

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

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.214/Ahd/2022  
(Assessment Year: 2017-18)

Nileshbhai Savjibhai Patel, Parasmani Developers, First Floor K-Block, Mondeal Retail Park, Mahakali Road, B/s. Rajpath Club, S.G. Highway, Ahmedabad-380054	Vs.	Principal Commissioner of Income Tax-3, Ahmedabad
[PAN No.AAMPP4208R]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Biren Shah & Shri G. M. Thakor. A.Rs.
<b>Respondent by:</b>	Shri Prathvi Raj Meena, CIT DR

<b>Date of Hearing</b>	19.02.2025
<b>Date of Pronouncement</b>	12.03.2025

O R D E R

**PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:**

This appeal has been filed by the Assessee against the order passed by the Ld. Principal Commissioner of Income Tax-3, (in short “Ld. PCIT”), Ahmedabad vide order dated 30.03.2022 passed for A.Y. 2017-18.

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

“1. On the facts and in the circumstances of the case, the order passed by the learned Pr. CIT, Ahmedabad-3 u/s. 263 of the Income-tax Act, 1961 is void and bad-in-law.

2. On the facts and in the circumstance of the case, the learned Pr. CIT erred in setting aside the assessment order dated 31.12.2019 passed by the Income Tax Officer – Ward 3(1)(2), Ahmedabad, and directing the Assessing Officer to pass a fresh Assessment Order.

3. On the facts and in the circumstances of the case, the learned Pr. CIT erred in passing his order without giving proper opportunity based on farfetched imagination being whims and in absence of cogent material and directing the Assessing Officer to pass a fresh assessment order.

4. *The appellant craves leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal.*”

3. The brief facts of the case are that the assessee filed return of income for assessment year 2017-18, declaring total income of ₹72,33,800/-. Thereafter, the case of the assessee was selected for complete scrutiny and the assessment order was passed on 31-12-2019 assessing total income of the assessee at ₹3,23,85,620/- by making addition of interest income by treating the same as “income from other sources” and no expenditure having been allowed to the assessee. Subsequently, Principal CIT noticed from the capital account of the assessee that the assessee had credited an amount of ₹41,10,889/- under the head 24CT Gold Bar. The Principal CIT was of the view that since there was no explanation on record to suggest that were capital receipts, and in absence of any details/explanation with supporting evidences, the said receipt was required to be treated as unexplained revenue receipts in the hands of the assessee. During the course of 263 proceedings, the assessee submitted that the aforesaid amount was received by the assessee from his mother under Will dated 11-01-2020 by way of inheritance, on the death. However, Principal CIT was of the view that on perusal of the Will, it is seen that the assessee’s share was defined at 33.33%, and the assessee had credited the entire amount of assets held by his mother, to his capital account, which the assessee was not entitled as per the terms of the Will. The assessee has not submitted any basis of such distribution and why the entire amount of assets amounting to ₹41,10,888/- was credited in the capital account by the assessee. Accordingly, Principal CIT held that the aforesaid amount represented unaccounted income of the assessee, which ought to have added in the hands of the assessee as his unexplained income. Further, Principal CIT

observed that the assessee had received an unsecured loan amounting to ₹6,15,00,000/-, which has been squared up during the year. During the year, there was receipt of ₹4,50,00,000/-, however, no documentary evidence were submitted by the assessee to prove the genuineness of transaction and creditworthiness of the depositor. Hence, Principal CIT was of the view that the same should have added as unexplained cash credits under section 68 of the Act. During the course of 263 proceedings, the assessee submitted that he had duly submitted the ledger copy, acknowledgment copy of the Income Tax Return (ITR), and the bank statement of the party from whom money had been borrowed and repaid, in his written submission dated 25.11.2019. The assessee further submitted that the creditworthiness of the depositor had been duly verified by the Assessing Officer during the original assessment proceedings. Moreover, the assessee contended that he had received Rs. 4.50 crore on 27.05.2016 from his mother, Kantaben S. Patel, as a gift. To support this, the assessee submitted a copy of the gift deed. The assessee clarified that there was an opening balance of Rs. 1.65 crore, and during the year under consideration, his mother had made a gift of Rs. 4.50 crore on 27.05.2016, bringing the total amount to Rs. 6.15 crore for the year. The assessee further submitted that the Rs. 1.65 crore was an opening balance and not received during the year, and therefore Section 68 of the Income Tax Act would not apply. The assessee submitted that since the gift deed was executed by his mother on 26.06.2016, the amount of Rs. 1.60 crore was transferred from the loan account to his capital account. This transfer was supported by the ledger account and the bank statements of both the assessee and his mother. Regarding the source of the gift, the assessee stated that the amount was out of previous investments made in LIC and Mutual Fund schemes, the

redemption of which occurred on 16.05.2016 and 23.05.2016. The assessee submitted copies of the redemption statements issued by LIC Mutual Fund and also explained that the credit entries in his mother's account were received via RTGS from LIC Mutual Fund. The assessee further stated that his mother had duly offered the capital gains from these transactions in her ITR for AY 2017-18. Regarding the balance amount of Rs. 1.65 crore, the assessee contended that he had been making payments to his mother for her maintenance and livelihood, which were shown as advances receivable by him. As of 01.04.2016, the total amount paid by the assessee to his mother was Rs. 1.64 crore, and during the year, an additional Rs. 11.20 lakh was paid, bringing the total to Rs. 1.75 crore. This amount was set off against the amount to be received from her upon her death. The assessee contended that the entire transaction of Rs. 6.15 crore had been explained. Principal CIT noted that as far as the amount of Rs. 4.50 crore received as a gift from his late mother, supported by a gift deed and verified with documentary evidence, the transaction was found to be valid, and the assessment order was not considered erroneous or prejudicial to the interests of the Revenue. However, regarding the remaining amount of Rs. 1.75 crore, Principal CIT observed that the Will of his mother defined the share of assets to be distributed among three relatives, but it did not mention any liabilities or outstanding amounts. Therefore, the Will only entitled the assessee to a 33.33% share of the assets, not of any liabilities. Moreover, the balance sheet of the mother was not authenticated by any legal authority, nor was it accompanied by the Will to make it trustworthy. As a result, Principal CIT held that the amount of Rs. 1.75 crore, shown as received from his mother, was liable to be treated as unexplained cash credits under Section 68 of the Act and the Assessing

Officer had failed to inquire or verify this issue, thereby making the assessment order to be erroneous and prejudicial to the interest of the Revenue.

4. The assessee is in appeal before us against the aforesaid order passed by Principal CIT. So far as receipt of gold bars worth ₹41,10,889/- is concerned, the counsel for the assessee submitted that the assessee had submitted ledger copy of capital account before the Assessing Officer vide submission dated 26-12-2019 against show-cause notice issued by the assessing officer dated 23-12-2019 and accordingly, the issue had been examined during the course of assessment proceedings itself. Further, the assessee had submitted copy of capital account along with the ledger copy of 24CT gold bar and submitted that this amount was received by the assessee from his mother Kantaben Patel pursuant to Will dated 11-01-2020. The counsel for the assessee submitted that Principal CIT has not doubted or raised any questions regarding the fact that the aforesaid amount was received by the assessee from his mother. However, the only reason why Principal CIT held that this amount was liable to be added in the hands of the assessee was on the ground that since as per Will of mother, the assessee was entitled to 33.33% share of assets, and that the aforesaid amount of ₹41,80,889/- exceeded the aforesaid percentage of 33.33% as defined in the Will, thereby putting a question mark on the genuineness of the Will itself and therefore the aforesaid amount was liable to be treated as revenue receipts in the hands of the assessee. However, the counsel for the assessee submitted that this was only on account of an assumption/presumption by Principal CIT and since the amount was undeniably received by the assessee from his mother, as per

the terms of the Will, there could not be any tax implications in the hands of the assessee and hence the assessment order could not be set aside since no prejudice whatsoever was caused to the interests of the Revenue. As regards the addition of 1.75 crores, the counsel for the assessee submitted that the assessee was maintaining two ledger accounts with respect to transactions with her mother, one related to “receivable” and another account related to “payable”. The counsel for the assessee submitted that both these accounts were merged by the assessee. The counsel for the assessee submitted that in the entire transaction referred to above, all the transactions took place through banking channels and no cash payment was involved. Accordingly, looking into the instant facts, there is no question of initiating proceedings under section 263 of the Act.

5. In response, the Ld. DR placed reliance on the observations made by Principal CIT in the 263 order.

6. We have heard the rival contentions and perused the material on record. On going to the facts of the instant case, we are of the considered view that this is not a fit case for initiating proceedings under section 263 of the Act. This for the reason that so far as receipt of gold bars worth ₹41,10,889/- is concerned, the mother of the assessee was the promoter and owner of Palitana Sugar Mills Private Limited and in Financial Year 2006-07, she had sold shares for ₹9.15 crores and the capital gains on sale of shares was duly offered by her return of income for that year. From the amount so received, the mother of the assessee had made investments from time to time and created wealth and required assets/property. These facts were also duly noted by Principal CIT at page 8 of the 263 order. Therefore, it is evident that the

mother of the assessee was having substantial wealth with her, she was also filing her Wealth tax returns and the only reason why principal CIT was of the view that the assessment order was prejudicial to the interests of the revenue was on the ground that since as per the Will executed by the mother, assessee was entitled to 33.33% share, therefore the amount of ₹41.80 lakhs towards 24CT gold bar exceeded the limit as prescribed in the Will. Further, with regards to the amount of ₹1.75 crores, in our considered view the assessee has been able to give a detailed explanation regarding the same, duly supported by ledger accounts maintained by the assessee with respect to transactions between the assessee and his mother, and accordingly, looking into the instant facts in our considered view, there is no prejudice caused to the interest of the Revenue. This is also in light of the fact that all the transactions had taken place through banking channels and no specific infirmity was pointed out by Principal CIT in the explanation provided by the assessee.

7. Accordingly, in light of the aforesaid facts noted above, the appeal of the assessee is allowed.

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

<b>This Order is pronounced in the Open Court on</b>	<b>12/03/2025</b>
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**Sd/-**  
**(DR. BRR KUMAR)**  
**VICE PRESIDENT**

Ahmedabad; Dated 12/03/2025  
TANMAY, Sr. PS

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

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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
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आदेशानुसार/ BY ORDER,

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