

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

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

**ITA No. 3794/MUM/2025
(A.Y. 2020-21)**

Ventura Securities Limited 8 th Floor, B Wing, I-Think Techno Campus Off Eastern Express Highway, Sandozbaugh S.O. Thane – 400 607, Maharashtra	v/s. बनाम	Principal Commissioner of Income Tax, PCIT-4, Room No. 629, 6 th Floor, Aayakar Bhavan, Maharishi Karve Road, Mumbai – 400020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAACV1361J		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Nitesh Joshi,AR
Respondent by :	Shri Vivek Perampurna, (CIT-DR)

Date of Hearing	28.10.2025
Date of Pronouncement	08.12.2025

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The present appeal preferred by the assessee Company emanates from the Revision order dated 26.03.2025 passed u/s 263 of the Income-tax Act, 1961 by the Principal Commissioner of Income-tax, PCIT, Mumbai-4 [hereinafter referred to as “PCIT”] pertaining to assessment order passed u/s. 143(3) r.w.s. 144B of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 26.09.2022 for the Assessment Year [A.Y.] 2020-21.



2. The grounds of appeal are as under:

1. *The learned PCIT erred in directing the revision of an assessment order under section 263 of the Act with a finding that the assessment order passed by the AO under section 143(3) r. w. s. 144B of the Act was erroneous and prejudicial to the interest of revenue.*
2. *The learned PCIT erred in directing the revision of an assessment order under section 263 merely basis the revenue audit objection, which is untenable in law.*
3. *The learned PCIT failed to appreciate the fact that the following issues which are considered for revision, were inquired into and verified during the course of the assessment proceedings and the AO had, after application of mind, did not make any additions / disallowances as the same were tenable in law:*
 - *Disallowance under section 14A*
 - *Disallowance of the deduction claimed under section 80G, since the same were debited as CSR expenditure in the books of account*
4. *The learned PCIT erred in directing revision of the assessment order as it leads to a change of opinion framed by the Assessing Officer and invocation of section 263 for taking a different view is not permissible in law.*
5. *The learned PCIT erred in directing verification of the deduction claimed under section 80G in respect of expenditure incurred towards CSR, without appreciating that*
 - *the claim of deduction fulfils all prescribed conditions, and*
 - *the issue was a debatable issue and did not warrant any revision*
6. *The learned PCIT erred in directing verification of the unsecured loan transaction with Kashmira Investment & Leasing Private Limited even though*
 - *the required documentary evidence supporting the genuineness of the transaction was duly submitted in the course of section 263 proceedings and remained undisputed,*
 - *the loan transaction with the same party was duly verified and accepted in the assessment proceedings for AYs 2016-17, 2017-18 and 2022-23.*



Appellant prays that the order of the learned PCIT under section 263 of the Act, setting aside the assessment under section 143(3) of the Act, be held to be invalid and be quashed.

3. Briefly stated facts of the case are that the assessee company declared income of Rs 20,37,14,820/-. The assessment order u/s 143(3) of the Act was passed determining income of Rs.32,50,35,665/-. The ld.PCIT, based on an audit memo found that the AO had incorrectly allowed claim under section 14A of the Act as also CSR expenses u/s 80G of the Act. Besides, it was also noted that certain unsecured loan from Kashmira Investment and Leasing P. Ltd which was considered as Unexplained income u/s 68 of the Act and was added to the income of the assessee in the preceding assessment years AY 2020-21 and 2021-22, on account of failure of the assessee to prove the loan. However, fresh loan received during the relevant year was not added to the income.

4. At the outset, it is noticed that in the ground no.2 it is stated by the assessee that the revision proceedings were based on an audit memo only and therefore, there being no application of mind by the ld.PCIT, he did not assume valid jurisdiction. We have gone through the detailed show cause notice issued by the ld.PCIT, exhaustive response made by the assessee and the conclusion drawn by the ld.PCIT. On perusal of the same, we do not subscribe to the plea of the assessee that there was no



independent application of mind by him. The audit memo could be a starting point but that alone is not the basis of initiation and follow up of the revisionary proceedings. The ground lacks any merit and is therefore dismissed.

5. In respect of the grounds of appeal, we notice that the ld.PCIT was of the view that the AO allowed above stated deductions etc. without any enquiry or verification, thus making the assessment order erroneous and prejudicial to the interest of the Revenue. Accordingly a show cause notice u/s 263 of the Act was issued calling for response of the assessee. In response, it contended that necessary enquiries and verifications had already been made by the AO during assessment proceedings and merely because it was not specifically mentioned therein would not make the assessment order erroneous and prejudicial.

5.1 In respect of deduction u/s 14A of the Act, it was stated that the assessee had made *suo motu* disallowance of Rs. 640/- w.r.t. investment in L&T Finance Holdings Ltd while other investment were strategic one in subsidiaries on which no disallowance could be made. However, it was admitted that the disallowance could be made in respect of investments made in Ventura Commodities Ltd and L&T Finance and Investment Ltd. from whom dividend was received. It was also stated



that the disallowance at the rate of 1% of annual average of monthly average of investment to the extent of Rs 1,00,015/- could be made. However, the Id.PCIT was of the view that in view of the judgment of hon'ble Apex Court in the case of **Maxopp Investment Ltd** CA 104-109 of 2015, strategic investments were also liable to disallowance u/s 14A of the Act which was worked out by him at Rs 8,01,000/-.Therefore, the assessment order was erroneous and prejudicial in this regard.

5.2 In respect of the Unsecured loan, it was stated that no addition could be made as relevant details were submitted before the AO. Moreover, in the subsequent AY 2022-23, no addition was made by the AO in this regard. Besides, the addition in AY 2021-22 was pending before the Id.CIT(A).The Id.PCIT observed that the AO did not make necessary enquiries and verification of the issue. Contention of the assessee that the loan was returned back within two days was considered immaterial. Therefore, the assessment order was erroneous and prejudicial in this regard as well

5.3 It was further stated that the deduction u/s 80G claimed in respect of CSR was allowed after taking into details submitted by the assessee during assessment proceedings. Besides, such a claim is being



consistently allowed by the various courts of law including coordinate benches of ITAT, Mumbai.

6. Before us, the ld.CIT(DR) has relied on the revision order claiming that the ld.PCIT had rightly cancelled the assessment order invoking Explanation 2 to section 263 of the Act. The assessee did not follow the provisions of section 14A/Rule 8D and also the ratio laid down by the hon'ble Supreme Court. Besides, 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. In respect of Unsecured loan, it was submitted that to maintain a consistency in departmental stand on the issue, revision provisions were invoked as the AO failed to make any addition though the impugned loan from the said concern was being consistently treated as unexplained cash credit u/s 68 of the Act in previous assessment years.

6.1 The ld.AR on the other hand reiterated the same contentions as made before the ld.PCIT. He drew our attention to the detailed submissions made by the assessee on all the above three issues before the ld.PCIT in response to the show cause notice issued by him. It was also demonstrated with the assistance of a paper book that the AO had



made necessary verification and enquiries before accepting the contentions of the assessee during assessment proceedings. Relevant details pertaining to deduction u/s 14A ,CSR were duly submitted and considered. He placed reliance on various decisions including plethora of coordinate bench decisions wherein similar claim has been consistently allowed to the assessee.

7. Having considered all the relevant facts of the case and the rival submissions, we proceed to adjudicate on the individual issues involved. As stated above the Id.PCIT has observed that in view of the landmark decision by the Apex Curt in Maxopp Investment Ltd., even strategic investments are required to be considered for working out the disallowance under section 14A r.w. Rule 8D.Even the assessee has accepted this observation in its reply to the show cause notice.Hon'ble the Hon'ble Supreme Court in Maxopp Investment Ltd. v. CIT [(2018) 402 ITR 640 (SC)], held that [section 14A](#) applies even to strategic investments if they yield exempt income. Evidently, it has been admitted that the *suo moto* disallowance of mere Rs 640/- was not based on correct facts and law. Therefore, on this count we do not find any infirmity in the revision order and ground in this regard fails.



8. In so far as the deduction of CSR u/s 80G is concerned, the Id.AR has pleaded that relevant details of deduction claimed u/s 80G were already submitted before the AO. 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.

8.1 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.

8.2 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 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)*

8.3 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”.

8.4 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 (iiihk) and (iiihl) 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 (iiihk) and (iiihl) 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.”

8.5 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 ld. CIT(A). The decision relied upon by the ld. D/R is on different reasoning as the Coordinate 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 in this regard.



10. In respect of Unsecured loan, it is quite evident from the above facts that the departmental action is quite inconsistent and wayward in various assessment years. It is not disputed that loans from the said concern in AYs 2016-17/2017-18 and 2022-23 have been accepted as genuine while the loan in the AY 2021-22 has been treated unexplained cash credit though the issue in the year is pending for adjudication before the Id.CIT(A). It was also clear that the stand of the assessee was not accepted by the AO and the matter had travelled to the Id.CIT(A) for consideration. We are of the considered opinion that in view of Clause (c) of Explanation 1 to [section 263](#), the PCIT was not empowered to exercise the jurisdiction on an issue which is the subject matter of appeal before the Id.CIT(A). Once an appeal on an issue has been filed before the Id. CIT(A), he is not restricted to deciding only those issues which are raised by the assessee in appeal but in fact he steps into the shoes of the AO and the entire field is open before him. After consideration of the powers of the Id.CIT(A) as enshrined in [section 251\(1\)\(a\)](#) of the Act which gives him the powers to enhance an assessment, it cannot be said that the scope of the CIT(A) powers is restricted to only the addition made by the AO. The decision of the Id. PCIT to take up revisionary proceedings under [section 263](#), thus in effect, had the impact of rendering assessee's appeal before the



CIT(A) infructuous and as such constituted an interference in the appellate jurisdiction of the Id.CIT(A), which could not be the intention of the Legislature. Therefore, we do not find any merit in the revision order in this regard. The ground in this regard, is therefore allowed.

12. In the result, the appeal of the assessee is **partly allowed**.

Order pronounced in the open court on **08/12/2025**.

Sd/-

NARENDER KUMAR CHOUDHRY
(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR
(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai
दिनांक /Date 08.12.2025
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,

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आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

