



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1120 OF 2026

Marico Limited

.. Petitioner

Versus

The Deputy Commissioner of Income
Tax, Circle 4(3)(1), Mumbai and Ors.

.. Respondents

Senior Advocate J.D. Mistri, a/w Adv. Priyanka Jain, Adv. Pankaj Soni, Adv. Avanish Patil, i/b Vaish Associates Advocates, for the Petitioner.

Adv. Sushma Nagaraj, a/w Adv. Abhinav Palsikar, for the Respondents.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE: MARCH 18, 2026

P. C.

1. Heard Mr. Mistri learned Senior Counsel for the Petitioner and Ms. Sushma Nagaraj learned Counsel for the Respondents. An affidavit in reply dated 13th March 2026 has been filed by the Respondents. As pleadings are complete, with the consent of the parties we have heard the Petition finally at the admission stage. Accordingly, we issue Rule. The Respondents waive service. By consent of the parties, Rule is made returnable forthwith and heard finally.

2. The above Writ Petition is filed challenging the notice dated 23rd August, 2024 issued under Section 148A(b) of the Income Tax Act, 1961 ("**the IT Act**"), an order dated 30th August, 2024 passed under Section 148A(d) of the IT Act and a notice dated 30th August, 2024 issued under Section 148 of the IT Act issued by the jurisdictional assessing officer i.e. Respondent No. 1 for Assessment Year 2018-19, mainly, on the following grounds:

a) Reassessment proceedings are initiated based on a change of opinion by Respondent No.1, and hence are beyond jurisdiction.

b) Reassessment proceedings are initiated on the basis of the opinion of the audit wing of the income tax department, and not on any factual error or omission in the original assessment order, and hence, the reopening of assessment is invalid.

c) Reassessment proceedings have been undertaken based on audit objections without any independent application of mind by the assessing officer, and hence reopening of assessment is bad in law .

d) Reassessment proceedings have been initiated and continued by Respondent No.1 adopting diametrically opposite and contradictory stands, with regard to

findings arrived at in the preceding Assessment Year 2016-17, where on identical facts and information in the form of audit objection, the proposed reassessment proceedings were withdrawn as being contrary to well settled law.

e) there is no question of income chargeable to tax having escaped assessment in the present case as it is well settled that deduction under Section 80G of the IT Act in respect of expenses incurred on Corporate Social Responsibility (CSR) is allowable.

f) the issuance of Section 148 notice by Respondent No. 1 is in contravention of the procedure prescribed for faceless assessment of income escaping assessment prescribed under Section 151A of the IT Act.

g) as the Petitioner had not been provided with a copy of the purported prior approval obtained under Section 151 of the IT Act, the reassessment proceedings ought to be struck down.

3. The relevant facts in the present case are that the Petitioner's case was selected for complete scrutiny for the relevant Assessment Year. This assessment culminated in an order dated 25th November, 2021, passed by Respondent No.3, being the Assessment Unit, National Faceless Assessment Centre, i.e. faceless assessing officer under Section 143(3) read

with Sections 144C(3) and 144B of the IT Act, determining the total income at Rs. 7,83,00,68,530/-.

4. One of the reasons for selecting the case for scrutiny, as recorded in the assessment order itself, was "*xii. Deduction from Total Income under Chapter VI-A*", which included deductions claimed by the Petitioner under Section 80G of the IT Act. In the Return of Income, the Petitioner had disallowed the donations and expenses on account of CSR debited to Profit & Loss Account in accordance with Explanation 2 to Section 37 of the IT Act in "Schedule Part A-OI" of the Income -Tax Return (ITR). Some of the amounts disallowed, which were paid to charitable trusts/institutions as donations, were claimed as a deduction under Section 80G of the IT Act, amounting to Rs. 8,29,31,138/- (eligible for deduction @50% i.e. Rs. 4,14,65,569/-). The details of the donations on which deduction under Section 80G was claimed in the Return of Income are given in the table below, and the same was examined by the Respondent No.3 while completing the assessment under Section 143(3) of the IT Act:

Name of the Trust/Foundation	Amount Donated	PAN
Foundation to Educate Girls	5,30,05,853	AABCF1718L
Give India	2,25,285	AABCG2322D

Jsw Foundation	25,00,000	AAATJ0601J
Marathwada Navnirman Lokayat	50,00,000	AAATM4512B
Marico Innovation Foundation	2,22,00,000	AAGCM7606M

5. In response to a notice dated 22nd September, 2019, issued under Section 143(2), the Petitioner submitted complete details of the amounts claimed under Section 80G of the IT Act alongwith copies of donation receipts and certificates, vide reply dated 3rd October, 2019.

6. After considering the reply of the Petitioner, Respondent No.3 vide notice dated 16th September, 2021 asked for further supporting documents and a reconciliation in relation to the claim of deductions under Section 80G arising from donations made to “Give India” and “Marico Innovation Foundation” as the amount(s) of donation mentioned in the ITR and the copy of actual receipts submitted by the Petitioner were not matching. The said notice also required the Petitioner to show cause as to why in the absence of the receipts, the corresponding deduction should not be disallowed under Section 80G of the IT Act.

7. Thereafter, vide notice dated 21st September, 2021, the Petitioner was again issued a show cause notice cum draft order of assessment, the relevant portion of which is reproduced below:

"17. 80G deduction:17.1. Assessee has claimed 50% deduction on the amounts given to Give India and Marico Innovation foundation of Rs. 2,25,285/- and 2,22,00,000/- respectively u/s 80G. However, assessee has provided receipts only for 1,45,680/- and 2,18,50,000/- in the above-mentioned amount. Assessee is issued a notice u/s 142(1) to reconcile the same and provide supporting documents. However, assessee is yet to reply to the said notice. Hence it is not possible for this office to verify the claim of the assessee. Thus, assessee has not provided receipts for the amount of 4,29,605/-. Accordingly, 50% of Rs.4,29,605/- i.e Rs. 2,14,806/- of deduction u/s 80G is rejected. Penalty proceedings u/s 270A for under reporting of income is initiated separately."

8. The Petitioner, vide reply dated 23rd September, 2021, submitted the complete details as asked for with the receipts for deduction claimed under Section 80G of the IT Act. The Petitioner vide reply dated 25th September, 2021 also stated that since the Petitioner had erroneously considered the donation amount related to Give India at Rs. 2,25,285/- instead of Rs. 2,21,503/-, hence a disallowance of 50% of Rs. 3782/- i.e. Rs.1891/- can be effected out of the claim under Section 80G of the IT Act.

9. After due verification and examination of the claim under Section 80G of the IT Act and in view of the Petitioner's submissions, a total

disallowance of 50% of donation of Rs. 3782/- i.e. Rs.1891/- was made under Section 80G in the original assessment order dated 25th November, 2021 under Section 143(3) read with Section 144C(3) read with Section 144B of the IT Act, while the balance deduction on account of donation made to approved donees was accepted and allowed.

10. Subsequently, an audit memo dated 22nd August, 2024, was issued by the Internal Audit Wing of the Department stating that the contributions made by the Petitioner towards CSR expenditure, which were disallowed under Section 37 of the IT Act, had been claimed as a deduction under Section 80G of the IT Act and therefore required to be disallowed.

11. Based solely on the aforesaid audit memo, Respondent No. 1 issued a notice dated 23rd August, 2024 under Section 148A(b) of the IT Act. Respondent No. 1, thereafter, passed the impugned order dated 30th August, 2024 under Section 148A(d) of the IT Act, holding that income chargeable to tax had escaped assessment in the case of the Petitioner and that it was a fit case for issuance of a notice under Section 148 of the IT Act. Pursuant thereto, a notice under Section 148 of the IT Act dated 30th August, 2024 was issued to the Petitioner.

12. In this factual backdrop, Mr. Mistri, the learned Senior Advocate, urged that it is not in dispute that the claim of deduction under Section 80G of the IT Act was thoroughly scrutinised during the original assessment proceedings and allowed after due consideration of the claim. The assessment order itself records that one of the reasons for the selection of the case for scrutiny was the deduction claimed under Chapter VI-A, which included the deduction under Section 80G of the IT Act. The Petitioner had also made the required disclosure regarding expenditure by way of CSR and deductions under Section 80G of the IT Act, in the annual accounts, the tax audit report and the Return of Income, which had already been considered while passing the original assessment order. A portion of the deduction under Section 80G of the IT Act was specifically disallowed in the original assessment order. It is the contention of the Petitioner that all the conditions for the grant of deduction under Section 80G of the IT Act were fulfilled, and the fact that the donations made are also part of amounts spent by way of CSR is not a reason to disallow the claim.

13. Mr. Mistri further submitted that reassessment proceedings have been initiated purely based on the audit objection, expressing a different view on a question of law.

14. It was contended that in accordance with well-settled law, Respondent No.1 was required to take an informed decision on whether the issue raised in the audit objection was, in the first place, valid, and furthermore, had been considered and decided in the assessment proceedings. It was urged that Respondent No.1 could not rely solely on an audit objection and automatically issue a notice under Section 148 of the IT Act.

15. The learned Senior Counsel also pointed out that for the Assessment Year 2016-17, the Petitioner was issued a notice under Section 148A(b) dated 25th May, 2022 based on various objections raised by the Comptroller and Auditor General, which included *inter alia* the identical issue as in the present Assessment Year. However, in relation to Assessment Year 2016-17, vide order under Section 148A(d) of the IT Act dated 30th July, 2022, the proposed reassessment proceedings, in so far as the present issue is concerned, were dropped by Respondent No.1 for the reason that during the original assessment proceedings, the Petitioner had submitted all the relevant details and certificates for claim under Section 80G and thus the deduction was allowed only after verification of the documents. The claim of deduction under Section 80G though based on donations which are

disallowed in the computation of income since they were CSR expenses, is *prima facie* acceptable.

16. It was contended that in view of the aforesaid, the impugned reassessment proceedings for the present Assessment Year 2018-19 ought to have been dropped as in the case of reassessment proceedings on this issue in Assessment Year 2016-17.

17. On the other hand, Ms. Nagaraj, learned Counsel for the Revenue, submitted that the records showed that Respondent No.1 had independently examined the merit of the audit objection and came to the conclusion that income had escaped assessment. The said decision stood approved by the specified authority under Section 151(ii) of the IT Act. Post the amendment in Section 148 by insertion of amended clause (ii) by Finance Act 2022, an audit objection is independently 'information' suggesting escapement of income.

18. Ms. Nagaraj contended that reassessment proceedings had been validly initiated under Section 147 on the basis of tangible material, and this is not a mere change of opinion or mechanical adoption of an audit objection, as alleged by the Petitioner. It was submitted that the said audit memo specifically pointed out that deduction under Section 80G had been

erroneously allowed on CSR expenditure, which is not permissible in view of Explanation 2 to Section 37(1) read with the scheme of Section 80G of the IT Act, and thus clearly constituted "information" within the meaning of clause (ii) of Explanation 1 to Section 148 of the IT Act suggesting escapement of income, thereby validly empowering the assessing officer to issue notice under Section 148A(b) and thereafter under Section 148.

19. Having heard the parties, we are of the view that we need not go into all the grounds and rival contentions. In the present case, it is clear that, prior to the passing of the original assessment order, the Respondents have looked into the relevant details and particulars of deductions claimed under Section 80G of the IT Act. Specific queries were raised vide notices dated 16th September 2021 and 21st September 2021, each of which were duly responded to by the Petitioner. It was clear from the ITR that CSR expenditure, which had been disallowed in the return, had been claimed as donations under Section 80G of the IT Act. Copies of receipts of donations were also provided as proof of donation. All these details were clear from the Return of Income. The Petitioner has, therefore, submitted a detailed explanation along with supporting documents during the original assessment proceedings, and the Respondents had taken a decision to allow the same. We agree with Mr. Mistri's submission that the view that donations given to

eligible trusts would qualify for deduction under Section 80G of the IT Act, even if the contribution is out of the CSR funds, is a possible view. Further, clearly, Respondent No.1 has examined all these aspects while passing the original assessment order.

20. It is settled law that the proceedings under Section 148 of the IT Act cannot be initiated to review the earlier stand adopted by the assessing officer. The assessing officer cannot initiate reassessment proceedings to have a re-look or re-examine the documents that were filed and considered by him in the original assessment proceedings. The principles governing the reopening of concluded assessments have been consistently laid down by this Court in several decisions, some of which are :

- ***Bharat Petroleum Corporation Ltd. v. ACIT: [2025] 176 taxmann.com 103 (Bom)***
- ***Shri Dilip Laximan Powar v. ITO : [2025] 474 ITR 72 (Bom)***
- ***Lupin Ltd. V. DCIT: [2025] 172 taxmann.com 158 (Bom)***

21. The aforesaid proposition has been again reiterated by a Division Bench of this Court [to which one of us (B.P. Colabawalla, J.) was a party] in

the case of ***Sir Jamsetjee Jejeebhoy Charity Fund v. ITO : [2025] 180 taxmann.com 401 (Bom)*** In this case, the assessing officer passed an order under Section 148A(d) by relying on an internal audit objection that resolution of trustees was passed beyond due date of return and Form 10. The assessing officer opined that the prescribed Form had ample space to clearly mention the 'Specific Purpose' for which the amount had been accumulated. He, thus, held that the Assessee had not complied with the provisions of Section 11(2), and disallowed the Assessee's claim for accumulation under Section 11(2) and added the same to the total income of the Assessee for Assessment Year 2018-19. In this case, all the required documents and information were given to the assessing officer during the original assessment proceedings, which included the Resolution of the Trustees of the Petitioner, as well as the information about the details of accumulation made in the last 10 years and the details of utilisation, etc. The Division Bench, after relying upon a decision of another Division Bench in the case of ***Siemens Financial Services (P.) Ltd. v. Dy. CIT [2023] 154 taxmann.com 159/457 ITR 647 (Bombay)*** culled out the aforesaid proposition that the Assessing Officer cannot now initiate proceedings under Section 148 of the IT Act to review the earlier stand adopted by the assessing officer. The relevant extract of the decision in *Sir Jamsetjee Jejeebhoy Charity Fund (supra)* is reproduced as under:

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28. Further, after considering the facts and circumstances and perusing the record, we are of the view that the Assessing Officer has looked into the relevant details and particulars of accumulation during the course of the original assessment, and the Petitioner had provided all the details and documents during the original assessment proceedings. It is settled law that the proceedings under Section 148 of the Act cannot be initiated to review the earlier stand adopted by the Assessing Officer. The Assessing Officer cannot initiate reassessment proceedings to have a re-look or reexamine the documents that were filed and considered by him in the original assessment proceedings.

29. Our view is supported by the judgment of this Court in *Chandrakant Narayan Patkar Charitable Trust v. ITO (Exemption)* [2022] 138 taxmann.com 564/287 Taxman 685 (Bombay). In this case, this Court has taken a view that when there is no tangible material or no new information and no fresh material was placed before the Revenue, then the Revenue cannot justify the reopening of the assessment. The reopening cannot be based on a change of opinion. In the present case, all the material particulars and documents were before the Assessing Officer when the original assessment was conducted. There is no new material before the Revenue, nor are there any new facts or information to justify the reopening of the assessment.

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This decision in Siemens Financial (supra) is not affected by the decision of the Hon'ble Supreme Court in Union of India v. Rajeev Bansal (2024) 469 ITR 46 (SC) insofar as the present issue is concerned. Therefore, we find that the reassessment proceedings initiated by the 1st Respondent are not justified on any count. In the present case, we find that the order initiating the reassessment has been based not only on a change of mind but also on the nonapplication of the mind.”

22. Similarly, in ***Castrol India Ltd. v. Deputy Commissioner of Income Tax [2024] 299 Taxman 71 (Bombay)***, the assessment was

sought to be reopened as the Audit Wing of the Department had raised objections with respect to original assessment order including in respect of the grant of deductions under Section 80G of the IT Act. In this case, the Petitioner had filed its Return of Income for the A.Y. 2017-18 declaring total income of Rs.1043,79,64,000/- and made a disallowance of an amount of Rs.15,27,42,467/- being the CSR amount in consonance with Explanation 2 to Section 37 of the IT Act. An amount of Rs.6,18,60,803/- (being 50% of the aggregate donation) was deducted and claimed under Section 80G of the IT Act. This amount was donation in respect of approved trusts/institutions, for the purposes of Section 80G of the IT Act. The details of the donations were given in the computation of income, which formed part of the Return of Income. Prior to the passing of the original assessment order, the Assessing Officer has raised queries, each of which were duly responded by Petitioner and the copies of receipts of donations were also provided as proof of donation. All these details were also included in the computation of income. Accordingly, this Court held as under:-

"14. The notice providing the reasons to believe itself is based on verification of the profit and loss account and computation of income showing the amount of CSR expenses debited under the head 'other expenses' and the said amount being added back and claimed as deduction under Chapter VA as donation. The notice further goes on to say that during the course of original assessment proceedings, neither the AO has asked for any details and information on this issue from Assessee nor has Assessee volunteered any details.....

15. From the perusal of the documents, two glaring facts emerge. One is that all material/documents necessary for computing the income were disclosed and submitted by Petitioner during the course of assessment proceedings leading to an irrefutable conclusion that there was no failure on the part of Petitioner to disclose fully and truly all material facts. Secondly, there is a notable absence of any fresh tangible material coming to the knowledge of the AO and the reopening of assessment is purely on a re-examination of the very same material on the basis of which the original assessment order was passed.

16. It is a well settled principle of law that an AO has no power to review and this power is not to be confused with the power to reassess. The Apex Court in *CIT v. Kelvinator of India Ltd.* [2010] 187 Taxman 312/320 ITR 561/2 SCC 723, has reiterated that mere change of opinion cannot be a ground for reopening concluded assessment. The observations made in paragraphs 6 and 7 read as below:

.....

19. However, Assessing Officers without appreciating the true import of the aforesaid decision of the Supreme Court, continue to reopen assessments on the ground of income having escaped assessment despite the fact that all the material and information was already available with him while passing the original assessment order. Furthermore, while conclusive proof of escapement of income may not be necessary to reopen an assessment, the least that is required is a requisite belief based on tangible material which was Shivgan not accessible to the AO or that which was deliberately withheld by Assessee, which then would amount to non-disclosure of relevant information. When an assessment is sought to be reopened within a period of four years of the end of the relevant assessment year, the test to be applied is whether there is tangible material to do so. What is tangible is something which is not illusory, hypothetical or a matter of conjecture. An AO, who has plainly ignored relevant materials in arriving at an assessment acts contrary to law. The facts in the present case clearly show that the AO was infact in the knowledge of and in possession of all the relevant details regarding the deductions on account of CSR. The computation sheets, the tax audit report, the receipts from the donees and the other relevant documents were all provided and disclosed by Petitioner. It is thus

a clear case of 'change of opinion' by the AO. The notice of reopening assessment does not by any measure disclose any material leave aside any information leading to formation of cogent and requisite belief. ..."

The SLP against the aforesaid order has been dismissed vide order dated 7th April, 2025 in **[2025] 304 Taxman 658**.

23. Applying the principles laid down by this Court to the facts of the present case, the material on record clearly indicates that the deduction claimed under Section 80G had been examined during the course of the original scrutiny assessment. Queries were raised by Respondent No.3, the Petitioner furnished complete details and supporting documents, and upon consideration thereof, the assessment order dated 25th November, 2021, came to be passed under Section 143(3) read with Sections 144C(3) and 144B of the IT Act, wherein the deduction was substantially allowed except for a minor disallowance.

24. The reopening of the assessment has been initiated on the very same material merely because the audit party has expressed a different view regarding the allowability of the deduction.

25. In our view, such reopening would amount to nothing but a review of the earlier assessment order, which is not permissible under the scheme of Section 147 of the IT Act.

26. In view of the foregoing discussion, we hereby quash and set aside the (i) notice dated 23rd August, 2024 issued under Section 148A(b) of the IT Act (Exhibit-A); (ii) order dated 30th August, 2024 passed under Section 148A(d) of the IT Act (Exhibit-B); (iii) notice dated 30th August, 2024 issued under Section 148 of the IT Act (Exhibit-C).

27. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

28. We clarify that we have expressed no opinion on the merits of the other grounds raised in the Petition and have disposed of this Petition on the sole ground that the impugned reassessment proceedings are based on a mere change of opinion. All other contentions of the parties in respect of the said proceedings are expressly kept open.

29. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]