

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “C” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No.548/Ahd/2024  
Assessment Year: 2014-15**

Sureshkumar Suvalal Jaiswal, HUF, 15, Nirmal Residency, Nr. Krishna-3 Bungalows Motera, Motera, Sabarmati, Ahmedabad – 380 005. <b>[PAN – AANHS 8774 G]</b>	Vs.	The Principal Commissioner of Income Tax, Ahmedabad-1.
(Appellants)		(Respondents)
Assessee by	Shri P.F. Jain, AR	
Revenue by	Shri Kamlesh Makwana, CIT-DR	
Date of Hearing	15.07.2024	
Date of Pronouncement	05.09.2024	

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER:**

This appeal is filed by the assessee against order dated 14.03.2024 passed by the PCIT, Ahmedabad – 1 for the Assessment Year 2014-15.

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

- “1. The Learned PCIT has erred in law and on facts in passing order u/s 263 dated 14/03/2024 for A.Y. 2014-15 holding the assessment order for A.Y. 2014-15 passed on 02/03/2022 u/s 147 r.w.s 144B after detailed scrutiny is submitted to be bad in law, in violation of principles of natural justice and wrongly invoking the provisions of the Section 263 of the Income Tax Act, 1961.*
- 2. Without prejudice to above, the order passed is submitted to be bad in law as well as on facts in as much as that the A.O. made no addition for Rs.59,25,000/- after due verification as there was no such transaction entered in to by the assessee.*

3. *The learned PCIT has grievously erred in law and facts in holding the order of A.O. as erroneous and prejudicial to the interest of revenue without properly appreciating the submissions as well as the order passed by A.O.*
4. *The order of the AO u/s 147 r.w.s 144B being neither erroneous nor prejudicial to the interest of the revenue; the impugned order passed u/s 263 submitted to be without jurisdictions deserves to be quashed.*
5. *He has erred in law and fact in not properly considering the submission dated 10/02/2024 being objection to the revisions proceedings u/s. 263.*
6. *The judicial case laws mentioned in para 6.5 of his order to justify the revision proceeding u/s 263 are submitted to be not applicable to the facts of assessee rendering the reliance on these decisions as misplaced.*
7. *On the facts of the appellant no order u/s.263 ought to have been passed which is submitted to be without jurisdiction.”*

3. The assessee filed return of income on 17.09.2014 declaring total income of Rs.27,25,070/-. The assessment under Section 143(3) of the Income Tax Act, 1961 was completed on 13.12.2016 after verifying the details produced by the assessee and the Assessing Officer assessed the total income at Rs.27,25,070/-. Subsequently, the assessee's case was reopened after search action in the case of M/s. Dishman Group of Ahmedabad which was conducted on 19.12.2019. The Revenue got the information and the Assessing Officer noticed that the assessee is one of the beneficiaries thereby obtaining bogus loans and advances entries amounting to Rs.59,25,000/-. After recording the reasons, the Assessing Officer issued statutory notices which was duly responded by the assessee. The assessee also raised objection against the reopening of the assessment. After verifying all the details and the objections, the Assessing Officer passed Assessment Order under Section 147 read with Section 144B of the Income Tax Act vide order dated 30.03.2022. Subsequently, the PCIT observed that the assessee was the end beneficiary of accommodation entries of Rs.59,25,000/- and again issued notice under Section 263 of the Act on 02.02.2024. The assessee subsequently filed the submissions and submitted the details field before the Assessing Officer during the original assessment proceedings as well as the proceedings conducted at the reopening stage. After taking cognisance of the same, the PCIT passed order under Section 263 of the Act on 14.03.2024.

4. Being aggrieved by the Order under Section 263 of the Act, the assessee filed appeal before us.

5. The Id. AR submitted that, at the stage of original assessment order, the assessee has given all the details about his business transactions which was accepted under Section 143(3) of the Act. At the time of reopening, the reopening was on the very same basis regarding search conducted on Dishman Group of Ahmedabad for which the Assessing Officer has verified all the details and arrived at the conclusion thereby passing order under Section 147 read with Section 144B dated 30.03.2022. Thus, invoking Section 263 itself is not justifiable as it is not the revisionary power which was invoked but it is a change of opinion on the part of the PCIT which is not permissible. The Ld. AR submitted that the PCIT erred in passing order under Section 263 of the Act as there is no case made out by the PCIT as the order of the Assessing Officer was erroneous and prejudicial to the interest of the Revenue.

6. The Ld. DR relied upon the Order under Section 263 of the Act.

7. We have heard both the parties and perused all the relevant material available on record. The contention of the Id. DR that there was no independent enquiry made by the Assessing Officer at the stage of reopening and that the Assessing Officer has not taken any third-party reply will not be the criteria for invocation of the provisions of Section 263 of the Act which are categorically for the revision of the case. The PCIT has totally ignored that the assessee at the time of reopening has given the details related to the loans and advances which were given by the assessee to the Dishman Group of Ahmedabad and, in fact, the assessee has shown the records that the same equal amount of cash was received by the assessee from the said Dishman Group of Ahmedabad. When the assessee has explained the transaction regarding the loans and advances as well as the receipt of the same to the respective parties, the burden/onus of establishing the transactions and explaining the said transaction has been proved by the assessee. In the present assessee's case, the assessee has given all the details at the stage of Section 147 assessment and, therefore, invocation of provisions of Section 263 of the Act on the very same issue will tantamount to change of opinion and the same is not permissible under Section 263 of the Act. The

contention of the Id. DR that no independent enquiry was made is, therefore, lacks its merit as well as how the Assessing Officer conducted enquiry cannot be the criteria for invoking Section 263 of the Act. The Assessing Officer, after going through all the records and the details, has passed a reasoned order under Section 147 read with Section 144B and, therefore, invocation of Section 263 in the present case is not justified. Thus, order under Section 263 of the Act is not just and proper.

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

Order pronounced in the open Court on this 5<sup>th</sup> September, 2024.

*Sd/-*  
**(MAKARAND VASANT MAHADEOKAR)**  
Accountant Member

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 5<sup>th</sup> September, 2024**

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*Copies to:*

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*