation was furnished by the assessee which was accepted. In this connection, it is submitted that the Hon'ble Supreme Court in the case of **Malabar Industrial Co. Ltd. v. CIT [243 ITR 83]** has held that the phrase "*prejudicial to the interest of revenue*" occurring in section 263 of the Act has to be read in conjunction with the expression "*erroneous*" order passed by the AO. Further every loss of revenue as a consequence of an order of the AO cannot be treated as prejudicial to the interest of the revenue. It is settled law that if the AO has conducted enquiry and adopted a view which is plausible and sustainable in law, section 263 of the Act cannot be invoked merely because the CIT has a different view. In view of the above, it is submitted that the twin



conditions for invoking the provisions of section 263 of the Act have not been fulfilled and therefore, invocation of section 263 of the Act by PCIT is invalid and bad in law and deserves to be quashed.

6. Before us, the ld.CIT(DR) has relied on the revision order claiming that such deduction of CSR expenses u/s 80G of the Act is not in accordance with provisions of law and legislative intention behind bringing in Explanation 2 to section 37 of the Act to specifically deny CSR expenditure as allowable deduction.

7. We have carefully considered all relevant facts of the case, rival submissions and also the contents of the revisions order and the paper book submitted. We find that the issue of deduction of CSR expenses claimed u/s 80G was open for adjudication before the AO. We observed that the assessee had duly disclosed such facts on record during assessment proceedings and the AO taking note of such disclosed facts preferred to allow the claim of the assessee u/s 80G of the Act. Therefore, on facts and the circumstances of the case, it can be safely construed that the issue must have been deliberated by the AO though not specifically brought out in the body of the assessment order. Thus, the AO has considered the issue and allowed the claim of deduction u/s. 80G in respect of CSR expenses which is a plausible view taken by him.



7.1 The Hon'ble Supreme Court in the case of **Malabar Industries Ltd. v. CIT (supra)** have held that twin conditions needs to be satisfied before exercising revisionary jurisdiction u/s 263 of the Act by the CIT. The twin conditions are that the order of the Assessing Officer must be erroneous and so far as prejudicial to the interest of the Revenue. In the following circumstances, the order of the AO can be held to be erroneous order, that is (i) if the Assessing Officer's order was passed on incorrect assumption of fact; or (ii) incorrect application of law, or (iii) Assessing Officer's order is in violation of the principle of natural justice, or (iv) if the order is passed by the AO without application of mind. (v) if the AO has not investigated the issue before him; because AO has to discharge dual role of an investigator as well as that of an adjudicator then in aforesaid any event the order passed by the AO can be termed as erroneous order. Coming next to the second limb, which is required to be examined as to whether the actions of the AO can be termed as prejudicial to the interest of Revenue. When this aspect is examined one has to understand what is prejudicial to the interest of the revenue. Their Lordship held when the AO adopted one of the courses permissible in law and it has resulted in loss to the revenue, or where two views are possible and the AO has taken one view with which the CIT does not agree, it cannot be treated as an erroneous order



prejudicial to the interest of the Revenue "unless the view taken by the Assessing Officer is unsustainable in law". Thus, in our considered view following Apex Court ruling the Revision orders passed by Id. PCIT are not sustainable in law. Reference could also be made to the decision of the hon'ble jurisdictional High Court in the case of **CIT vs Gabriel India Ltd. (203 ITR 108) (Bom)(HC)** with regard to assumption of jurisdiction by the PCIT in the para below:

"12. From the aforesaid definitions it is clear that an order cannot be termed as erroneous unless it is not in accordance with law. If an Income-tax Officer acting in accordance with law makes a certain assessment, the same cannot be branded as erroneous by the Commissioner simply because, according to him, the order should have been written more elaborately. This section does not visualize a case of substitution of the judgment of the Commissioner for that of the Income-tax Officer, who passed the order unless the decision is held to be erroneous. Cases may be visualized where the Income-tax Officer while making an assessment examines the accounts, makes enquiries, applies his mind to the facts and circumstances of the case and determines the income either by accepting the accounts or by making some estimate himself. The Commissioner, on perusal of the records, may be of the opinion that the estimate made by the officer concerned was on the lower side and left to the Commissioner he would have estimated the income at a figure higher than the one determined by the Income-tax Officer. That would not vest the Commissioner with power to re-examine the accounts and determine the income himself at a higher figure. It is because the Income-tax Officer has exercised the quasi-judicial power vested in him in accordance with law and arrived at conclusion and such a conclusion cannot be termed to be erroneous simply because the Commissioner does not feel satisfied with the conclusion. It may be said in such a case that in the opinion of the Commissioner the order in question is prejudicial to the interests of the Revenue. But that by itself will not be enough to vest the Commissioner with the power of suo-motu revision because the first requirement, viz., that the order is erroneous, is absent." (Emphasis supplied)

7.2 Apart from the above principles, we deem it appropriate to make reference to the decision of the hon'ble Delhi High Court in the case of **CIT vs. Sun Beam Auto 227 CTR 113** wherein the Court has



pointed out a **distinction between lack of inquiry and inadequate inquiry**. The following observations are worth noting:

"12. We have considered the rival submissions of the counsel on the other side and have gone through the records. The first issue that arises for our consideration is about the exercise of power by the Commissioner of Income-tax under [section 263](#) of the Income-tax Act. As noted above, the submission of learned counsel for the revenue was that while passing the assessment order, the Assessing Officer did not consider this aspect specifically whether the expenditure in question was revenue or capital expenditure. This argument predicates on the assessment order which apparently does not give any reasons while allowing the entire expenditure as revenue expenditure. However, that by itself would not be indicative of the fact that the Assessing Officer had not applied his mind on the issue. There are judgments galore laying down the principle that the Assessing Officer in the assessment order is not required to give detailed reason in respect of each and every item of deduction, etc. Therefore, one has to see from the record as to whether there was application of mind before allowing the expenditure in question as revenue expenditure. **Learned counsel for the assessee is right in his submission that one has to keep in mind the distinction between "lack of inquiry" and "inadequate inquiry". If there was any inquiry, even inadequate, that would not by itself, give occasion to the Commissioner to pass orders under [section 263](#) of the Act, merely because he has different opinion in the matter. It is only in cases of "lack of inquiry", that such a course of action would be open**".

8. On merits of the case, whether the CSR expenditure is allowable [u/s. 80G](#) of the Act is also no more *res integra* by a catena of decisions by various Co-ordinate Benches of the Tribunal. The Mumbai Bench of the Tribunal in the case of **Alubond Dacs India (P.) Ltd.in (2024) 163 taxmann. com 536** (Mum) considered the provisions of Companies Act and I.T. Act and held as follows:

"11. We have heard the rival submissions and perused the materials available on record. The only morn question to be decided here is whether the expenditure towards CSR activities are an allowable deduction [us 80G](#) of the Act. The CSR expenses are governed by [section 135](#) of the Companies Act, 2013, [Schedule VII of the Act](#) and Companies (CSR) Policy Rules, 2014 where companies having net worth of Rs 500 crores of more or turnover of Rs. 1000 crores or more or net profit of Rs 5 crores of more have to mandatorily comply with the CSR provisions specified [us. 135\(1\) of the Companies Act, 2011](#). The above mentioned companies are liable to spend atleast 25% of its average net profit for the immediately preceding three financial years on CSR activities. In the present case, the assessee has contributed Rs 30 lacs to various educational and charitable trust for which the assessee has claimed 50% of the total donation paid as deduction [u/s. 800](#) of the Act. [Prior to the Finance \(No.2\) Act, 2014](#), the said



expenditure was claimed as 'business expenditure' u/s. 37(1) of the Act where after the insertion of Explanation 2 to [section 37\(1\)](#) of the Act, the CSR expenses referred to in [section 135](#) of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purpose of business or profession. It is observed that the said expenses pertaining to CSR has been claimed as deduction u/s. 80G of the Act which claim was perennially rejected by the Revenue for the reason that only donations which are voluntary in nature will come under the purview of [section 80G](#) of the Act and donation towards CSR was merely a statutory obligation on companies as per [section 135](#) of the Companies Act, 2013. It is pertinent to point out that the intention of the legislature was clear when the same was clarified by the [Finance \(No.2\) Act, 2014](#) that CSR expenses will not fall under the business expenditure and also there has been an express bar specified in sub clause (iihk) and (iihl) of [section 80G\(2\)\(a\)](#) of the Act that any sum paid by the assessee as donation to Swatch Bharat Kosh and Clean Ganga Fund will not come under the purview of deduction u/s 80G of the Act subject to certain conditions. This justifies the fact that the other donations specified us 80G of the Act would be entitled to deduction provided the conditions stipulated u/s. 80G of the Act are satisfied. In the present case in hand, the contributions made by the assessee would not fall under the two exceptions specified above which clearly mandates that the assessee is entitled to claim deduction for the donations contributed during the year under consideration u/s 80G of the Act. **The decision relied upon by the ld. A.O in the case of PVG Raju (supra) is distinguishable on the facts of the present case where there is no requirement of proving the voluntariness of the donation contributed by the assessee for claiming deduction u/s. 80G of the Act.** The amendment brought about by [Finance Act, 2015](#) to [section 80G](#) of the Act which had inserted the sub clauses (iihk) and (iihl) to be the exception for qualifying a donation for claiming us. 80G of the Act could also be an evidencing factor to substantiate that CSR expenditures which falls under the nature specified in [section 30 to 36](#) of the Act are an allowable deduction u/s 80G of the Act.

12. On the above observation, we deem it fit to hold that the assessee is entitled to deduction claimed u/s. 80G of the Act towards the CSR expenditure incurred by it. We, therefore, direct the ld. A.O, to allow the claim of the assessee subject to the condition that the assessee has satisfied the other requirements warranted u/s.80G of the Act. Hence, ground no. 2 raised by the assessee is allowed."

8.1 The Delhi Tribunal in the case of **Interglobe Technology Quotient (P.) Ltd. (2024) 163 Taxmann. com 542 (Del)** held that mandatory nature of CSR expenditure does not justify disallowance of same u/s. 80G, if other conditions of [section 80G](#) are fulfilled by observing as follows:

"7.3 As we take notice of the fact that Parliament legislated that CSR expenses would not be eligible for deduction as business expenditure under [section 37](#) of the Act by inserting Explanation 2 to [section 37\(1\)](#) vide the [Finance \(No.2\) Act, 2014](#) (applicable from the assessment year 2015-16), which provided that any expenditure incurred by an assessee on the activities relating to CSR referred to in [section 135](#) of the CA 2011, shall not be deemed to be an expenditure incurred by an assessee for the purpose of business or profession and shall not



be allowed as deduction under [section 37\(1\)](#) of the IT Act. The intent of Parliament in bringing the aforesaid provision is given in the Explanatory Memorandum to the Finance (No.2) Bill, 2014 and is reproduced as under;

"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."

7.4 The aforesaid explanatory memorandum categorically expresses the legislative intent and the rationale of disallowance of CSR expenditure referred to in [section 135](#) of the Companies Act, that such expenditure is application of income and not incurred for the purposes of business. We are of considered view that this in itself justifies the grant of deduction u/s 80G. As CSR expenditure is application of income of the assessee under the [Income Tax Act](#), that means it continues to form part of the Total income of the assessee. [Section 80G\(1\)](#) of the Act provides that in computing the total income of an assessee, there shall be deducted, in accordance with the provisions of this section, such sum paid by the assessee in the previous year as a donation. Further, [section 80G\(2\)](#) lists down the sums on which deduction shall be allowed to the assessee. [Section 80G](#) falls in Chapter VIA, which comes into play only after the gross total income has been computed by applying the computation provisions under various heads of income, including the Explanation 2 to [section 37\(1\)](#) of the Act. Thus, there is no correlation between suo- moto disallowance in [section 37\(1\)](#) and claim of deduction under [section 80G](#) of the Act.

7.5 As with regard to the reasoning that CSR expenditure are not voluntary but mandatory in nature due to penal consequences, we are of considered view that voluntary nature of donation is by nature of fact that it is not on the basis of any reciprocal promise of donee. The CSR expenditures are also without any reciprocal commitment from beneficiary being philanthropic in nature. [The Act](#) permits deduction of donations as per [Section 80G](#) of the Act, even though, assessee is not gaining any benefit out of any reciprocity from donee. Similar is the case of CSR expenditure. Thus the reasoning of learned Tax Authority, the CSR expenditure is mandatory, does not justify disallowance of these expenditures u/s 80G, if other conditions of [section 80G](#) are fulfilled. There is no allegation of Revenue that other conditions of [Section 80G](#) are not fulfilled. We, thus sustain the ground."

8.2 In a recent decision in the case of [The Ruby Mills Limited, Mumbai vs PCIT](#) on 27 June, 2025 in [ITA No.3035/Mum/2025](#), the coordinate bench while dealing with similar issue held as under:

"6. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We have also deliberated on various case laws relied by both the parties. We find that assessment in the present case was completed on 19.02.2022. The assessing officer while passing the assessment order made various disallowance. However, there is no discussion about the issue identified by ld. Pr. CIT while exercising his jurisdiction under [section 263](#). However, on perusal of notices under [section 142\(1\)](#) dated 8.06.2022, we find that assessing officer sought explanation on various issues including on the deduction



under [section 80G](#) along with supporting documents. The assessee vide its reply dated 09.08.2022 furnished various details including the detail of examination claimed under [section 80G](#). The assessee also The Ruby Mills Limited furnished receipt of donations and per Annexure-XII of the reply. The assessee explained that they have claimed deduction of 50% of total donation. As noted above, the assessing officer has not made such references in the assessment order. Thus, assessing officer impliedly accepted the explanation offered by assessee. We find that co-ordinate bench of Mumbai Tribunal in DCIT Vs Gabriel India Ltd. (supra), Vistex Asia Pacific Private Limited (supra) and [Axis Securities Limited](#) (supra) consistently allowed deduction under [section 80G](#) @ 50% of CSR expenses. We, further, find that this combination in Dalal and Broacha Stock Broking Pvt. Ltd. in ITA No. No. 2718/Mum/2025 dated 19.06.2025 by considering other decision of Tribunal passed the following order:

"6. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. On careful perusal of assessment order, we find that case was selected for scrutiny on the issue of large amount of donation. No doubt that the assessing officer during the assessment examined the issue and disallowed donation under [section 80G](#) to Urvashi Foundations. Though, there is no discussion about the donation to other charitable trust or institution, however the assessing officer has sought details of donations to all about such charitable trust and institution. We find that the assessee also furnished all required details to the assessing officer. Thus, the assessing officer impliedly accepted the donation to such charitable trust or institution. We find that recently Co-ordinate Bench of Mumbai Tribunal in **DCIT Vs Gabriel India (2025) 173 taxmann.com 219 (Mum)** on similar issue where the assessee-company claimed deduction under [section 80G](#) at the rate of 50% of CSR expenses and furnished receipts of donees evidencing eligibility of deduction under [section 80G](#) allowed claim of such assessee. The tribunal while allowing relief to the assessee followed various other decisions of the different benches of the Tribunal. The relevant part of the decision is extracted below.

"7. After giving a thoughtful consideration to the orders of the authorities below, we are of the considered view that the Coordinate Benches have been consistently taking the stand that 80G deduction cannot be denied.

The relevant findings in the case of **Ericsson India Global Services (P) Ltd.** (supra), read as under:-

"7. We have considered rival submissions and perused the material on record. We have also applied our mind to case laws cited before us. Undisputedly, expenditure incurred towards CSR is specifically prohibited from being allowed as deduction towards business expenditure by insertion of Explanation - 2 to [Section 37\(1\)](#) of the Act by [Finance Act, 2014](#) w.e.f.01.04.2015. However, there is no such [Ericsson India Global Services Pvt. Ltd. v. DCIT](#) corresponding amendment to [section 80G](#) of the Act. Only condition for claiming deduction under [section 80G](#) of the Act as per the existing provision is the institute to which donation is made must have been registered under [section 80G](#) of the Act. Once the aforesaid condition is fulfilled, the donor is entitled to avail the deduction.

This is also the view expressed by the Coordinate Bench in case of **Honda Motorcycle and Scooter India Pvt. Ltd. (supra)**. The relevant observation are as under:

"17. Apropos the issue of disallowance u/s [80G](#) of the Income-tax Act, 1961 (for short 'the Act') : The assessee made certain donation to approved institutions or funds and claimed 50% of the total donation made as deduction u/s [80G](#). This amount also formed part of the CSR initiative of the assessee company which amounts to INR 22,81,29,964/-. It is observed that the assessee has duly disallowed CSR expenditure of



INR 22,81,29,964/-debited to the statement of profit and loss under [section 37](#) of the Act. DRP rejected the claim of the assessee by saying that the donation is pursuant to the CSR policy of the company and lacks the test of voluntariness as required under [section 80G](#). The AO has disallowed the claim on the ground that anything donation over and above the CSR [u/s 80G](#) will be only allowed as the CSR expense is not an allowable expense [u/s 37](#) of the Act. Ld. Counsel of the assessee placed reliance on the following decisions :-

JMS Mining (P.) Ltd. v. PCIT [2021] 130 taxmann.com 118/190 ITD 702/91 ITR(T) 80 (Kolkata - Trib.) Goldman Sachs Services (P) Ltd. v. JCIT (2020) ([2020] 117 taxmann.com 535 (Bangalore - Trib.)) (ITAT Bangalore) (iii) First American (India) Pvt. Ltd. (ITA No. 1762/Bang/2019) Allegis Services (India) Pvt. Ltd. (ITA No. 1693 /Bang/ 2019) Ld. Counsel further submitted that if the intention was to deny deduction of CSR expenses under [section 80G](#), appropriate amendments on lines of [section 37\(1\)](#) should also have been made The Ruby Mills Limited under [section 80G](#) of the Act. In the absence of any such amendment, CSR expenses should not be disallowed under [section 80G](#) of the Act.

18. We have heard both the parties and perused the records. We find that ITAT, Bangalore Bench in the case of Goldman Sachs Services (P.) Ltd. (supra) has held that the other contributions made under [section 135 \(5\)](#) of the Companies Act are also eligible for deduction/s [80G](#) of [Ericsson India Global Services Pvt. Ltd. v. DCIT the Act](#) subject to satisfying the requisite conditions prescribed for deduction [u/s 80G](#) of the Act. For this purpose, the issue is remanded to the file of AO to examine the same whether the payments satisfy the claim of donation [u/s 80G of the Act](#). We find that the case law is fully applicable to the facts of the case. There is no restriction in the Act that expenditure when disallowed for CSR cannot be considered [u/s 80G](#) of the Act. Hence, we remit the issue to the file of AO to verify whether these payments were qualified as donations [u/s 80G](#) of the Act or not, if they qualify as donation [u/s 80G](#) of the Act then the requisite amount deserves to be allowed."

8. Before us, it is the specific contention of learned Counsel of the assessee that the institutes to whom the assessee has donated the CRS fund are registered under [section 80G](#) of the Act. Keeping in view the submissions of the assessee as well as the [ratio laid down in](#) the judicial precedents cited before us, we direct the Assessing Officer to allow assessee's claim of deduction under [section 80G](#) of the Act, subject to, factual verification of assessee's claim that the donee institutions are registered under [section 80G](#) of the Act and other conditions of [section 80G](#) of the Act are fulfilled. Ground is allowed for statistical purposes."

8. The facts of the case in hand show that the assessee has submitted the receipts of the donees evidencing the eligibility of deduction [u/s 80G](#) of the Act. Therefore, respectfully following the decision of the Coordinate Bench, we do not find any reason to interfere with the findings of the Id. CIT(A). The decision relied upon by the Id. D/R is on different reasoning as the Co-ordinate Bench was of the opinion that CSR expenses cannot be allowed [u/s 37\(1\)](#) of the Act, therefore, no deduction is allowed [u/s 80G](#), whereas in the case in hand, assessee has claimed deduction [u/s 80G](#) and not [u/s 37\(1\)](#) of the Act. Accordingly, ITA No. 1710/PUN/2023 is also dismissed.

9. In the result, appeals of the revenue are dismissed."

Considering the fact that view taken by assessing officer while allowing 50% of donation under [section 80G](#) out of CSR expenses are in accordance with the decisions of various benches of Tribunal. Thus, the view taken by assessing officer cannot be said to be erroneous. Thus, the pre-requisite twin conditions for exercising jurisdiction under [section 263](#) has not meet out in the present case hence we quash / set aside the



order of Pr. CIT dated 17.03.2025. In the result, grounds of appeal raised by assessee are allowed.

7. Considering the consistent decision of Co-ordinate Bench of Tribunal, we find that in accepting the claim of donation under [section 80G](#) @ 50% of total donation in the assessment order is not erroneous as the action of assessing officer is legally sustainable view. Thus, in our considered view, the twin conditions prescribed under [section 263](#) of the Income Tax Act is not fulfilled in the present case. As the pre-requisite conditions for exercising jurisdiction under [section 263](#) has not meet out in the present, hence we quash/set aside the order of Id. Pr. CIT. In the result, grounds of appeal raised by the assessee are allowed.”

9. In the case under consideration, the proposed revision is sought to be done merely on change of opinion disagreeing with the opinion of the AO that the expenditure is not deductible under [sec 80G of the Act](#). Further, it is a settled position of law that where there are two views possible and the AO has adopted one of the two possible views, then the order cannot be held to be erroneous/ prejudicial to the interest of the revenue and thereby proceedings under [section 263](#) of the Act cannot not be sustained. We find that in accepting the claim of donation under [section 80G](#) @ 50% of total donation in the assessment order is not erroneous as the action of the AO is legally sustainable view. Moreover, as discussed in the preceding paras, the deduction of CSR expenses under [section 80G](#) of the Act is held allowable consistently by the courts. Hence, both on legal ground as also on merits, appeal of the assessee has sufficient force. Therefore, respectfully following the above judicial precedents, we hereby quash the Revision order as unsustainable, allowing the grounds of appeal raised by the assessee.



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

Order pronounced in the open court on 19/09/2025.

Sd/-

NARENDER KUMAR CHOUDHRY

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 19.09.2025

Lubhna Shaikh / Steno

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,

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

