

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

**BEFORE DR.BRR KUMAR, VICE PRESIDENT
SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER**

I.T.A. No.508/Ahd/2024
(Assessment Year: 2014-15)

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| Vimal Jagdishprasad Agarwal, 185, New Cloth Market, Raipur, Ahmedabad-380022. | Vs. | The Principal Commissioner of Income Tax-3, Ahmedabad. |
| [PAN No.AAQPA0501J] | | |
| (Appellant) | .. | (Respondent) |

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| Appellant by : | Shri Manish J Shah, with Shri Rushin Patel ARs. |
| Respondent by: | Shri AO Singh, CIT. DR |

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| Date of Hearing | 09.12.2024 |
| Date of Pronouncement | 10.12.2024 |

ORDER

PER: DR. BRR KUMAR, VICE PRESIDENT:

This appeal has been filed by the Assessee against the order passed by the Ld. Principal Commissioner of Income Tax-3, Ahmedabad, vide order dated 23.02.2024 passed for the Assessment Year 2014-15.

2. The Assessee has taken the following grounds of appeal:-

1. The Principal CIT erred in law and on fact in holding that assessment order passed u/s.143(3) r.w.s 147 dated 30.03.2022 is erroneous and prejudicial to the interest of Revenue by invoking the provision of section 263 of the Act and thereby directing the Assessing Officer to carry out inquiries in terms of direction issued in his order passed u/s.263 of the Act.

2. The Principal CIT erred in law in directing the Assessing Officer to carry out denovo assessment, and thereafter, directed to pass fresh assessment order without appreciating that direction to carry out denovo assessment cannot be issued by exercising power u/s.263 is only entitled to inquire the issue on which revision power is exercised by the commissioner.

3. Heard both the parties and perused the material available on record.

4. In this case, the addition of Rs.92,00,000/- has been made by the Assessing Officer based on the information received from the internal sources of the Department, being the accommodation entry received by the assessee. The ld. PCIT opportunely resorted to proceedings u/s 263 of the Act as the AO omitted to add the percentage of commission paid the entry operator on account of receipt of entry of Rs.92,00,000/- and directed the AO to pass a fresh assessment order *de novo*. The issue of addition of Rs.92,00,000/- is pending before the ld. CIT(A) for adjudication. The ld. Counsel submitted that since the quantum addition has already been made and pending before the ld. CIT(A), the directions of the ld. PCIT if at all treated as valid, should be restricted to the quantum of commission paid by the assessee. The ld. DR has also submitted that the only issue taken up by the ld. PCIT pertains to the commission paid which could be 1% to 3% on the entry taken. We find that the amount could be anywhere between Rs.92,000/- to Rs.2,76,000/-. The Assessing Officer shall restrict his proceedings to this extent in determining percentage of commission and nothing beyond.

5. In the result, the order u/s 263 is made effective to the extent of commission paid by the assessee and the appeal of the assessee is partly allowed.

This Order pronounced in Open Court on 10.12.2024

Sd/-

**(TR SENTHIL KUMAR)
JUDICIAL MEMBER**

Ahmedabad; Dated 10.12.2024
Manish, Sr. PS

Sd/-

**(DR. BRR KUMAR)
VICE PRESIDENT**

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आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad