

IN THE INCOME-TAX APPELLATE TRIBUNAL "B" BENCH,
MUMBAI

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

ITA No. 2780/MUM/2025
(A.Y. 2020-21)

Bharat Serums and Vaccines Limited 3 rd Floor, Liberty Tower, Airoli, Navi Mumbai - 400708, Maharashtra	v/s. बनाम	Deputy Commissioner of Income Tax, Circle - 15(1)(2), Aayakar Bhavan, Mumbai - 400 020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACB2431M		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Manoj Mundra,AR
Respondent by :	Shri Layaqat Ali Aafaqui (Sr.DR)

Date of Hearing	01.10.2025
Date of Pronouncement	18.11.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal preferred by the assessee emanates from the Revision order dated 24.03.2025 passed u/s 263 of the Income-tax Act, 1961 by the Principal Commissioner of Income-tax, PCIT, Mumbai - 6 [hereinafter referred to as "PCIT"] pertaining to the assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 29.09.2022 for the Assessment Year [A.Y.] 2020-21.



2. The grounds of appeal are as under:

1. *Under the facts and in law as well as in the circumstances of the case, the Order passed u/s 263 of the Income Tax Act, 1961 ('the Act') by Hon. Pr. Commissioner of Income Tax-6, Mumbai ('Pr. CIT') is bad in law. The proceedings were initiated u/s 263 of the Act on account of deduction claimed u/s 80G of the Act of CSR expenditure incurred. The impugned order fails to satisfy the statutory preconditions for revision and is liable to be quashed*
2. *The learned Pr. CIT has erred in law and on facts of the case in invoking jurisdiction u/s 263 of the Income Tax Act, 1961, and setting aside the assessment order u/s 143(3) r.w.s 144B of the Act dated September 29, 2022. The assumption of jurisdiction is invalid, as the foundational conditions for invocation of Section 263 are not satisfied.*
 - 2.1 *The assessment order passed is neither erroneous nor prejudicial to the interest of Revenue. The same was passed after due inquiry and application of mind by the learned A.O, who had specifically called for details of deduction claimed u/s 80G during the course of assessment proceedings.*
 - 2.2 *The deduction u/s 80G was scrutinized pursuant to notice issued u/s 142(1) wherein the appellant furnished a detailed break-up of donations, including those forming part of CSR expenses, along with documentary evidence.*
 - 2.3 *The order u/s 263 is legally unsustainable because it seeks to reopen a concluded issue without satisfying the jurisdictional requirement that the order is both "erroneous" and "prejudicial to the interest of Revenue".*
3. *The learned Pr. CIT erred in concluding that the deduction u/s 80G of the Act on CSR contributions is not allowable.*
 - 3.1 *The learned Pr. CIT erred in considering the fact that there is no specific prohibition in Section 80G of the Act barring deduction for CSR expenditure except for sub-clauses (iihk) and (iihl), i.e. donations to Swachh Bharat Kosh and Clean Ganga Fund. Other donations to eligible and approved institutions u/s 80G(5) remain allowable even if forming part of CSR obligations.*



3.2 The restriction under Explanation 2 to Section 37(1) of the Act applies only for computing business income and does not override specific deductions permissible under Chapter VI-A of the Act, including section 80G.

3.3 The learned Pr. CIT has ignored binding judicial precedents that uphold the allowability of deduction u/s 80G on eligible CSR expenditure. The appellant relied upon numerous decisions, including but not limited to *American Express (India) Private Limited v. PCIT* [2024] 166 taxmann.com 91 (Delhi ITAT); *BNP Paribas v. CIT (Intl. Taxation)* [ITA No. 2521/Mum/2024]; *JMS Mining Private Limited v. PCIT* [2021] 130 taxmann.com 118 (Kolkata ITAT).

3. Briefly stated facts of the case are that the assessee company filed its return of income for the relevant year declaring income of Rs.119,48,51,620/-. Assessment order was passed u/s 143(3) of the Act with assessed income at Rs.150,26,23,255/-. The ld.PCIT observed that the assessee claimed deduction under Section 80G of the Act in respect of for CSR related donations amounting to Rs. 98,80,296/-which was incorrectly allowed by the AO. The intention of the legislature was never to allow deduction for CSR expenditure since it would undoubtedly result in subsidizing the Government expenses through tax expenditure. The AO failed to enquire/verify the issue of deduction claimed by the assessee u/s 80G to the extent of Rs. 98,80,296/- vis-a-vis CSR expenditure.

4. In response to the show cause notice issued for invoking the provisions of section 263 of the Act, it was submitted by the assessee



before him that the assessee is a private limited company engaged in the business of manufacturing pharmaceutical, biological and biotechnical products. It is also engaged in the research and development activities in biomedical / biotechnical fields. It also has an approved research facility. The assessee company filed its return of income for the captioned assessment year which was selected for complete scrutiny through CASS and accordingly, notices u/s 143(2) and 142(1) of Act were issued against which the assessee duly made submissions from time to time. One such notice was issued u/s 142(1) of the Act dated December 17, 2021 wherein the assessee was asked to furnish details regarding deduction claimed of Rs. 1,21,16,465/- u/s 80G of the Act. In response to the said notice, assessee submitted details of donations made for which deduction had been claimed u/s 80G of the Act along with documentary evidence. Subsequently, the assessment was completed u/s 143(3) r.w.s 144B of the Act wherein certain disallowances were made i.e. disallowance of additional deduction claimed u/s 35(2AB) of the Act of Rs. 17,19,29,097/-, disallowance of Provision for Sales return disallowed in earlier year claimed as deduction on write back of Rs. 12,00,00,000/- and disallowance of Education cess claimed as deduction of Rs. 1,58,42,538/-. Subsequent a rectification order was passed as per request of the assessee and the total income was revised to some extent.



It was contended that the assessee had made submission with respect to donations made for which deduction has been claimed u/s 80G of the Act and the A.O completed the assessment proceedings only after considering the submissions and details furnished by the assessee. Thus, it cannot be stated that the assessment is erroneous. Reference was also made to the observations and final conclusion of the AO as per the assessment order in which he stated that “*considering the issues involved a detailed questionnaire was issued to the assessee* All submissions made along with requisite documents and details have been perused and duly considered.” Therefore, the A.O had completed the assessment after considering the submissions filed by the assessee. It was also pleaded that deduction claimed under chapter VI-A was one of the issues due to which the assessee’s return of income was selected for complete scrutiny. Where the very basis of selecting assessee’s case for scrutiny was deduction claimed under Chapter VI-A, it could not be stated that the AO had erroneously accepted the claim of the assessee. The Id.AR further submitted that Delhi ITAT’s decision in case of American Express (India) P. Ltd. v. PCIT [2024] 166 taxmann.com 91 held that where AO allowed deduction under section 80G on donations which were part of expenditure incurred on account of corporate social responsibility (CSR), since AO's view was backed by various decisions of



Tribunal, assessment order could not be treated as erroneous and prejudicial to the interest of revenue. Reliance was also placed on Mumbai ITAT's decision in case of BNP Paribas v. Commissioner of Income Tax (International Taxation) – I [ITA No. 2521/Mum/2024] wherein it was held where there are two possible views and the Assessing Officer has taken one of the possible views, no action to exercise powers of revision can arise, nor can revisional power be exercised for directing a full enquiry to find out if the view taken is erroneous. Reliance was also placed on the decision of Hon'ble High Court of Bombay in the case of CIT vs. Nirav Modi, [2016] 71 Taxmann.com 272 (Bombay).

5. The Id.PCIT rejected the contentions of the assessee by stating that CSR related expenses, being statutorily mandated, cannot be considered "voluntary donations" under Section 80G, which was intended to incentivize voluntary, altruistic contributions. In this regard, reliance is placed on the decision of the Apex Court in the case of Commissioner of Expenditure Tax vs PVG Raju of Vizianaram [1967] SCR (I) 1017C and Agilent Technologies (International) (P.) Ltd. v. ACIT [(2024) 160 taxmann.com 238 (Delhi - Trib.)], and finally concluded that the assessment order passed was erroneous in so far as it is



prejudicial to the interest of the revenue. Accordingly, the said assessment order passed by the Assessing Officer was set-aside on the issue of claim of deduction under section 80G of the Act of CSR expense amounting to Rs.98,80,296/-.The AO was directed to make an enquiry in this matter and reassess the income after giving an opportunity of being heard to the assessee.

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. The ld.AR on the other hand reiterated the same contentions as made before the ld.PCIT. He placed reliance on various decisions including plethora of coordinate bench decisions wherein similar claim has been consistently allowed to the assessee.

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 observe 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 was 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.

7.2 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)** 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 decisions 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)

7.3 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 u/s 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 or more or turnover of Rs. 1000 crores or more or net profit of Rs 5 crores or more have to mandatorily comply with the CSR provisions specified u/s. 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. 80G 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 u/s 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 u/s. 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 Id. 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 if 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 ld. CIT(A). The decision relied upon by the ld. 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 ld. 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 **18/11/2025.**

Sd/-

NARENDER KUMAR CHOUDHRY
(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR
(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai
दिनांक /Date .11.2025
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.

