

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 3358/Mum/2025
(Assessment Year: 2020-21)**

Rishabh Instruments Ltd F-31, Satpur MIDC, Nashik Nashik - 422007	Vs.	PCIT - 3 Room No. 612, 6 th Floor, Aayakar Bhavan, MK Road
PAN/GIR No. AAACR2228Q		
(Applicant)		(Respondent)

Assessee by	Mr. Devendra Jain. Adv
Revenue by	Shri Annavaran Kosuri, Sr. AR

Date of Hearing	24.07.2025
Date of Pronouncement	26.10.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order dt. 17.03.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2020-21.

2. Both the grounds raised by the assessee are interrelated and interconnected and relates to challenging the order of Ld. PCIT passed under section 263 of the I.T.

Act. Therefore we have decided to adjudicate these grounds through the present consolidated order.

3. Ld. AR appearing for the assessee relied on the orders of Tribunal in the case of **Sharda Cropchem Ltd. in ITA No. 6163 & 6164/Mum/2024 dated 21.1.2025 ITA No. 1101/Mum/2024** dated 3.9.2024 in the case of **Blue Dart Express Ltd. and ITA No. 2838/Mum/2024 dated 6.1.2025** in the case of **Maharashtra Industrial Development Corporation.**

4. On the contrary, Ld. DR relied upon the orders passed by Ld. PCIT.

5. We have heard the counsels of both the parties, perused the material placed on record, Judgements cited before us and also orders passed by Revenue Authorities. From the record, we noticed that during the year under consideration, the assessee had made donation to various entities of Rs. 21,07,500/- and had claimed deduction amounting to Rs. 10,53,750/- under section 80G of the Act. Although the assessee had classified the amount of donation as “Corporate Social Responsibility” (CSR) expenses under section 135 of the Companies Act, 2013 in his books of account and suo moto disallowed the same in computation of income in accordance Explanation 2 of

section 37 of the Act. However, in his return of income, the assessee claimed deduction under section 80G of the Act. The said claim was duly disclosed in the computation of income and tax audit report, which was examined in detail and allowed by the Ld. AO while passing the order of assessment under section 143(3) r.w.s 144B of the Act dated 26.09.2022. In this regard we have perused the noticed issued u/s 142(1) of the Act during the course of assessment wherein specific documents / evidences were sought for seeking deduction claimed u/s 80G of the Act and the assessee in response thereof had already submitted the documentary evidences vide its reply on 04.02.2022. And thereafter after considering the issue in question, the order of assessment was passed.

6. Later on, Ld. PCIT invoked revision jurisdiction under section 263 of the Act and passed the impugned order by holding that deduction under section 80G of the Act was erroneously allowed, since donation was in nature of CSR expenditure which is not voluntary in nature and thus not eligible for deduction. It was further held that the issue of section 80G/CSR was not discussed in the assessment order and hence assessment order is erroneous in so far as it is prejudicial to the interest of the Revenue.” Now, the question for determination before us is as to whether deduction claimed under section 80G of the Act is eligible

in respect of donation classified as “Corporate Social Responsibility (CSR) and as to whether conditions for invoking section 263 of the Act are satisfied or not.

7. First for all, we take up the first issue/question and after hearing the parties at length on this issue, we noticed that Ld. PCIT has held that since CSR expenditure is mandatory therefore the same cannot constitute a donation, which is voluntary and hence not eligible for deduction under section 80G of the Act. Whereas it is an undisputed fact that donation made by the assessee are to entities registered under section 80G and that the assessee is otherwise eligible to claim deduction under section 80G of the Act.

8. We noticed that though section 135 of the Companies Act, 2013 mandates the quantum of CSR expenses, it does not mandate to whom and how the amount to be spent and the Appellant at its discretion can choose the mode of spending towards CSR. The donations made by the Appellant to ACS Cares Foundation are made voluntarily as there is no reciprocal commitment from the donees. In any case, section 80G of the Act does not put any condition for the donation to be voluntary in nature for the purpose of claiming deduction. CBDT, vide Circular No. 1/2015 dated 21st January 2015 which contains the Explanatory Notes

provisions of the Finance (No. 2) Act, 2014, has stated that expenditure incurred which is eligible for CSR and allowable under other sections, shall be allowed as a deduction while computing income. The relevant extract of CBDT Circular is reproduced as under:

"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 provisions of section 37 of the Income-tax Act. Therefore, in order to provide certainty on this issue, said section 37 has been amended to clarify that for the purposes of sub-section (1) of section 37 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 said section 37. However, the CSR expenditure which is of the nature described in section 30 to section 36 of the Income-tax Act shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein."

9. The CBDT Circular clearly states that the restriction on claiming deduction of CSR expense is only with respect to Section 37(1) of the Act wherein it will not be deemed to be a business expenditure for the purpose computing income under the head 'Profits and Gains from Business or Profession'. The Circular itself clarifies that CSR expenditure will be allowable under other sections under

the same head of income. In view of CBDT Circular, it is clear that there is no express bar in claiming deduction in respect of CSR expenditure, other than under Section 37(1) of the Act. The Ministry of Corporate Affairs ("MCA") has issued Frequently Asked Questions ("FAQ") through General Circular No. 01/2016 dated January 12, 2016 (FAQ No. 6) 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 Act, 2014 also clarifies that expenditure on CSR does not form part of business expenditure. What 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 find place in Schedule VII, already enjoys exemptions under different sections of the Income-tax Act, 1961."*

10. This clarification being issued by the Ministry of Corporate Affairs, Government of India also confirms that donation covered under CSR Expenses are eligible for the deduction under section 80G of the Income-tax Act, 1961. Moreover, reliance is placed on the decision of the Coordinate Bench of the ITAT, Mumbai Bench in the case of **ACIT v. Sharda Cropchem Limited (ITA No. 6163/Mum/2024)** wherein it was held that donations which are classified as CSR expenditure are eligible for deduction under Section 80G of the Act. The relevant extract of the order is reproduced as under:

"9. We have carefully perused relevant provisions of the Act and legal position emerging from the cited decision (supra).The CSR

expenses which are required to be mandatorily incurred by the assessee-company as per section 135 of the Companies Act are not entitled to deduction under section 37(1) for assessment year 2015-16 by virtue of the fetter placed by Explanation 2 to section 37(1), which was inserted by the Finance (No. 2) Act, 2014. A plain reading of Explanation 2 to section 37(1) shows that any expenditure incurred towards CSR activities as referred to in section 135 of the Companies Act, 2013 shall not be allowed as 'business expenditure' and shall be deemed to have not been incurred for purpose of business. The embargo created by Explanation 2 inserted in section 37 by Finance (No. 2) Act, 2014 was to deny deduction for CSR expenses incurred by companies, as and by way of regular business expenditure while computing 'income under the head business'. So, it can be clearly seen that this Explanation 2 to section 37(1) which denies deduction for CSR expenses by way of business expenditure is applicable only to the extent of computing 'business income' under Chapter IV-D. The said Explanation cannot be extended or imported to CSR contributions which are otherwise eligible for deduction under any other provision or Chapter, so as to say donations made by charitable trust registered under section 80G. Parliament has expressed its intention clearly by bringing in restriction in respect of expenditure classified by an assessee company while claiming deduction under section 80G i.e. CSR expenditure related to Swachh Bharat Kosh and Clean Ganga Fund. And if the Parliament desired, it could have been made such kind of restriction or any restriction like in the case of donation to Swachh Bharat Kosh & Clean Ganga Fund. So the assertion of the Assessing Officer is erroneous and therefore cannot be accepted. It can be safely inferred that when the Legislature in particular has provided for only the above referred two specific exceptions in section 80G, then it is the implied intent of the Legislature to permit deduction under section 80G in respect of CSR contributions made to funds/organizations referred to in all other sub-clauses of section 80G [other than (iihk) and (iihl)] of the Act.

9.1 It may be stated here that the co-ordinate Bench of ITAT, Mumbai in the case Alubound Dacs India Private Limited vs. Dy. CIT in IT A No. 3663/M u m/2023 (A. Y. 2020 - 21)has duly

considered similar contentious issue and decided the same in favour of the assessee. The relevant extracts are reproduced below for the sake of ready reference:

9.3 Respectfully following the decisions cited above, we 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 Id. A.O. to allow the claim of the assessee subject to the condition that the assessee has satisfied the other requirements warranted u/s.SOG of the Act. We do not find any infirmity in the appellate order. Hence, ground no. 3 raised by the Revenue is dismissed.

11. Thus, after evaluating the facts of the present case and also decision of the Coordinate Bench and the settled proposition of law, we are also of the view that the assessee is entitled for deduction claimed under section 80G of the Act towards CSR expenditure incurred by it.

12. Now the question for determination before us is as to whether Ld. PCIT could have invoked section 263 of the Act for denial of deduction claimed under section 80G of the Act in respect of donation classified as CSR. In this regard reliance is being placed upon the decision of Hon'ble Mumbai Tribunal in the case of ***Inter Gold (India) Pvt. Ltd. v. Pr. CIT (ITA No. 4400/Mum/2023)*** wherein it was held that the provisions of Section 263 of the Act cannot be invoked for denial of deduction claimed under Section 80G in respect of donations classified as CSR. The relevant extract of the order is reproduced below:

"11. After considering the aforesaid submissions and the reasons given by the Id. PCIT, we are unable to sustain the impugned order u/s.263 on this issue for the reason that, this issue has been duly enquired and examined by the Id. AO during the course of assessment proceedings and without finding any defect in such order or how the claim allowed by the Id. AO u/s.80G is unsustainable in law, he cannot cancel the assessment order. Assessee has also relied upon various Tribunal decisions directly on this issue which has also been incorporated in the impugned order, wherein it has been held that even if the money spent for CSR is disallowable but if the same has been paid to charitable organisation and donation is claimed u/s.80G, the same is allowable, because both operate separately. Thus, taking a contrary opinion does not mean that order of the Id. AO erroneous and prejudicial to the interest of the Revenue.

12. 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.SOG is allowed while computing the total income under Chapter VIA. There is no pre-condition that claim for deduction u/s.SQG 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 u/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 80G 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 80G also, what is not allowable has also been provided under the Act. For instance, Section 80G specifically mentions two clauses, viz., section 80G(2)(a)(iihk) and (iihl), i.e., 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-avis CSR can be restricted to contributions made to these Funds mentioned in Section 80G(2)(a)(iihk) and (iihl) 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 "FAQs" through General circular no. 01/2016 dated January 12, 2016 (FAQ 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 Act, 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."

12. 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. Titus, 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."

13. Therefore after having gone through the decisions referred above and also keeping in view of the facts of the present case, we are also of the view that Ld. PCIT has wrongly invoked provisions of section 263 of the Act for denial of deduction claimed by the assessee under section 263 of the Act in respect of donation classified as CSR. Therefore we do not have substance in the impugned order and the same is thus stands quashed and the assessment order passed by the Ld. AO is restored and accordingly appeal of the assessee is allowed.

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

Order pronounced in the open court on 26.10.2025

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 26/10/2025

KRK, PS

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

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

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai