

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL
MEMBER

&

SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.5285/MUM/2025
(A.Y. 2020-21)

Jewelex India Private Limited 401 Trade Centre, Bandra Kurla Complex, Bandra (East), Mumbai – 400 098, Maharashtra	v/s. बनाम	Deputy Commissioner of Income Tax, Circle – 14(1)(1), Aayakar Bhavan, Maharishi Karve Marg, Mumbai – 400 020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AABCJ4523H		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Nitesh Joshi, AR
Respondent by :	Ms. Kavitha Kaushik, (Sr. DR)

Date of Hearing	12.12.2025
Date of Pronouncement	05.01.2026

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 18.08.2025 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 25.09.2022 for the Assessment Year [A.Y.] 2020-21.



2. The grounds of appeal are as under:

1. *The learned Commissioner of Income-tax (Appeals) erred in upholding the disallowance of Rs. 4,90,18,859/- on account of deduction claimed under section 80G of the Act in respect of donations aggregating to Rs. 10,87,43,245/- paid to eligible institutions/trusts classified as Corporate Social Responsibility expenditure in the books of account. The disallowance of deduction under section 80G of the Act is unwarranted and ought to be deleted.*
2. *The learned Commissioner of Income-tax (Appeals) erred in upholding the adjustment made by the Assessing Officer by reducing stamp duty value of Rs. 83,40,922/- instead of actual sale consideration of Rs. 75,16,017/- from block of assets.*
3. *It is submitted that the reduction in written down value of block of assets is contrary to the provisions of section 43(6)(c) of the Act. The adjustment made by the Assessing Officer is arbitrary and without considering the objections.*

3. The **ground no.1** pertains to the disallowance of Rs. 4,90,18,859/- on account of deduction claimed under section 80G of the Act in respect of donations aggregating to Rs. 10,87,43,245/- paid to eligible institutions/trusts classified as Corporate Social Responsibility(CSR) expenditure in the books of account. The AO made the disallowance holding that CSR expenses are expressly disallowable as per section 37(1) of the Act. Such expenses could not be allowed u/s 80G of the Act as the payments made are not voluntary in nature.

4. In the subsequent appeal before the Id.CIT(A), the assessee contended that although the expenditure was classified as CSR under



section 135 of the Companies Act, 2013, the same was in fact, donated to institutions having valid approval under section 80G. On this basis, it claimed that at least 50% of such donations should be allowed as deduction under section 80G, relying upon the fact that the donee institutions held 80G certificates. The Id.CIT(A) observed that the AO had clearly recorded that the donations fell into three categories: two of them, not being part of CSR expenditure, had already been allowed as deduction under section 80G. The dispute related only to the CSR outlay of the stated amount, of which deduction of Rs.4,90,18,859/- had been disallowed. According to him, Explanation 2 to section 37(1) of the Act, inserted by Finance (No. 2) Act, 2014, clarifies that CSR expenditure, being mandatory in nature, could not be treated as an expenditure incurred wholly and exclusively for the purpose of business. The character of CSR outgo was statutory and lacked the element of voluntariness, which is the essence of a “donation.” The judicial precedents quoted by the assessee were distinguishable. According to him, the CSR amount was paid to an institution eligible under section 80G or otherwise. However, permitting deduction under section 80G would defeat the legislative intent behind Explanation 2 to section 37 and that behind the section 135 of the Companies Act 2013 as well. The



claim of deduction under section 80G in respect of CSR expenditure of Rs 4,90,18,859/- was therefore rejected.

5. Before us, the ld.AR has claimed that the provisions of section CSR expenses being in the nature of donation could not be allowed as the provisions of Explanation 2 to section 37(1) of the Act do not apply. He placed reliance on plethora of judicial decisions of various coordinate benches of Tribunal and more specifically of the jurisdictional Bench of ITAT, Mumbai which has been consistently allowing such deductions. The ld.DR on the other hand placed reliance on the orders of the authorities below.

6. On careful consideration of all relevant facts of the case, judicial pronouncement in this regard and the provisions of the Act, we find that the ld.CIT(A) failed to take due consideration of the decisions relied upon by the assessee in this respect which are on identical claim of deduction allowed on CSR expenses u/s 80G of the Act. On merits of the case, issue whether the CSR expenditure is allowable u/s. 80G of the Act or not is no more *res integra* as the issue is covered in favour of the assesses 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 Income Tax Act and held as follows:

"11. We have heard the rival submissions and perused the materials available on record. The only morn question to be decided here is whether the expenditure towards CSR activities are an allowable deduction us 80G of the Act. The CSR expenses are governed by [section 135](#) of the Companies Act, 2013, [Schedule VII of the Act](#) and Companies (CSR) Policy Rules, 2014 where companies having net worth of Rs 500 crores of more or turnover of Rs. 1000 crores or more or net profit of Rs 5 crores of more have to mandatorily comply with the CSR provisions specified us. 135(1) of the [Companies Act, 2011](#). The above mentioned companies are liable to spend atleast 25% of its average net profit for the immediately preceding three financial years on CSR activities. In the present case, the assessee has contributed Rs 30 lacs to various educational and charitable trust for which the assessee has claimed 50% of the total donation paid as deduction u/s. 800 of the Act. Prior to the [Finance \(No.2\) Act, 2014](#), the said expenditure was claimed as 'business expenditure' u/s. 37(1) of the Act where after the insertion of Explanation 2 to [section 37\(1\)](#) of the Act, the CSR expenses referred to in [section 135](#) of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purpose of business or profession. It is observed that the said expenses pertaining to CSR has been claimed as deduction u/s. 80G of the Act which claim was perennially rejected by the Revenue for the reason that only donations which are voluntary in nature will come under the purview of [section 80G](#) of the Act and donation towards CSR was merely a statutory obligation on companies as per [section 135](#) of the Companies Act, 2013. It is pertinent to point out that the intention of the legislature was clear when the same was clarified by the [Finance \(No.2\) Act, 2014](#) that CSR expenses will not fall under the business expenditure and also there has been an express bar specified in sub clause (iihk) and (iihl) of [section 80G\(2\)\(a\)](#) of the Act that any sum paid by the assessee as donation to Swatch Bharat Kosh and Clean Ganga Fund will not come under the purview of deduction u/s 80G of the Act subject to certain conditions. This justifies the fact that the other donations specified us 80G of the Act would be entitled to deduction provided the conditions stipulated u/s. 80G of the Act are satisfied. In the present case in hand, the contributions made by the assessee would not fall under the two exceptions specified above which clearly mandates that the assessee is entitled to claim deduction for the donations contributed during the year under consideration u/s 80G of the Act. **The decision relied upon by the ld. A.O in the case of PVG Raju (supra) is distinguishable on the facts of the present case where there is no requirement of proving the voluntariness of the donation contributed by the assessee for claiming deduction u/s. 80G of the Act.** The amendment brought about by [Finance Act, 2015](#) to [section 80G](#) of the Act which had inserted the sub clauses (iihk) and (iihl) to be the exception for qualifying a donation for claiming us. 80G of the Act could also be an evidencing factor to substantiate that CSR expenditures which falls under the nature specified in [section 30 to 36](#) of the Act are an allowable deduction u/s 80G of the Act.

6.1 In the case of **Deputy Commissioner of Income-tax vs. Gabriel**

India Ltd. [2025] 173 taxmann.com 219 (Mumbai-Trib.)[13-03-2025], it was

held as under:

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 :-

(i) [JMS Mining \(P.\) Ltd. v. PCIT](#) [2021] 130 taxmann.com 118/190 ITD 702/91 ITR(T) 80 (Kolkata- Trib.) (ii) [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)(iv) [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 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.

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."

6.2 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 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 met 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. In view of the facts of the case and catena of decision of various coordinate benches of ITAT discussed in the preceding paras and respectfully following the same, we are of the considered view the orders of the lower authorities cannot be sustained. Accordingly, the impugned



appellate order is set aside and the AO is directed to allow the deduction claimed. the result, the ground filed by the assessee is hereby allowed.

8. In **ground no.2 and 3**,the assessee has claimed that the Id.CIT(A) erred in upholding the adjustment made by the Assessing Officer by reducing stamp duty value of Rs. 83,40,922/-instead of actual sale consideration of Rs. 75,16,017/- from the Bock of assets. It is submitted that the reduction in written down value of block of assets is contrary to the provisions of section 43(6)(c) of the Act. The adjustment made by the Assessing Officer is arbitrary and without considering the objections.

9. Facts of the case are that the assessee has challenged the action of the AO in reducing the Written Down Value (WDV) of the block of building assets by Rs. 8,24,905/-, being the difference between the sale consideration actually received on transfer of an office property and the value adopted by the stamp valuation authority. It was contended by the assessee that for the purposes of section 43(6)(c) of the Act, only the actual consideration received on sale of depreciable asset could be deducted from the block of assets, and that the AO had no jurisdiction to substitute the stamp duty value in place of the actual consideration. The AO in the assessment order, has relied upon the decision of the Hon'ble



Bombay High Court in CIT v. United Marine Academy (2011) 51 DTR 241 (Bom), among others, to hold that in view of section 50C of the Act, the “full value of consideration” is deemed to be the stamp duty valuation in the case of transfer of land or building, and such deemed consideration has to be adopted not only for the purpose of computing capital gains but also for the purpose of reducing WDV of the block under section 43(6) (c). He therefore reduced the block by the stamp duty valuation and not by the actual sale price.

10. In the subsequent appeal filed by the assessee, the Id.CIT(A) observed that the decision of the jurisdictional High Court in United Marine Academy squarely applied to the present case. The Hon'ble Court held that the deeming fiction of section 50C of the Act could not be restricted only to computation of capital gains but extended also to determination of WDV of the block of assets when the asset transferred is land or building. Once the statute mandated substitution of the stamp duty valuation as the “full value of consideration”, the same must be applied consistently for purposes of section 43(6)(c) of the Act as well. The reliance placed by the assessee on the judgments cited in the submissions was found misplaced and were distinguishable. In view of the binding precedent of the Hon'ble Bombay High Court, and the reasoning given by the Assessing Officer, he did not find any infirmity in



the action of reducing the WDV of the building block by the difference between the actual consideration and the value adopted by the stamp valuation authority. Accordingly, the disallowance was confirmed.

11. Before us, the ld.AR has vehemently agitated the orders passed by the lower authorities claiming that in its case, there was no question of any capital gains as neither the provisions of section 50 or 50C of the Act were applicable to the facts of the case. The Block of assets never ceased to operate. Therefore, the provisions of section 50(1) or 50(2) of the Act were also not applicable. Accordingly, the ratio of the cited decision of United Marines did not apply to the facts of the case. The WDV of the block could not be altered by substituting the sale consideration by stamp duty value as there is no basis for doing the same as the Act does not provide for the same. He also drew our attention to the provisions of section 43(6)(c) of the Act in this respect. He placed reliance on the cases of Bhaidas Cursondas and Company(2015) 59 Taxmann.com373(Mum-ITAT) and 3A Composites India Private Limited, Mumbai in ITA No.4096 /Mum/2024. The ld.DR on the other hand placed reliance on the orders of authorities below.



12. We have carefully considered all relevant facts of the case, perused the records. It is evident that in the instant case, there is no question of any capital gains arising as neither the provisions of section 50 or 50C of the Act are applicable to the facts of the case. The Block of assets never ceased to operate. Therefore, the provisions of section 50(1) or 50(2) of the Act were also not applicable. We further find that identical issue came up for consideration by the coordinate bench of ITAT, Mumbai recently in the case of **3A Composites India Private Limited, Mumbai** in **ITA No.4096/Mum/2024**. In this case, during the year under consideration, the assessee had sold a factory building. The said property appeared as part of a block of assets in books of account, and depreciation on block of building was claimed by the assessee for income tax purposes. The stamp duty valuation of the said building was adopted at a much higher value than the actual sale consideration. The assessee claimed depreciation on the remaining value of the written down value of the block of the building after reducing the actual sale consideration. The AO held that based on the provision of section 50C, the depreciation should be worked out on the remaining value of the block of the building after reducing the stamp duty value of the building. Accordingly, the AO disallowed the excess depreciation.



Relevant parts of the order are extracted below for the sake of clarity and brevity:

“5. Ground no.1 of the appeal of the assessee relates to disallowance of depreciation of Rs.71,99,901/- sustained by the ld. CIT(A). The facts in brief qua in dispute are that during the year under consideration, the assessee had sold a factory building for a sale consideration of Rs.2,45,00,000/-. The said property was appearing as part of block of assets in books of account and depreciation on said block of building was claimed by the assessee for income tax purposes. The stamp duty valuation of the said building was adopted at Rs.9,76,75,509/- as against the actual sale consideration of Rs.2,45,00,000/-. The assessee claimed depreciation on the remaining value of the written down value of the block of building after reducing the actual sale consideration of Rs.2,45,00,000/- and claimed depreciation of Rs.1,81,36,734/- ”

6. The ld. A.O. did not agree with the contention of the assessee and held that based on the provision of [section 50C](#) of the Act, the depreciation should be worked out on the remaining value of the block of the building after reducing the stamp duty value of the building of Rs.9,76,75,509/- and, accordingly, he worked out the deprecation at Rs.1,09,41,833/-....., the ld. A.O. disallowed excess depreciation of Rs.71,94,901/- (Rs.181,36,734 - Rs.109,41,833). Before the ld. CIT(A), the assessee relied on the decision of the co-ordinate bench of the Tribunal in the case of [DCIT vs. Futurz Next Services \(Private\) Limited](#) (in ITA No. 1383/Del/2017 & ITA No. 2396/Del/2017) and submitted that the legal fiction of substituting the sale consideration by the Stamp Duty value under [section 50C](#) of the Act is created only for the purpose of computing capital gain on the sale of capital assets and not for computing the written down value for claiming depreciation under the head 'profits and gains of the business'. However, the ld.CIT(A) did not accept the contention of the assessee. The ld. CIT(A) referred to the definition of the written down value provided in [section 43\(6\)](#) of the Act, wherein the definition of the 'moneys payable' is defined. According to the ld. CIT(A), the amount payable should be read as per the provision of [section 50C](#) of the Act, which is the amount deemed to be received on the sale of the immovable property in case the transfer value is less than the fair market value. The ld. CIT(A) also relied on the decision in the case of [ITO vs. United Marine Academy](#) [2011] 130 ITD 113 (Mum), wherein for computing the capital gain on transfer of depreciable asset, the sale consideration is directed to be substituted by the Stamp Duty Valuation of the said depreciable asset. The relevant finding of the ld. CIT(A) is reproduced as under:



6.5 In view of the above, the moot point of adjudication here is that the amount to be reduced on account of sale of building shall be actual amount received or notional amount as per [section 50C](#) while computing allowable depreciation. In this regard, the provision 1 of [section 50C](#) are re-produced hereunder:

[Section 50C\(1\)](#): Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, **the value so adopted or assessed or assessable shall, for the purposes of [section 48](#)**, be deemed to be the full value of the consideration received or accruing as a result of such transfer...

6.6 On perusal of the above provision, it is to be noted that the [section 50C](#) shall be invoked if the underlined asset is capital asset. **But in the underlined case, the building sold was pertaining to business assets and was part of block of assets.**

Further, provision of [section 43\(6\)](#), defines "Written Down Value" as under:

(a)...

(b)...

(c) in the case of any **block of assets**,-

(i) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year and adjusted,-

(A) by the increase by the actual cost of any asset falling within that block, acquired during the previous year;

(B) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and

6.7 The above provision clearly mandates that WDV shall be reduced by amount payable and as per provisions of [Section 50C](#) the amount deemed to be received on sale of immovable property (in case transfer value is less than fair market value) shall be the stamp duty valuation. Harmonious reading of both the provisions together, it is clear that [section 50C](#) is applicable while selling of depreciable asset as well.

6.8 Further, the Mumbai ITAT special bench has also delt with the same situation **in case of [ITO vs. United Marine Academy \(2011\) 130 ITD 113 \(Mum\)](#)**. The extracts of said judgment are re-produced hereunder:

In our opinion, the Assessing Officer thus was right in applying the provision of [section 50C](#) to the transfer of depreciable capital assets covered by [section](#)



50 and in computing the capital gain arising from the said transfer by adopting the stamp duty valuation. We, therefore, answer the question referred to this special bench in the affirmative i.e. in favour of the Revenue and against the assessee.

6.9 In view of the above and having regard to special bench judgment, I am of the considerate view that the stand adopted by Ld. AO is appropriate and the addition carried out is justified. Therefore, the disallowance made by the Ld. AO are being upheld.

8. Before us, the ld. Counsel for the assessee relied on the decision of the Hon'ble Supreme Court in the case of [Mancheri Puthusseri Ahmed vs. Kuthiravattam Estate Receiver](#) [1996] 6 Supreme Court Cases 185, wherein the Hon'ble Supreme Court held that legal fiction cannot be extended beyond the purpose for which it is created. Accordingly, he submitted that the legal fiction of [section 50C](#) of the Act cannot be extended while working out the written down value for claiming depreciation on the block of asset. The ld. Counsel for the assessee relied on the decision of the co-ordinate bench of the Tribunal in the case of [Futurz Next Services \(Private\) Limited](#) (supra).

9. On the contrary, the learned Departmental Representative ('ld. DR' for short) submitted that while **written down value of block of asset, the 'moneys payable' in respect of the property transferred has to be considered.** He referred to Explanation below to [section 41\(4\)](#) of the Act, wherein the term 'money payable' has been defined. He submitted that the definition of the 'money payable' is inclusive definition and, therefore, the word 'payable' should include the fair market value of the property determined by the Stamp Duty Valuation Authority. He further referred that the word 'money payable' included for the price which building is sold and the price has been determined by the Stamp Duty Valuation Authority and, therefore, the same should be substituted by the sale consideration while computing the written down value for the purpose of claiming depreciation.

10. We have heard the rival submissions of the parties and perused the relevant materials available on record, including the paper book filed by the assessee. **The sole issue in dispute in the ground raised by the assessee is in respect of the computation of the 'written down value' (WDV) as per the provision of [section 43\(6\)\(c\)\(i\)\(B\)](#) of the Act. According to the assessee for computing 'written down value' of the block of the assets, consisting building, the actual sale consideration in respect of an asset sold from the block of the asset should be reduced from opening WDV, whereas according to the Revenue, the notional sale consideration of the asset sold as prescribed [u/s. 50C](#) should be reduced from opening WDV.** In view of the above difference of opinion between the parties on the issue of interpretation of the terms 'written down value', we feel it appropriate to refer to the relevant provisions of the Act.



10.1 According to the [Section 32\(1\)\(ii\)](#) of the Act, depreciation on any block of asset is allowed at the rate of percentage prescribed under the Rule on the 'written down value' of block of asset. Before us, the dispute is not in respect of the 'rate of depreciation' but dispute is in respect of the term 'written down value'. In explanation 2 to [section 32\(1\)](#), it is mentioned that for the purpose of sub section, the 'written down value' of the block of the asset shall have the same meaning as in sub section (c) of clause 6 of [section 43](#) of the Act. The relevant section is reproduced as under:

43. Definitions of certain terms relevant to income from profits and gains of business or profession.

In [sections 28](#) to [41](#) and in this section, unless the context otherwise requires -

(1)

(2) ...

(6) "written down value" means-

(a) in the case of assets acquired in the previous year, the actual cost to the assessee;

(b) in the case of assets acquired before the previous year, the actual cost to the

assessee less all depreciation actually allowed to him under this Act, or under the [Indian Income-tax Act, 1922](#) (11 of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Income-tax Act, 1886 (2 of 1886), was in force:

[Provided that in determining the written down value in respect of buildings, machinery or plant for the purposes of clause (ii) of sub-section (1) of [section 32](#), "depreciation actually allowed" shall not include depreciation allowed under sub-clauses (a), (b) and (c) of clause (vi) of sub-section (2) of [section 10](#) of the Indian Income-tax Act, 1922 (11 of 1922), where such depreciation was not deductible in determining the written down value for the purposes of the said clause (vi);] [Inserted by Act 15 of 1965, [Section 6](#) (w.r.e.f.1.4.1962).]

(c) [in the case of any block of assets,- [Inserted by Act 46 of 1986, [Section 8](#) (w.e.f. 1.4.1988).]

(i) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all



the assets falling within that block of assets at the beginning of the previous year and adjusted,-

(A) by the increase by the actual cost of any asset falling within that block, acquired during the previous year;

(B) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and] (C) [in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced- [Inserted by Act 27 of 1999, [Section 26](#) (w.e.f. 1.4.2000).]

(a) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the [Indian Income-tax Act, 1922](#) (11 of 1922) in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets, so, however, that the amount of such decrease does not exceed the written down value;]

(ii)[in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1989, the written down value of that block of assets in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by the increase or the reduction referred to in item (i).] [Inserted by Act 46 of 1986, [Section 8](#) (w.e.f. 1.4.1988).] Explanation 1. -

[Explanation 2-A.-.....

Explanation 2-B.-.....

Explanation 3. -.....

[Explanation 4. -For the purposes of this clause, the expressions "moneys payable" and "sold" shall have the same meanings as in the Explanation below sub-section (4) of section

41.] [Inserted by Act 46 of 1986, [Section 8](#) (w.e.f. 1.4.1988).] [Explanation 5. -

[Explanation 6. -



[Explanation 7. -

11. The Explanation 4 above has prescribed that the expression "moneys payable" and "sold" shall have the same meanings as in the Explanation below sub-section (4) of [section 41](#). Therefore, it is relevant to reproduce the said explanation below sub-section (4) of [section 41](#), for ready reference, as under:

41. Profits chargeable to tax.

- (1)
- (2)
- (3)
- (4) Where a deduction has been allowed in respect of a bad debt or part of debt under the

provisions of clause (vii) of sub-section (1) of [section 36](#), then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly, chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not.

[Explanation. - For the purposes of sub-section (3),-

(1) "moneys payable" in respect of any building, machinery, plant or furniture includes-

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold, so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of [section 43](#), taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company.]



12. On perusal of the above provisions, it is clear that for the purpose of computing 'written down value', the value of the 'moneys payable' in respect of the property sold has to be reduced from opening written down value of block of asset. **The inclusive definition provided for insurance, compensation, etc. received in respect of the said property and the price for which the property is sold. The Id. DR is of the view that the above definition of the money's payable is inclusive and, therefore, the fair market value determined by the Stamp Duty Valuation Authority for the purpose of [section 50C](#) of the Act would become the price for which the property is sold.** The Id. DR relied on the decision of the co-ordinate bench of the Tribunal in the case of [United Marine Academy](#) (supra), but in the said case, the issue was in respect of the determination of the capital gain arising from the transfer of the depreciable assets, but in the instant case before us, the issue in dispute is limited to the computation of the depreciation under the head 'profits and gains of the business'. **In the instant case, the sale consideration of the building sold is not more than the opening written down value (WDV) of the block including new building acquired, therefore, the [section 50](#) of the Act does not result to any short term capital, hence, said is not applicable over present facts of the case until all the buildings under the block are sold and [in that case section 50](#) would get attracted and applying the ration in the case of [United Marine Academy](#) (supra), the Assessing officer could have substituted the sale consideration received by stamp duty valuation of the property.**

Therefore, in our opinion, the **said deeming fiction of section 50C cannot be extended while working out the written down value for the purpose of claiming depreciation on the block of the asset.** The Hon'ble Supreme Court in the case of [Mancheri Puthusseri Ahmed vs. Kuthiravattam Estate Receiver](#) (supra) has held that while interpreting the provision involving a legal fiction, the court is to ascertain as for what purpose the fiction is created, and after ascertaining this, the court is to assume all those facts and consequences which are incidental or inevitable corollaries for giving effect to the fiction. We find that legislature has created the legal fiction [u/s. 50C](#) of the Act for the purpose of computing the capital gain on sale of capital assets. **Similarly, while computing the profits and gains of the business, the legislature has introduced a legal fiction under [section 43CA](#) of the Act for substantiating the sale consideration by the Stamp Duty Value while transfer of an assets other than the capital asset, i.e., stock- in-trade, but no specific fiction has been created while computing depreciation on the block of the assets for substantiating the sale consideration by the Stamp Duty Valuation Authority.** The present definition of the 'moneys payable' therefore, cannot be construed as including as the Stamp Duty Valuation of the property and, therefore, the legal fiction for substantiating the sale consideration by the Stamp Duty Value created under either [section 50](#) or [section 43CA](#) of the Act cannot be extended to [section 32](#) of the Act claiming depreciation on the block of the asset.



In the instant case, the AO could have examined the applicability of [section 41\(2\)](#) for taxing the quantum of depreciation claimed on building in earlier years, which we don't know whether he had examined or not. For ready reference, the said section is reproduced as under:

41. Profits chargeable to tax.

(2) Where any building, machinery, plant or furniture,-

(a) which is owned by the assessee;

(b) in respect of which depreciation is claimed under clause (i) of sub-section (1) of [section 32](#); and

(c) which was or has been used for the purposes of business, is sold, discarded, demolished or destroyed and the moneys payable in respect of such building machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due. Explanation. - Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.]

12.1 In view of above discussion, the fiction of section 50C can't be extended to the facts of the case, accordingly, we set aside the finding of the Id. CIT(A) on the issue in dispute and we delete the disallowance made by the lower authorities. Ground no. 1 raised by the assessee in appeal is accordingly allowed.”

12.1 In the present case also, the sale consideration of the building sold is not more than the opening written down value (WDV) of the block, including the new building acquired. Therefore, there is no short-term capital in terms of section 50 of the Act and, hence, it does not apply to the present facts of the case until all the buildings under the block are sold. Therefore, the deeming fiction of section 50C of the Act cannot be extended while working out the written-down value to claim



depreciation on the block of the asset. The legislature has created the legal fiction u/s 50C of the Act to compute the capital gain on selling capital assets. However, no specific fiction has been created while computing depreciation on the block of the assets for substantiating the sale consideration by the Stamp Duty Valuation Authority. Thus, the present definition of the 'moneys payable' cannot be construed as including as the Stamp Duty Valuation of the property and, therefore, the legal fiction for substantiating the sale consideration by the Stamp Duty Value created under either section 50 or section 43CA cannot be extended to section 32 for claiming depreciation on the block of the asset. Accordingly, we hold that the orders passed by the authorities below cannot be sustained. The impugned appellate order is, therefore, set aside and the AO is directed not to make any adjustment to the block of assets.

13. In the result, the appeal of the assessee is **allowed**.

Order pronounced in the open court on **05/01/2026**.

Sd/-

NARENDER KUMAR CHOUDHRY
(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR
(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai



दिनांक /Date 05.01.2026
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.

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आदेशानुसार/ BY ORDER,

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आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

