



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.**

&

DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No.203/RJT/2024

निर्धारणवर्ष / Assessment Year: (2013-14)

(Hybrid Hearing)

Global Extrusions Private Limited. CA Govind Sonecha “S&A House”, Near Golden City, 80ft Road, Khodiyar Colony, B/H Saru Section Police Headquarters, Jamnagar 361006	Vs.	PCIT Jamnagar, Taranjali Building, Jamnagar 361008
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCM4319E		
(Appellant)		(Respondent)

Appellant by : Ms. Amoli Gusani, Ld. AR

Respondent by : Shri Sanjay Punglia, Ld. (CIT)DR

Date of Hearing : 19/03 /2025

Date of Pronouncement : 09/06/2025

आदेश / ORDER

PER DINESH MOHAN SINHA JM;

Captioned appeal filed by assessee pertaining to Assessment Year 2013-14, is directed against order passed by Commissioner of Income Tax (Appeal), vide order dated 09/02/2024, which in turn arises out of an order passed by the Assessing Officer dated 30/03/2022 u/s 147 read with section 144B of the Income Tax Act, 1961.



2. The Grounds of appeal raised by the assessee:

The Learned PCIT has erred in law by invoking the revision of the assessment order under section 263. The assessment order is not erroneous as per section 263 of the Income Tax Act and therefore the grounds taken by the learned PCIT for invoking section 263 may please be deleted.

3. Revised Grounds Of Appeal filed on 12.03.2025 -

1. The learned PCIT has erred in law and in facts by contending vide Para 5 and 6 of his Order that the written submission of the appellant was not found Tenable as well as the contention that Ld. AO has not ascertained the veracity of the claims by making Independent Inquiries.

2. The learned PCIT has erred in law vide para 7 and 8 of his Order by treating the purchase made from Ankit Metals, as Bogus Purchase and rendering the said purchase transactions to be unexplained.

3. The learned PCIT has erred in law vide para 9 and 10 of his Order by invoking Section 263 of the Act rendering the Assessment Order passed by the Ld. AO to be erroneous and prejudicial to the interest of the revenue.

4. Brief facts of the Case that the appellant is a Private Company and had filed Income Tax Return for the AY 2013-14 declaring total income of Rs. 2,23,486/- u/s 139 of the Income Tax Act, 1961 on 30.09.2014. The case of the appellant was re-opened u/s 147 of the Act on the basis of the information received from the Investigation Wing that M/s Moral Alloy (P) Ltd is an accommodation entry provider and the assessee company is a beneficiary of such accommodation entity through M/s Ankit Metals in the form of non-genuine purchase and/or credits to the tune of Rs.1,07,50,000/- during the year under consideration. Thereby, notice u/s 148 of the Act was issued, in response to which the appellant had furnished the Return of Income on 30.04.2021. Subsequently, notices along with questionnaire were issued under Section 142(1) of the Act, on 18.02.2022 and 14.03.2022 against which the appellant had made detailed submission along with the necessary evidences.



i. Subsequently, the case of the appellant was analyzed to initiate the Revisionary Proceedings u/s 263 of the Act and a show-cause notice had been issued on 29.01.2024. The said Show Cause Notice was issued on the basis of the fact that a detailed enquiry was carried out by the Investigation Wing and it was established that M/s. Ankit Metals is an Accommodation Entry provider without any genuine business activities. Therefore, it is certain that there was no exchange of goods between appellant and M/s Ankit Metals. Thus, the purchase transaction of appellant from such entity of Rs. 1,69,50,630/- remains unexplained which was not considered by the assessing officer while passing the Assessment Order and therefore, the order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue if the order is passed without making inquiries or verification of the claim of the assessee. Hence, the said Order was proposed to be revised initiating the revisionary proceedings u/s. 263 of the Act.

ii. In response to the said notice, the appellant had furnished the reply enclosing the supporting evidences and documents as asked in the said show cause notice. However, the Ld. PCIT was not satisfied with the explanations and evidences submitted by the appellant. The Ld. PCIT held that the order of the assessment dated 30.03.2022 of the AO for AY 2013-14 is erroneous in so far as it is prejudicial to the interest of revenue, then meaning of sec. 263 of the Act and set aside the assessment order. Accordingly order u/s 263 of the Act is passed on 09.02.2024, whereby the Assessing Officer has been directed to consider the above transaction as unexplained income of the appellant and to revise the assessment order.

5. Being aggrieved by the above order of the Ld. PCIT u/s. 263 dated 09.02.2024 of the Act, the appellant has filed this appeal before us.



6. During the course of hearing the Ld. AR has submitted that a notice issued on account bogus purchase/ accommodated entry however the case was reopened u/s 148 of the Act. only on this ground. The assessee has replied to notice to the satisfaction of the AO and Ld. AR. Further prayed that the order of PCIT may kindly be dropped.

- a. Tax Audit Report
- b. Details regarding Gross Profit Ratio and Net Profit Ratio.
- c. Form 26 AS and details of TDS made.
- d. Ledger Accounts of the Creditors.
- e. Ledger Accounts of Debtors.
- f. Cash Book.
- g. Details of Secured and Unsecured Loans.
- h. Long-term loans and advances ledger.
- i. Customs Duty Challans.
- j. In response, the assessee has submitted the following:
 - a. Bills and other documentary evidences
 - b. Stock Account

7. On the contrary the Ld DR has relied on the order of the Ld. PCIT and that the replay of the assessee accepted without verification of facts.

8.1 We have heard both the representative of the party and perused all the material available on records. We note the appellant company has purchased the goods/materials from M/s. Ankit Metals and accordingly the said purchase transaction has been recorded in the books of accounts of the appellant and the complete details have been submitted in respect of transaction held with Ankit metals. Such as freight receipt of good purchase and delivery challan. The assessee also submitted Audit Report, ledger account of Debit card and Credit Card, TDS challan, custom duty challan, detail of secured & unsecured loan, long term loan in advance etc. We note the reply was duly considered by the PCIT the assessee has also filed



(i) the written submission against para 5 & 6 of PCIT order:

During the course of reassessment Proceedings furnished all the requisite documentary evidences and explanations against the claim of purchase made by the appellant from M/s. Ankit Metals explained in details the adequate justification to substantiate the genuineness of the said transaction undertaken by them in the regular course of business. The appellant company in this case has duly furnished all the supporting documentary evidences with regards the High-Seas purchase made by it during the year under consideration. The reasons recorded for the case of the appellant company, it was stated that the appellant has made non-genuine purchase for Rs. 10750000/-.

We note that the appellant company has undertaken the said high-seas purchase transaction of Rs. 16958630/- which was executed on three different dates as on 26.11.2012, 04.12.2012 and 08.12.2012. Appellant has furnished the tax Invoice, High-seas sale agreement, Commercial invoices, Packing List, Bill of Lading, Bill of entry, challan for custom duty paid for all the said transactions. furnished the ledger account of the transporter, who had brought the goods to the factory premises of the appellant company.

We note that the payment to the said transporter was also made through banking channel. The same, along with the aforesaid documents and evidences, were verified by the Ld. AO during the Assessment Proceedings. the veracity and genuineness of the purchase transaction in question is amply verified by the Ld. AO before passing the Assessment Order.

We note that the consideration for purchase transaction was paid through banking channels which may be reflected from the bank accounts and other ledger accounts furnished by us during the course of Assessment and revisionary Proceedings.



(ii) Written Submission against para 7 and 8 of the PCIT'S Order:

Vide para 7, it is being contended that bogus purchase was glaring and apparent from the available records. In this regards we state that when a purchase transaction is backed up by supportive documentary evidences, the same nowhere remains bogus or unexplained in any case. Also, the Ld. AO has duly verified the records and evidences furnished before him during the course of Assessment Proceedings. Hence, Vide para 8 it is being contended referring the Explanation 2 of Section 263 of the Act that, the order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue if the order is passed without making inquiries or verification of the claim of the appellant.

At this juncture, it is pertinent to mention the wordings of Section 263, which states as under:

263. (1) The [Principal Chief Commissioner or Chief Commissioner or Principal Commissioner] or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer 1[or the Transfer Pricing Officer, as the case may be,] is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, 2[including,-

- (i) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or
- (ii) an order modifying the order under section 92CA; or



(iii) an order cancelling the order under section 92CA and directing a fresh order under the said section].

As is evident from the above, Section 263 empowers Commissioners/Pr. Commissioners to exercise revisionary power where they find any order passed by the AO to be erroneous so as to cause prejudice to the interest of the Revenue. Explanation 2 to the section lists circumstances in which the assessment order passed will be deemed to be erroneous, which have been invoked by the Ld. PCIT Having said so, it is but obvious that what Explanation 2 does is only clarify and enlist the circumstances specifically where an assessment order will be deemed to be erroneous. It only explains the scope of the section and clearly by no stretch expands its scope. The same has been explained vide para 35 and 36 of the judgement of ITAT Ahmedabad in the case of Nilaykumar & Bros. Jewellers, Anand vs The Pr. Cit-1, Vadodara, attached as above, wherein it was stated that the Explanations are not substantive provisions and are inserted to clear up any ambiguity in the section. They only clarify an existing law and the Explanations do not enlarge the scope of the section but only explain the scope.

Also, as mentioned earlier the Ld. AO has duly conducted the inquiries to verify the claim of purchase transaction which is evident from the copy of notices and summary of the replies to each notices furnished. Hence, the question to trigger Section 263 of the act considering the assessment order passed by the Ld. AO to be erroneous is not correct.

(iii) Written Submission against Para 9 and 10 of the PCIT'S Order:

As against the contention raised vide para 9 and 10 of the PCIT's Order, we state that the transaction undertaken by the appellant with M/s. Ankit



Metals is purely genuine and real. The said party (M/s. Ankit Metals) may have undertaken business transaction with other party during the course of business activities is not relevant for the appellant. That the transaction relevant to the appellant would be true and actual from all the perspective. The transaction with the appellant company of the said party in this case the transaction of high seas purchase has been actually undertaken, for which we have put all of the efforts to prove the genuineness of the same before the Ld. AO our attention drawn towards the judgment of ITAT in the case of "Bhagatram Hyderabad v. Asst. Commissioner of Income Tax, 2020 SCC Online ITAT 345, decided on 28-07-2020", wherein it was held that the entire purchase cannot be treated as a bogus purchase when there is evidence to establish that the payment was carried out through banking channels and had also given the final decision that,

"... the order of the Ld. CIT (A) to enhance the addition by treating the entire bogus purchases as the income of the Assessee is not appropriate because it is evident that the Assessee had made purchases apparently from his accounted money as the payments have made through banking channels."

8.2 We further note that the *prime facie* the observation for issue of notice u/s. 263 of the Act. is without quantified the probable loss of revenue and nature of omission on the part of the AO. Present show cause notice/ order is nothing but would tenable amount to be a change of opinion which cannot be a subject matter of action u/s. 263 of the Act. this is against the principle laid down by the Hon'ble apex court in the case of Parsotam pottery works Ltd. vs. ITO 106-ITR-01.



9 According to the following ratio of various judgements as referred above. We have no hesitation in holding that the ld. PCIT has wrongly invoked the revisionary power u/s 263 of the Act. We have no option but to quash the order passed by the Ld. PCIT dated 09/02/2024.

10. In result the appeal of the assessee allowed for statical purpose.

Order pronounced in the open court on 09/06/2025.

Sd/-

**(Dr. A.L. SAINI)
ACCOUNT MEMBER**

Sd/-

**(DINESH MOHAN SINHA)
JUDICAL MEMBER**

Rajkot

दिनांक/ Date: 09/06/2025

Copy of the Order forwarded to

- 1.The Assessee
- 2.The Respondent
- 3.The CIT(A)
- 4.Pr. CIT
- 5.DR/AR, ITAT, Rajkot
- 6.Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot