

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "D" Bench, Mumbai.

Before Shri Pawan Singh (JM) & Shri Omkareshwar Chidara (AM)

ITA No. 3764/MUM/2025 (Assessment Year : 2020-21)

Deutsche Investments India Pvt. Ltd. Block B1, Nirlon Knowledge park, Off Western Express Highway, Goregaon East, Mumbai-400 063.	Vs.	DCIT, Circle 4(2)(1) 6 th Floor, Room No. 642, Aayakar Bhavan, M.K. Road Mumbai-400 020.
PAN : AACCD1765E		
Appellant		Respondent

Assessee by	:	Shri Niraj Sheth
Revenue by	:	Shri Umashankar Prasad
Date of Hearing	:	07/08/2025
Date of pronouncement	:	15/10/2025

ORDER

Per Omkareshwar Chidara (AM) :-

The only issue to be adjudicated in this above cited appeal is, whether the appellant company is eligible for deduction under section 80G made out of Corporate Social Responsibility (CSR) expenses. The Ld. PCIT revised the order of Ld. AO under section 263 of the Income Tax Act and held that the appellant company is not eligible for deduction under section 80G of the I.T. Act, since the amount was spent out of CSR funds. Before revising the assessment of Ld. AO, the Ld. PCIT gave a show-cause notice to appellant company asking them as to why the deduction allowed by Ld. AO under section 80G, should not be withdrawn. In pursuance of the notice issued by Ld. PCIT, the appellant company objected to the withdrawal of the deduction allowed by Ld. AO.

2. During the revision order proceedings, the appellant company filed detailed objections for invoking the powers under section 263 including Explanation 2 of the concerned section. The appellant company has stated that the issue was dealt in detail by Ld. AO at the time of scrutiny

assessment and after application of mind, the deduction under section 80G of the Act was allowed as the conditions mentioned in that section were satisfied. Not satisfied with the explanation of appellant company, the Ld. PCIT revised the order of Ld. AO and directed the AO enquire into the claim of section 80G deduction out of CSR expenses and modify the assessment order as per the findings made in the Revision Order under section 263 of the Act.

3. Aggrieved by the order of Ld. PCIT, the appellant filed an appeal with the following grounds of appeal :-

1(a) The Principal Commissioner of Income Tax -4, Mumbai (hereinafter referred to as 'PCIT') erred in holding that the provisions of section 263 of the Income-tax Act, 1961 ('the Act') were applicable to the facts of the Appellant's case. The order dated 26 March 2025 passed by the PCIT is bad in law, void, in excess of and/or want of jurisdiction and otherwise illegal and should be quashed.

(b) The PCIT erred in partly setting aside the assessment made vide order under section 143(3) dated 19 September 2022 and passing an order under section 263 of the Act on the grounds that the original assessment order passed under section 143(3) of the Act was erroneous and prejudicial to the interest of the revenue and directing the Assessing Officer ('AO') to enquire the claim of section 80G deduction made out of Corporate Social Responsibility ('CSR') expenses and modify the assessment order.

(c) The PCIT failed to appreciate that the AO had conducted adequate inquiries and verifications regarding the claim of deduction under Section 80G of the Act during the assessment proceedings, and the order was passed after due consideration of the submissions and evidence provided by the Appellants.

The Appellants pray that the order of the PCIT passed under section 263 of the Act be quashed. The Appellants submit that the following ground is without prejudice to ground no. 1 above:

2. The PCIT erred in denying deduction of Rs.55,00,000 claimed under section 80G of the Act, holding that it was CSR expenditure on which deduction under section 80G is not allowable.

The Appellants crave leave to add to, amend, alter, vary, omit or substitute the aforesaid grounds of appeal or add a new ground or grounds at any time before or at the time of hearing of the appeal as they may be advised. The appeal of appellant is allowed for statistical purposes.

4. During the hearing proceedings before the ITAT, the Ld. AR of the appellant has argued that the Ld. AO has called for the full details of claim of deduction under section 80G of the Act and only after getting himself satisfied, the deduction was allowed by him. Since this aspect was thoroughly examined by Ld. AO, the clause of non-application of mind by him is not applicable in this case. Moreover, neither there is an "error" nor it caused 'prejudicial to the interest of revenue' as these twin conditions were to be satisfied by Ld. PCIT to invoke this Revisionary jurisdiction by PCIT. The Ld. AR further argued that the issue was covered in favour of the appellant company by various Tribunals of the country, including the Coordinate Benches of Mumbai. Reliance was placed on the decision of Dalal and Broacha Stock Broking (P) Ltd. Vs. PCIT (175 taxman.com 984 (Mum-Trib) dated 23.6.2025 I.T. Appeal No. 2718/Mum/2025. The issue was squarely covered by the Coordinate Bench decision and hence the direction given by PCIT under section 263 of the Act should be quashed, concluded the Ld. PCIT.

5. The Ld. DR relied on the order of PCIT and argued that in common parlance, the donations are made without any expectation of reciprocal return or benefits in lieu of the same whereas the expenses made under CSR head are for the benefits in the form of mandatory compliance as per section 135 of the Companies Act. Thus, voluntariness is lacking in the expenses made under CSR head. In the decision by Supreme Court in the case of Commissioner of Expenditure Tax vs. PVG Raju Raja of Vizianagaram (supra), the Hon'ble Apex Court held that for any payment to constitute as donation, it must satisfy the test of voluntariness. The assessee, in the current case incurred expenses under CSR head as part of mandatory compliance of the provisions of Companies Act and this certainly lacked voluntariness character.

6. Heard both sides. This issue was held in favour of the appellant company in several decisions of the Tribunals all over the country as

mentioned in the order relied on by the Ld. AR of the appellant (supra). Some of the orders of the ITAT where issue was held in favour of the appellant company are mentioned below :-

- CIT v. Nirav Mod/[2016] 71 taxmann.com 272/241 Taxman 255/[2017] 390 ITR 292 (Bombay),
- CIT v. Nirav Modi [2017] 77 taxmann.com 15/244 Taxman 194 (SC),
- CIT v. Fine Jewellery (India) Ltd. ([2015] 55 taxmann.com 514/230 Taxman 641/372 ITR 303 (Bombay),
- Mo/7 Ltd. v. CIT [2017] 81 taxmann.com 420/396 ITR 244 (Bombay),
- Narayan Tatu Rane v. ITO [2016] 70 taxmann.com 227 (Mumbai),
- JMS Mining Pvt. Ltd. v. Pr. CIT [2021] 130 taxmann.com 118/190 ITD 702 (Kolkata - Trib.),
- SBI DFHI Ltd. v. ACIT [IT Appeal No. 1431 (Mum) of 2023, dated 27-6-2023],
- ACIT v. Sikka Ports and Terminals Ltd. [2025] 173 taxmann.com 366 (Mumbai - Trib.),
- American Express (India) P. Ltd. v. Pr. CIT [2024] 166 taxmann.com 91/208 ITD 564 (Delhi -Trib.),
- Gabriel India Ltd. (supra).

7. The summary of all the above decisions is that, only condition for claiming deduction under section 80G of the Act as per existing provisions of institute to which donation is made must have been registered under section 80G of the Act and once the conditions mentioned in section 80G are fulfilled, the donor is entitled to avail the deduction. Moreover, the Ld. AO called for the details of donation made under section 80G and after examining the conditions, the deduction was allowed. In view of the same, there is neither an 'Error' nor 'prejudice was caused to the interest of Revenue'. In view of the above discussion and the orders of Coordinate Benches, the issue is decided in favour of the appellant company and the order of PCIT is held as not in accordance with the provisions of law and hence order under section 263 is quashed.

8. The appellant's appeal is allowed.

Order pronounced in the open Court on 15/10/2025.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

PS

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai