

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH MUMBAI**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 1303/MUM/2026  
Assessment Year: 2016-17**

Landmark Worldwide Breakthrough Technologies Pvt. Ltd. Unit 2, 1 <sup>st</sup> Floor, Neptune Uptown, N.S. Road Opp. Post Office Mulund West Mumbai – 400080  (PAN: AABCL3749N)	Vs.	Deputy Commissioner of Income Tax Circle 14(1)(1) Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri Akshay J. Shah, CA  
Revenue : Shri Surendra Mohan, Sr. DR

Date of Hearing : 27.04.2026  
Date of Pronouncement : 30.04.2026

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of National Faceless Appeal Centre (NFAC), Delhi, vide order no. ITBA/NFAC/S/250/2025-26/1083971307(1), dated 22.12.2025, passed against the assessment order by Assessment Unit, u/s. 147 r.w.s. 144B of the Income-tax Act (hereinafter referred to as the “Act”), dated 31.05.2023, for Assessment Year 2016-17.

2. The sole issue raised by the assessee in this appeal by taking as many as eight grounds of appeal relates to disallowance of deduction claimed u/s 80G in respect of donation made to the Prime Minister's National Relief Fund (PMNRF), made out of the Corporate Social Responsibility (CSR) fund/expenses. Contents of the grounds are more in the nature of peripheral arguments on the sole issue contested by the assessee in this appeal.

3. Brief facts of the case are that assessee filed its return of income on 29.09.2016, reporting total income at Rs. 6,83,43,310/-. Ld. AO observed that assessee had made Corporate Social Responsibility (CSR) expenses, which accordingly to him are not allowable as business expenses. Assessee had *suo moto* disallowed the same by adding it back while computing its total income reported in return of income filed. However, the same expenditure which was disallowed/added back while computing the total income, it was claimed as deduction under section 80G of the Act falling within Chapter-VIA towards donation made by it to the Prime Minister's Relief Fund approved under section 80G of the Act, eligible for 100% deduction. Assessee thus, claimed deduction of Rs. 22,94,274/- under section 80G for the donation made by it. Ld. AO disallowed the claim so made by the assessee, which was confirmed by CIT(A) in the first appeal. It is important to take note that facts relating to incurring of CSR expenditure and claiming of deduction to the Prime Minister Relief Fund under section 80G of the Act are not in dispute.

3.1. During the faceless assessment proceedings, ld. AO issued notice u/s 142(1) dated 13.04.2023, proposing to disallow the deduction claimed under section 80G on the ground that the said deduction pertained to expenditure incurred towards CSR. amounting to Rs.22,94,274/-. In response, assessee filed a detailed written submission dated 17.04.2023, explaining that CSR expenditure had already been

disallowed/added back under Explanation (2) to section 37(1), and that there is no statutory embargo under the Act prohibiting the claim of deduction under section 80G in respect of donations made as part of CSR, except in cases specifically barred under section 80G(2)(iiihk) and section 80G(2)(iiihl) relating to contributions made to Swachh Bharat Kosh and Clean Ganga Fund. It was further submitted that section 37(1) governs the allowability of expenditure while computing business income whereas section 80G operates in a separate and independent field, granting deduction from gross total income and therefore, both provisions function in distinct spheres without any overlap or conflict. However, ld. AO proceeded to disallow the assessee's claim of deduction under section 80G amounting to Rs. 22,94,274/-. Aggrieved, assessee is in appeal before the Tribunal.

4. Factual position remains uncontroverted as narrated above. The issue in context in the present appeal is no longer *res integra* and is settled by long line of decisions of Coordinate Benches of ITAT. We refer to the decision of Coordinate Bench of ITAT, Mumbai in the case of DCIT vs. Gabriel India Ltd. [2025] 173 taxmann.com 219 (Mum) wherein this issue has been elaborately dealt with. The Coordinate Bench while giving relief to the assessee followed various other decisions of difference benches of the Tribunal. Relevant parts of the decision are extracted below for ready reference:

*"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 observations 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 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."*

4.1. Some of the other judicial precedents are listed below:

a) *L & T Finance Ltd. v. DCIT [2024] 167 taxmann.com 503 (Kolkata - Trib.)*

b) *Advik Hi Tech (P.) Ltd. v. DCIT [2024] 168 taxmann.com 587 (Pune - Trib.)*

- c) Optum Global Solutions (India) (P.) Ltd. v. DCIT [2023] 154 taxmann.com 651 (Hyderabad - Trib.)
- d) Power Mech Projects Ltd. vs. DCIT [2023] 156 taxmann.com 575 (Hyderabad - Trib.)
- e) Alubound Dacs India (P.) Ltd. v. DCIT [2024] 163 taxmann.com 536 (Mumbai - Trib.)
- f) FDC Ltd. v. PCIT [2023] 157 taxmann.com 387 (Mumbai - Trib.)

4.2. We also refer to the decision of co-ordinate bench of ITAT Mumbai in the case of ACIT vs. Blue Dart Express Ltd. in ITA No. 1101/Mum/2024), where the Tribunal observed as under:

*“9. We have heard both the parties and also perused the relevant material referred to before us. First of all from the perusal of the re-assessment order which is the subject matter of revision u/s.263 by the ld. PCIT, we find that this was one of the ground for reopening and ld. AO has raised specific query as noted above on exactly same issue. The assessee has given its detailed reply and after examining those replies, the ld. AO has allowed the deduction u/s.80G holding that assessee has already disallowed CSR expenses u/s.37(1), and there is no bar for claiming deduction u/s.80G unless the same is not in accordance with the provision of the Section 80G and there is no issue of mutual exclusiveness of the claim found in this regard. Ld. PCIT has not brought on record any law or judicial precedence that such an observation and finding of the ld. AO is incorrect in law. Once the ld. AO has taken a possible view and there is no contrary law, then to take a different view in a revisionary jurisdiction u/s.263, cannot be held that the order of the ld. AO is erroneous and prejudicial to the interest of the Revenue. There is no case of invoking Explanation 2 to Section 263 which ld. PCIT has done, because ld. AO has made his enquiry and verification on the same issue. Ld. PCIT cannot cancel the assessment order to re-examine the same issue without finding any defect in such order that how the claim made u/s.80G is unsustainable in law.*

*10. On merits also, we find that view of ld. AO is correct in law. Claiming a deduction from computation of business income as provided from sections 28 to 44DB is different from claiming a deduction under chapter VIA of the Act which is allowed from Total Income. As per Explanation 2 to Section 37, CSR expenditure is not allowable as deduction while computing the business income under the provision of Section 28-44DB, whereas deduction u/s.80G is allowed while computing the total income under Chapter VIA. There is no pre-condition that claim for deduction u/s.80G on a donation should be voluntary. It is independent of*

computation of business income as it is allowed from Gross Total Income. The assessee had disallowed the CSR expenses while computing business income. Further, there is no dispute that the assessee has filed complete details of donation and also filed the certificate u/s.80G which was enclosed before the AO. Section 80G (1) of the Act provides that in computing total income of the assessee, they shall be deducted in accordance with the provision of Section, such sum paid by the assessee in the previous year as a donation. Deduction under Chapter VIA provides deduction from the gross total income which is computed after making necessary allowances / disallowances in accordance with Section 28-44BB of the Act including Explanation to Section 37(1). Thus, Section 37(1) and Section 80G of the Act are independent and the principles governing what is not allowable u/s. 37(1) have been provided in the section itself. Even in section 80G also, what is not allowable has also been provided under the Act. For instance, Section 80G specifically mentions two clauses, viz., section 800(2)(a)(iihk) and (iihl), i.e., contributions towards "Swacha Bharat Kosh" and "Clean Ganga Fund", where donation in the nature of CSR Expenditure is not allowable as deduction under section 80G of the Act. Therefore, the disallowances for deduction under section 80G vis-à-vis CSR can be restricted to contributions made to these Funds mentioned in Section 800(2)(a)(iihk) and (iihl) only. It is an undisputed fact that the assessee has not claimed any deduction against the aforesaid clauses of 80G (2)(a) of the Act and as such entire donation claimed by the assessee is allowable u/s 80G. The Ministry of Corporate Affairs ("MCA") has issued "FAQs" through General circular no. 01/2016 dated January 12, 2016 (FAQ No. 6) and has clarified on the issue as follows: "Question No. 6: What tax benefits can be availed under CSR? Answer: No specific tax exemptions have been extended to CSR expenditure per se. The Finance Act, 2014 also clarifies that expenditure on CSR does not form part of business expenditure. While no specific tax exemptions have been extended to expenditure incurred on CSR, spending on several activities like Prime Minister's Relief Fund, scientific research, rural development projects, skill development projects, agriculture extension projects etc, which fund place in Schedule VII, already enjoys exemptions under different sections of the Income-tax Act, 1961."

11. This clarification being issued by the Ministry of Corporate Affairs, Government of India clarifies that donation covered under CSR Expenses which not are eligible for the deduction under section 80G of the Income-tax Act, 1961, but are allowed under different sections. Ergo, there is nothing that if any expenditure is disallowable u/s 37 the same cannot be allowed under other provisions of Act, if the conditions of allowability are satisfied. Thus, allowing the claim of deduction u/s.80G by the ld. AO cannot be held to be unsustainable in law or amounts to erroneous and prejudicial to the interest of the Revenue. Thus order of the Ld. PCIT is reversed on this point.

12. Thus, we hold that *Id. PCIT* is not correct in law in cancelling the assessment order by the *Id. AO* on this issue. Accordingly, the order of the *Id. PCIT* is quashed. Consequently, the appeal of the assessee is allowed.

4.3. Also, in the case of *ACIT vs. Sikka Ports and Terminals Ltd.* in ITA No. 3755/Mum/2023, on similar issue, it was held as under:-

*"The assessee during the year disallowed a sum of Rs.33.85 crores under section 37 towards the CSR Spend in compliance with section 135 of the Companies Act. Since the institutions to which the said amounts are given are registered under section 80G, the assessee claimed 50 per cent i.e. Rs.16.93 crores of the same as deduction. The argument of the revenue is that the payment are made to comply with the mandate under the Companies Act, and therefore it cannot be treated as donations which are "voluntary" payments. The further argument of the revenue is that when the statute has denied the direct claim of the CSR spend under section 37, the assessee claiming the deduction indirectly under section 80G is against the intention of the legislature and cannot be allowed. The assessee's contention is that there is no restriction under section 80G to the effect that the contribution should be voluntary and that the CSR spend is an application of income which is eligible for deduction from the gross total income of the assessee as per the provisions of section 80G.*

- *Now coming to the intention of legislature while amending the provisions of section 37 whereby the CSR spend are not allowed to be claimed as a deduction under the said section. Finance (No.2) Act, 2014 brought in the amendment to section 37 by inserting Explanation 2 to the said section with effect from 1-4-2015*
- *The "Explanatory Notes to the provisions of Finance (No.2) Act, 2014" issued by the Central Board of Direct Taxes vide its Circular No.01/2015 dated 21-1-2015 explaining the aforesaid amendment, clarifies that the objective of CSR is to share burden of the Government in providing social services by companies having net worth/turnover/profit above a threshold and that if such expenses are allowed as tax deduction, this would result in subsidizing of around one-third of such expenses by the Government by way of tax expenditure. However, it is pertinent to note that though, the expenditure incurred towards CSRs is not an expenditure incurred for the purpose of business, if the spend is of the nature described in sections 30 to 36 deduction shall be allowed under those sections subject to fulfilment of conditions, specified therein. For example if the contribution is made to a scientific research association, or to a university or to a college or other institution to be used for scientific research etc., which are approved under section 35 as part of CSR spending then deduction can be allowed subject to the fulfilment of conditions prescribed under section 35. This explanatory note though self-contradictory i.e. denying deduction under section 37 but allowing the assessee to claim deduction under sections 30 to 36, also makes it clear that there is no bar regarding the admissibility of CSR expenditure under any other provision of the Act, except under section 37(1).*

*In other words, the intention of the legislature is not to restrict the right of the assessee to claim deduction towards the CSR spend if the payment is otherwise allowable under a specific provision of the Act. Further wherever the intention is to restrict the claim of deduction under any other provisions of the Act the same is explicitly provided for to that effect by the legislature. This view is supported by the Explanatory Memorandum to Finance Bill 2015 which brought in the specific restriction for claiming deduction under section 80G towards the CSR spend towards donation to Swachh Bharat Kosh and Clean Ganga Fund. Therefore, the contention that the CSR spend being claimed as a deduction under section 80G is against the intention of the legislature which restricts the same to be claimed as a deduction under section 37 cannot be appreciated.*

- *The next issue is whether the impugned payments are otherwise eligible for deduction under section 80G. It has already been established that the payments made by the assessee are donations and therefore if the other conditions for the deduction under section 80G are fulfilled then there should not be any restriction for the assessee to claim the deduction. Before holding so the contention of the revenue that the payments made towards CSR spend are monitored and controlled by the assessee and are not voluntary is addressed. In this regard it is relevant to note that though there is a statutory obligation of CSR expenditure under section 135 of Companies Act 2013, there are many prescribed modes and activities under Schedule VII of the Companies Act for spending the CSR expenditure, (the list is not exhaustive but inclusive). Further neither section 135 of the Companies Act nor Schedule VII to the Companies Act nor the CSR Rules, mandates donations to the institutes/funds prescribed under section 80G. Therefore, there is merit in the submission of the assessee that though the quantum of CSR spend is mandatory there is no mandate on how amount is to be spent or to whom the contribution is to be made. Accordingly the act of the assessee to choose to Reliance Foundation and Shyam Kothari Foundation which are eligible to accept donations under section 80G is voluntary and is not mandated by section 135 of the Companies Act 2013. Further from the perusal of CSR Rules as applicable in assessee's case, it is noticed that the monitoring of the CSR spend is to ensure that the same is as per the CSR policy of the company and it does not provide for monitoring the utilization of the funds by the third party donees. In any case the donations made for a specific cause does not result in denial of deduction which is otherwise allowable as per the provisions of section 80G.*
- *One more point that needs to be considered while deciding the deduction under section 80G for CSR spend is that the restriction on the allowability of the said spend as provided in Explanation 2 to section 37 is for computing the business income under the provision of section 28-44DB whereas the deduction under section 80G is claimed under Chapter VIA i.e. after computing the Gross Total Income. The provisions of section 80G does not impose any condition that the contribution should be voluntary and therefore when the CSR spend is evaluated independently under the provisions of the Act, it is viewed that there is no restriction for the assessee to claim deduction under section 80G provided the CSR spend meets the conditions specified therein. In other words, the provisions of section 37 is computation provision*

*whereas section 80G is a beneficial provision which allows deduction towards payments made by the assessee for charitable purposes and therefore these two sections are independent of each other. For example, when a company which is not required to comply with the provisions of section 135 of the Companies Act 2013 makes a donation or a company makes donations in excess of 2 per cent even then the payment may get disallowed under section 37 but in that case the revenue would not impose any restriction to evaluate the payment for claiming deduction under section 80G. If the same analogy is applied to the CSR spend it is viewed that the assessee should be able to claim deduction under section 80G if the other conditions are fulfilled. Denying the claim for the reason that there is a specific mention under section 37 for disallowance and that the payments are made in compliance with section 135 of the Companies Act is not legally tenable unless there is an explicit provision for e.g. contributions towards "Swacha Bharat Kosh" and "Clean Ganga Fund".*

- *In view these discussions and considering the judicial precedence in this regard, it is viewed that there is no infirmity in the order of the Commissioner (Appeals) in allowing the deduction under section 80G to the assessee towards donations made to Reliance Foundation and Shyam Kothari Foundation. Accordingly the grounds raised by the revenue are dismissed."*

5. Considering the facts on record where there is no dispute on making of donations by the assessee except that it has been made out of CSR fund, we find that there is no statutory bar in claiming the deduction u/s. 80G. Donations made by the assessee do not fall under specified exception and therefore, assessee is entitled to deduction claimed u/s. 80G. There is no embargo in claiming such expenditure as a deduction under Chapter VI-A, including section 80G, provided the conditions stipulated therein are satisfied. Contention of the Id. CIT DR that such donations lack voluntariness solely because they form part of CSR obligation is misconceived in law. The choice of recipient of such CSR donations is always with the assessee alone. As long as the donations are made to institutions approved under section 80G and all the requisite documentary compliances are in place, the deduction cannot be denied merely because the payment also satisfies the CSR requirement under the Companies Act. Accordingly, disallowance made by the Id. Assessing Officer on this count is deleted. Grounds raised by the assessee are allowed.

6. In the result, appeal of the assessee is allowed.

Order is pronounced in the open court on 30 April, 2026

Sd/-  
(Pawan Singh)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

*Dated: 30 April, 2026*

*MP, Sr. P.S.*

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BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai