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

BEFORE SHRI VIKRAM SINGH YADAV, AM
AND
MS. KAVITHA RAJAGOPAL, JM

ITA No. 3095/Mum/2025
(Assessment Year: 2020-21)

NTT Global Networks Private Limited 11th Floor, B4/B5, Nirlon Knowledge Park, Off Western Express Highway, Goregaon (East), Mumbai – 400063.	Vs.	**PCIT, Mumbai – 5**
PAN/GIR No. AABCV8201E		
(Appellant)	:	**(Respondent)**

Assessee by	:	Shri Bhadresh Doshi
Respondent by	:	Shri Leyaqat Ali Aafaqui, SR AR

Date of Hearing	:	18.06.2025
Date of Pronouncement	:	23.06.2025

O R D E R

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Principal Commissioner of Income Tax, Mumbai - 5 ('ld. PCIT' for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.263 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2020-21.

2. The assessee has raised the following grounds of appeal:

"1. The order passed by the learned Principal Commissioner of Income Tax, Mumbai -5 (hereinafter referred to as 'the learned PCIT") is bad in law and on facts.

2. Re: Order passed u/s. 263 by PCIT is bad in law and needs to be quashed as void ab initio:

2.1 The Learned PCIT grossly erred in upholding that the order of the Assessing Officer passed u/s. 143(3) r.w.s. 144B was erroneous and prejudicial to the interests of the

Revenue, without appreciating that the twin condition essential for exercising revisional jurisdiction u/s. 263 were not present.

2.2 The Learned PCIT erred in holding that the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of the revenue, without appreciating the fact that mere adopting of one view out of two possible views based on the specific inquiries conducted by the Assessing Officer in respect of the issue under consideration cannot render the order so passed to be erroneous, though the same might be prejudicial to the interests of the revenue.

2.3 The Learned PCIT grossly erred in passing an order u/s 263 despite the fact that the entire facts and circumstances of the case had been explained to & specifically examined by the Assessing Officer during the course of assessment proceedings and the same were, after due application of mind, accepted by the Assessing Officer.

3. Re: Deduction claimed u/s. 80G amounting to Rs. 51,00,000/- disallowed as it pertains to CSR expenditure

3.1 The Learned PCIT grossly erred in disallowing the deduction claimed u/s. 80G on the ground that the donations were classified as Corporate Social Responsibility (CSR) expenditure in its books of accounts.

3.2 The Learned PCIT failed to appreciate that the donations made by the Appellant qualifies for deduction u/s. 80G, as they were made to a registered and eligible charitable institution and fulfills all the conditions prescribed under the said section.

3.3 `The Learned PCIT grossly erred in relying on the proviso to Section 37(1) for denying the deduction, without appreciating the fact that the same was validly claimed under Section 80G(2) of the Act in respect of donations paid to Prime Ministers Care Fund/Prime Ministers National Relief Fund, being eligible institution approved under Section 80G(5) of the Act.

3.4 The Learned PCIT grossly erred in holding that only voluntary donation are eligible for deduction u/s 80G without appreciating that there is no such condition prescribed under the Act.

4. Re: Deduction claimed u/s. 80G amounting to Rs. 41,25,000/- disallowed as it pertains to CSR expenditure and allegedly pertain to AY 2021-22 as paid on 11th April, 2020.

4.1 The learned PCIT grossly erred in disallowing the deduction on the ground that the donation amounting contributed on 11th April, 2020 allegedly pertains to AY 2021-22, without appreciating that on account of outbreak of Novel Corona Virus (COVID-19) the time limit for making. donations u/s. 80G for AY 2020-21 was extended till 30th June, 2020 as per the Taxation and other laws (Relaxation and Amendment of Certain Provision) Act, 2020 (TOLA, 2020).

4.2 The learned PCIT grossly erred in disallowing the deduction claimed u/s. 80G on the ground that the donation was classified as Corporate Social Responsibility (CSR) expenditure in its books of accounts.

4.3 The Learned PCIT failed to appreciate that the donation made by the Appellant qualifies for deduction u/s. 80G, as they were made to a registered and eligible charitable institution and fulfill all the conditions prescribed under the said section.

4.4 The Learned PCIT grossly erred in relying on the proviso to Section 37(1) for denying the deduction, without appreciating the fact that the same was validly claimed under Section 80G(2) of the Act in respect of donations paid to Prime Ministers Care Fund being a eligible institution approved under Section 80G(5) of the Act.

4.5 The Learned PCIT grossly erred in holding that only voluntary donation are eligible for deduction u/s 80G without appreciating that there is no such condition prescribed under the Act."

3. Briefly stated, the assessee company is engaged in providing remote IT infrastructure management services to its parent company. The assessee had filed its return of income dated 16.12.2020, declaring total income at Rs. 25,44,40,690/-. The assessee's case was selected for complete scrutiny under CASS and notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The reasons for scrutiny selection is for the following issues:

    i. Claim of any other amount allowable as deduction in Schedule BP.

    ii. Loss from currency fluctuations.

    iii. Deduction from total income under Chapter VI-A.

4. The learned Assessing Officer ('ld. A.O.' for short) after duly considering the submission of the assessee, completed the assessment vide order dated 01.09.2022, u/s. 143(3) r.w.s. 144B of the Act, where the ld. AO made no variation to the returned income of the assessee. The ld. PCIT invoked the revisionary jurisdiction u/s. 263 of the Act, for the reason that the assessee has debited Rs. 51,00,000/- towards the

expenses on Corporate Social Responsibility (CSR) activities for F.Y. 2019-20 which was included in the computation of income and has also added back Rs. 15,000/- on account of donation made during the same year and had further debited an amount of Rs. 41,25,000/- on 11.04.2020 for F.Y. 2020-21 towards CSR activities, thereby claiming total deduction at Rs. 92,32,500/- u/s. 80G of the Act, during the year under consideration which according to the ld. PCIT was not an allowable expenditure u/s. 37(1) of the Act and deduction claimed u/s. 80G is hence, not allowable, thereby making the assessment order as erroneous in so far as it is prejudicial to the interest of the revenue and issued a show cause notice dated 10.03.2025. The ld. PCIT vide order dated 20.03.2025, passed u/s. 263 of the Act, directed the ld. AO to modify the assessment by passing a speaking order and also to initiate penalty proceeding as per the Act.

5. Aggrieved the assessee is in appeal before us, challenging the impugned order of the ld. PCIT.

6. The learned Authorised Representative ('ld. AR' for short) for the assessee brought our attention to the notice dated 29.06.2021 issued u/s. 143(2) of the Act, where the issue relating to the revisionary proceeding was raised during the assessment proceeding pertaining to deduction claimed under Chapter VI-A of the Act. The ld. AR further referred to the notice u/s. 142(1) of the Act, dated 04.03.2022, where in the annexure to notice u/s. 142(1) of the Act, the ld. AO has requested the assessee to furnish the details relating to the claim of deduction under Chapter VI-A amounting to Rs. 92,32,500/- towards the CSR expenditure. The ld. AR contended that the assessee has

meticulously replied to the ld. AO's query as to the claim under Chapter VI-A amounting to Rs. 92,32,500/-, where Rs. 51,00,000/- was claimed as CSR expenses in the P & L account and why the same would not amount to a claim of double benefit by debiting Rs. 51,00,000/- to its P & L account and also claiming under Chapter VI-A of the Act. The ld. AR further stated that the assessee has given a detailed submission that the claim was made in accordance to the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, ('TOLA' in short), and had submitted all the relevant documentary evidences which on perusal and verification, the ld. AO found to be in accordance with law. The ld. AR contended that the ld. AO only after conducting adequate inquiry has allowed the claim of donation under Chapter VI-A, thereby contending that the assessment order is neither erroneous nor prejudicial to the interest of the revenue as alleged by the ld. PCIT. The ld. AR relied on a catena of decisions in support of his claim.

a. Mahansaria Enterprises Pvt. Ltd. vs. PCIT (ITA No. 2158/Mum/2025)
b. Societe Generate Securities India Ltd. vs. PCIT (ITA No. 1921/Mum/2023)
c. Worley Services India Pvt. Ltd. vs. PCIT (ITA No. 554/Mum/2024)
d. Naik Seafoods Pvt. Ltd. vs. PCIT (ITA No. 490/Mum/2021)
e. Blue Dart Express Ltd. vs. PCIT (ITA No. 1101/Mum/2024)

7. The learned Departmental Representative ('ld. DR' for short) for the revenue on the other hand controverted the said fact and contended that the assessee has debited a sum of Rs. 51,00,000/- towards CSR activities during A.Y. 2020-21 and Rs. 41,25,000/- during A.Y. 2021-22 which were added back u/s. 37(1) of the Act, while computing

taxable income relevant to A.Y. 2020-21 and 2021-22 respectively. The ld. DR further stated that the assessee has made donation in March, 2020 amounting to Rs. 51,00,000/- and on 11.04.2020, Rs. 41,25,000/- and had claimed a deduction u/s. 80G of the Act on the entire deduction for A.Y. 2020-21 even on the amount paid during the A.Y. 2021-22. The ld. DR stated that TOLA is applicable only for making investment/payment under Chapter VI-A of the Act, which was extended till 30.06.2020 due to covid pandemic. The ld. DR vehemently argued that only income pertaining to the relevant assessment year is liable for deduction and not the income which was for the subsequent years as in assessee's case. The ld. DR also stated that Section 37(1) of the Act disallowed CSR expenses which is not wholly and exclusively for the purpose of business and contended that the CSR expenditure is not an allowable expenditure u/s. 80G of the Act. The ld. DR prayed to uphold the assessment order to be erroneous and prejudicial to the interest of the revenue on the above arguments. The ld. DR relied on the decision of the coordinate bench in the case of ***Agilent Technologies (International) (P.) Ltd. vs. ACIT/NFAC, Delhi [2024] 160 taxmann.com 238 (Delhi – Trib.)***, on identical facts, where it was held that CSR expenses are not allowed as business expenditure u/s. 37(1) of the Act.

8. We have heard the rival submissions and perused the materials available on record. The moot issue that requires adjudication is whether the assessment order is erroneous and prejudicial to the interest of the revenue, to the extent that the ld. AO has failed to inquire into the issue of the claim of deduction under Chapter VI-A. It is observed that in the assessment order, the issue of deduction under Chapter VI-A was raised

pertaining to deduction amounting to Rs. 92,32,500/- claimed by the assessee on account of donation made to Prime Minister Fund and other charitable organization and the same is reproduced herein under:

Date	*Name of the Fund*	*Donation Amount*	*Deduction under Chapter VI A*
06.03.2020	*Prime Ministers National Relief Fund*	*15,00,000*	*15,00,000*
06.03.2020	*Prime Ministers National Relief Fund*	*15,00,000*	*15,00,000*
06.03.2020	*Prime Ministers National Relief Fund*	*6,00,000*	*6,00,000*
30.03.2020	*Prime Ministers Citizen Assistance & Relief in Emergency situation Fund (PM Care Fund)*	*15,00,000*	*15,00,000*
11.04.2020	*Prime Ministers Citizen Assistance & Relief in Emergency situation Fund (PM Care Fund)*	*41,25,000*	*41,25,000*

9. From the above tabular column, it is evident that the assessee has donated Rs. 51,00,000/- during F.Y. 2019-20 and Rs. 41,25,000/- was debited towards CSR activities on 11.04.2020 where the assessee had claimed deduction u/s. 80G of the Act for the entire donations in A.Y. 2020-21. The ld. AR's argument was that as Section 3 of TOLA was applicable in assessee's case which had extended the time limit till 30.06.2020, the donations paid on 11.04.2020 i.e., during the extended period was liable for claiming deduction in F.Y. 2019-20 relevant to A.Y. 2020-21. The ld. AO has extensively inquired into this issue and had allowed the entire claim of deduction for the year under consideration. Further, the ld. AR has relied on the circular dated 31.03.2021 were on the issue of the date for making various investment/payment for claiming deduction under Chapter VI A-B of the Act including 80C, 80D, 80G

donations, etc., the time period has been extended upto 30.06.2020 and the investment and payment can be made upto 30.06.2020 for claiming the deduction under these sections for F.Y. 2019-20. Further, the said circular also states that the donations made to PM CARES Funds shall be eligible for 100% deduction u/s. 80G of the Act. The relevant extract of the said circular is cited herein under:

Direct Taxes & Benami:

1. Extension of last date of filing of original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) to 30th June, 2020.

ii. Extension of Aadhaar-PAN linking date to 30th June, 2020,

iii. The date for making various investment/payment for claiming deduction under Chapter-VIA-B of IT Act which includes Section 80C (LIC, PPF, NSC etc.), 80D (Mediclaim), 80G (Donations), etc. has been extended to 30th June, 2020. Hence the investment/payment can be made up to 30.06.2020 for claiming the deduction under these sections for FY 2019-20.

iv. The date for making investment/construction/purchase for claiming roll over benefit/deduction in respect of capital gains under sections 54 to 54GB of the IT Act has also been extended to 30th June 2020. Therefore, the investment/construction/ purchase made up to 30.06.2020 shall be eligible for claiming deduction from capital gains arising during FY 2019-20.

v. The date for commencement of operation for the SEZ units for claiming deduction under deduction 10AA of the IT Act has also extended to 30.06.2020 for the units which received necessary approval by 31.03.2020.

vi. The date for passing of order or issuance of notice by the authorities under various direct taxes& Benami Law has also been extended to 30.06.2020.
va. It has provided that reduced rate of interest of 9% shall be charged for non-payment of Income-tax (e.g. advance tax, TDS, TCS) Equalization Levy, Securities Transaction Tax (STT). Commodities Transaction Tax (CTT) which are due for payment from 20.03.2020 to 29.06.2020 if they are paid by 30.06 2020. Further, no penalty/prosecution shall be initiated for these non-payments.

vii. Under Vivad se Vishwas Scheme, the date has also been extended up to 30.06.2020. Hence, declaration and payment under the Scheme can be made up to 30.06.2020 without additional payment

Indirect Taxes:

i. Last date of furnishing of the Central Excise returns due in March, April and May 2020 has been extended to 30th June, 2020.

ii. Wherever the last date for filing of appeal, refund applications etc., under the Central Excise Act, 1944 and rules made thereunder is from 20th March 2020 to 29th June 2020, the same has been extended to30th June 2020

iii. Wherever the last date for filing of appeal, refund applications etc., under the Customs Act, 1962 and rules made thereunder is from 20th March 2020 to 29th June 2020, the same has been extended to30th June 2020.

iv. Wherever the last date for filing of appeal etc., relating to Service Tax is from 20th March 2020 to 29th June 2020, the same has been extended to30th June 2020

v. The date for making payment to avail of the benefit under Sabka Vishwas Legal Dispute Resolution Scheme 2019 has been extended to 30th June 2020 thus giving more time to taxpayers to get their disputes resolved.

In addition to the extension of time limits under the Taxation and Benami Acts as above, an enabling section has got inserted in the CGST Act, 2017 empowering the Government to extend due dates for various compliances inter-alia including statement of outward supplies, filing refund claims, filing appeals, etc. specified, prescribed or notified under the Act, on recommendations of the GST Council.

PMCARES FUND

4. A special fund "Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)" has been set up for providing relief to the persons affected from the outbreak of Corona virus. The Ordinance also amended the provisions of the Income-tax Act to provide the same tax treatment to PM CARES Fund as available to Prime Minister National Relief Fund Therefore, the donation made to the PM CARES Fund shall be eligible for 100% deduction under section 80G of the IT Act. Further, the limit on deduction of 10% of gross income shall also not be applicable for donation made to PM CARES Fund.

As the date for claiming deduction u/s 80G under IT Act has been extended up to 30.06.2020, the donation made up to 30.06.2020 shall also be eligible for deduction from income of FY 2019-20 Hence, any person including corporate paying concessional tax on income of FY 2020-21 under new regime can make donation to PM CARES Fund up to 30.06.2020 and can claim deduction u's 80G against income of FY 2019-20 and shall also not lose his eligibility to pay tax in concessional taxation regime for income of FY 2020-21."

10. On perusal of the said circular, it is clear that the intention of the legislature was to extend the investment or payment to be made upto 30.06.2020 and has specifically mentioned that the said deduction is for F.Y. 2019-20 relevant to A.Y. 2020-21.

11. From the above, we infer that the ld. AO has inquired into this issue by verifying the relevant documentary evidences furnished by the assessee on this issue and has taken one of the plausible view that the assessee was entitled to claim deduction for the entire donation made up till 30.06.2020 for F.Y. 2019-20 relevant to A.Y. 2020-21. For invoking the revisionary power u/s. 263 of the Act, the ld. PCIT will have to satisfy the twin condition viz. (1) the assessment order should be erroneous. (2) and prejudicial to the interest of the revenue and unless both the conditions are satisfied, the jurisdiction assumed by the ld. PCIT u/s. 263 of the Act becomes bad in law. On this observation, we find that the first issue raised by the ld. PCIT in the revisionary order is not justifiable in our view.

12. Considering the second aspect of the ld. PCIT's order which is on CSR expenditure which according to the ld. PCIT was mandatory in nature as per the provisions of Section 135 of the Companies Act and does not tantamount to an expenditure incurred wholly and exclusively for the purpose of business as per Explanation 2 to Section 37(1) of the Act and the same would not amount to the voluntary donation u/s. 80G of the Act. Admittedly, the ld. PCIT in his order has categorically stated that the said issue is covered in favour of the assessee by the decisions of the jurisdictional coordinate benches and the same is pending adjudication before the Hon'ble Jurisdictional Bombay High Court. Though, the ld. DR has relied on the decisions of the ITAT Delhi Bench decision in the case of the ***Agilent Technologies (International) (P.) Ltd. (Supra)***, there are catena of decisions of the jurisdictional coordinate benches which has decided this issue in favour of the assessee which the ld. AO is bound to follow as precedent. Hence,

we observe that the ld. AO has taken one of the views that CSR expenditure is eligible deduction u/s. 80G of the Act. On this note, we find that the ld. PCIT's order does not hold merit on this count also as the twin conditions specified u/s. 263 of the Act is not satisfied in the present case in hand.

13. From the above observation, we deem it fit to hold that the assessment order is neither erroneous nor prejudicial to the interest of the revenue and the revisionary jurisdiction invoked by the ld. PCIT u/s. 263 does not hold merit and therefore not sustainable and liable to be quashed. Therefore, the grounds of appeal filed by the assessee are allowed.

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

Order pronounced in the open court on 23.06.2025

Sd/-	**Sd/-**
(VIKRAM SINGH YADAV)	**(KAVITHA RAJAGOPAL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Mumbai; Dated: 23.06.2025
Karishma J. Pawar (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai