

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH : NAGPUR

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER &
SHRI K.M. ROY, ACCOUNTANT MEMBER

I.T.A.No. 241/NAG/2025
(Assessment Year 2021-22)

Vanita Pradeep Agarwal, 80, Ringh Road, Kotwal Nagar, Nagpur. PAN : AAKPA 1673 P	vs.	ITO, Ward-1(1), Nagpur
(Appellant)		(Respondent)

For Assessee :	Shri Rajesh Loya, Ld. CA
For Revenue :	Shri Pankaj Kumar, Ld. CIT-DR

Date of Hearing :	23.06.2025
Date of Pronouncement :	23.06.2025

ORDER

PER NARENDER KUMAR CHOUDHRY, JM:

This appeal has been preferred by the assessee against the order dated 19/03/2025 impugned herein passed by the Ld. Principal Commissioner of Income Tax, Nagpur-1 [in short, "Ld. Commissioner"] u/sec. 263 of the Income Tax Act, 1961 (for short, "the Act") for the Assessment Year (for short, "AY") 2021-22.

2. In the instant case, vide assessment order dated 29/12/2022 u/sec. 143(3) r.w.s. 144B of the Act, the Assessing Officer though accepted the claim of the assessee with regard to long term capital gain, however, made the addition of ₹ 20,80,000/- on account of unexplained money u/sec. 69A of the Act. The Ld. PCIT while considering the assessment order, noted certain discrepancies *qua* non-enquiring certain facts and consequently issued notice dated 28/10/2024 u/sec. 263 of the Act, with regard to long term capital gain as well as shortfall in the tax effect of ₹ 1,34,322/-. The assessee replied to the above said notice, challenging the action of the Id. PCIT in exercising powers u/sec. 263 of the Act. The assessee also claimed before the Id. PCIT that admittedly, the Assessing Officer by issuing various notices u/sec. 143(2) as well as 142(1) of the Act, raised specific queries with regard to the details of sale/purchases of property during the year and also asked the assessee to furnish detailed statements regarding the source of amount given in the purchase transactions as well as details of the property at Mari Gold Premises vide sale deed dated 09/10/2020. The Id. PCIT though considered the claim of the assessee, however, ultimately opined that the property having been acquired on 08/12/2007 and given indexed to the CII of FY 2007-08 and not in the FY 2005-06 i.e. year of "articles of agreement" of purchase. The Id. PCIT further observed that the Assessing Officer has not taken into consideration the returned income, while calculating the tax and therefore, the same is required to be recomputed by the A.O.

3. Consequently, on the aforesaid aspects, the Id. PCIT set aside the assessment order for the limited issue mentioned above with a direction to the Jurisdictional Assessing Officer to pass necessary

order by conducting enquiries and verification of the claim in the light of the above discussion, after giving an opportunity of being heard. The assessee being aggrieved has preferred the instant appeal challenging the order of the Id. PCIT passed u/sec. 263 of the Act.

4. Having heard the parties and perused the material available on record. The assessee is not challenging the direction of the Id. PCIT in directing the Jurisdictional Assessing Officer for taking into consideration the returned income of ₹ 10,55,520/- while calculating the tax, however, the assessee challenging the direction of the Id. PCIT in directing the Jurisdictional Assessing Officer to consider the index cost on the basis of property acquired on 08/12/2007 for the F.Y. 2007-08, but not of the FY 2005-06 i.e. year "articles of agreement" of purchase. The assessee has raised the issue that the Id. PCIT has given specific observation and, therefore there is likelihood that Jurisdictional Assessing Officer would follow his direction strictly and will make addition without giving proper opportunity and applying his mind independently.

5. On the contrary, Id. DR submitted that Id. PCIT by set aside the assessment order has directed the Assessing Officer to conduct necessary enquiries and verification of the claim of the assessee, but not in particular pattern.

6. We have given thoughtful consideration to the peculiar facts and circumstances of the case and rival claims of the parties. In the interest of substantial justice and proper adjudication of the

case, we clarify that the Assessing Officer would be at liberty to verify the factual aspects only and determine the issue afresh accordingly, without being influenced by the observations made by the Id. PCIT in order impugned and by following the dictum laid down in *PCIT-3, Mumbai vs. Vembu Vaidyanathan* [2019] 101 taxmann.com 436 (Bombay) in its true spirit. Thus, the appeal of the Assessee stands disposed of with the above clarification.

7. In the result, appeal of the Assessee is allowed for the limited purpose of clarification.

Order pronounced in the open Court on 23.06.2025.

Sd/-
(K.M. ROY)
Accountant Member

Sd/-
(NARENDER KUMAR CHOUDHRY)
Judicial Member

vr/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned.
4.	D.R. ITAT, Nagpur Bench, Nagpur.
5.	Guard File.

//True Copy //

By Order

Sr. Private Secretary,
ITAT, Nagpur Bench.