



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

AND

**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No.197/RJT/2025**

**निर्धारणवर्ष / Assessment Year: (2015-16)**

**(Hybrid Hearing)**

Kunjan Jagdishchandra Sedani 18B, Parikunj, Mahavir Society, Bedi Bunder Road, Jamnagar- 361008	Vs.	Principal Commissioner of Income Tax, Jamnagar Room no. 101, 1 <sup>st</sup> floor Aayakar Bhavan, Nr. Subhash Bridge, Jamnagar-361001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ERIPS2050H</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

Assessee by : Shri Dushyant Maharshi, Ld. AR  
Respondent by : Shri Praveen Verma, Ld. CIT(DR)  
**Date of Hearing** : **23/06/2025**  
**Date of Pronouncement** : **25/08/2025**

**आदेश / ORDER**

**Dr. Arjun Lal Saini, AM**

By way of this appeal, the assessee has challenged the correctness of the order dated 21.02.2025 passed by the Learned Principal Commissioner of Income-tax (in short "Ld PCIT"), under section 263 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), for the assessment year 2015-16. Grievances raised by the assessee, which, being interconnected, will be taken up together, are as follows:

*1. Hon'ble Pr. CIT, Jamnagar has erred in law and in facts in setting-aside the order passed by the assessing officer under section 147 r.w.s. 144B of the Income-tax Act, 1961 by invoking the provisions of section 263 of the Income-tax Act, 1961 even when the order as passed by the assessing officer was neither erroneous nor prejudicial to the interests of the revenue.*

*2. Hon'ble Pr. CIT, Jamnagar erred in law and in facts by setting-aside the order passed by the assessing officer under section 147 r.w.s. 144B of the Income-tax Act,*



*1961, even when the assessment order was passed by the assessing officer taking plausible view after conducting necessary enquiries and verifying the necessary documents with respect to unsecured loan accepted by assessee*

*3. Hon'ble Pr. CIT, Jamnagar erred in law in doubting the genuineness of the loan transaction amounting to Rs. 45,00,000/- only for the reason that lenders have cash deposit in their bank account before giving loan to assessee. As per provisions of section 68 of the Act, assessee is not required to explain source of source for unsecured loan accepted.*

*4. Hon'ble Pr. CIT, Jamnagar erred in doubting the genuineness of the loan transaction amounting to Rs. 45,00,000/- without considering the fact that all the loans have been repaid during the subsequent year. Assessee submits that where the loan repayment is not doubted, acceptance of loan should be treated as unexplained.*

*5. Without prejudice to above grounds of appeal, Hon'ble Pr. CIT, Jamnagar erred in fact in stating that whole amount of Rs. 45,00,000/- should be treated as unexplained cash credit u/s. 68 whereas cash deposit in bank account by lenders is only Rs. 25,00,000/- as identified by Hon'ble Pr. CIT, Jamnagar himself.*

2. The facts of the case which can be stated quite shortly are as follows: The return of income for the Assessment Year (AY) 2015-16, was filed by the assessee, on 31/08/2016, declaring total income of Rs. 2,31,810/-. The case was reopened u/s 147 of the Income-tax Act, 1961 (for short 'the Act'), for the reason that during the previous year, the amount Rs.53,25,968/- has been credited in bank account no. 01771530012707 of HDFC Bank. Subsequently, the Assessing Officer has completed assessment u/s 147 r.w.s. 144B of the Act, on 29/03/2023, after making addition of Rs. 2,00,000/- on account of unexplained cash deposit u/s 69A of the Act.

3. Later on, the Learned Principal Commissioner of Income-tax (in short "Ld PCIT"), exercised his jurisdiction under section 263 of the Income-tax Act, 1961. Upon examination of the assessment records for the assessment year (AY) under consideration, it was noticed by the learned PCIT that the order was passed u/s 147 r.w.s. 144B of the Act, on 29/03/2023, wherein the assessing officer failed to verify / examine the genuineness of unsecured loan of Rs.



45,00,000/-, and thus the order passed by the assessing officer appears to be erroneous and prejudicial to the interests of the revenue. The assessing officer failed to conduct any verification or inquiry to ascertain the genuineness of these transactions, despite it being the primary reason for scrutiny selection. In view of the above, a show cause notice for initiation of proceedings u/s 263 of the Act was issued to the assessee on 29/01/2025, requesting an explanation, as to why the assessment order u/s 147 r.w.s. 144B of the Act, dated 29/03/2023 should not be revised.

4. In response to the above show- cause notice of the Ld. PCIT, the assessee submitted its reply before the Ld. PCIT. The assessee stated before the learned PCIT that the assessee submitted all details, including PAN, addresses, and bank statements of lenders, etc, were furnished during the original assessment proceedings, before the assessing officer. It was asserted that the assessing officer had examined these documents and decided not to make an addition. The assessee also argued that he is not required to explain the "source of source." Repayment of loans through banking channels was highlighted as proof of authenticity. Additionally, the assessee emphasized that the assessing officer had conducted inquiries and formed a plausible view, which cannot be revised under Section 263 merely due to a difference of opinion.

5. However, the Ld. PCIT rejected the above contention of the assessee and held that the assessing officer accepted the assessee's claim of receiving Rs. 45,00,000/- as unsecured loans from various entities without conducting proper inquiry to verify the identity of the lenders, their creditworthiness and genuineness of these transactions. Therefore, learned PCIT held that the assessment order, passed by the Assessing Officer u/s 147 r.w.s. 144B of the Act, dated 29/03/2023, in the case of the assessee for the A.Y. 2015-16 is



erroneous in so far as it is prejudicial to the interest of revenue within the meaning of section 263 of the Act. Therefore, learned PCIT set aside the assessment order passed under section 147 r.w.s. 144B of the Act, dated 29/03/2023 for AY 2015-16 and directed the assessing officer to verify the issue as discussed above.

6. Aggrieved by the order of the Ld. PCIT, the assessee is in appeal before us.

7. At the outset, Shri Dushyant Mahashri, Learned Counsel for the assessee vehemently argued that assessee took a loan of Rs. 45,00,000/- from the various parties for the purposes of business and said loan was repaid in the subsequent year, therefore, the grunginess of the loan should not be doubted. The Ld. Counsel also took us through, the paper book page no. 115, wherein the show cause notice issued by the assessing officer, is placed. The assessing officer has asked the pertinent questions from the assessee, which is reproduced below:

*“8. In case you have received any unsecured loan then please furnish the following information in case of each unsecured loan (please provide English translation of document also in case communication in other language):-*

- (a) Purpose of unsecured loan*
- (b) PAN and address of the third party*
- (c) Whether any interest paid and if paid, through which mode and date of payment with documentary evidence.*
- (d) Bank statement of your account highlighting the date of receipt and payment (if repaid) of unsecured loan*
- (e) Copy of confirmation of the third party*
- (f) Ledger account of the party for FY 2014-15*
- (g) ITR of the Party for the AY 2015-16*
- (h) Bank statement for complete year of the third party for FY 2014-15 reflecting the date of unsecured loan given to you.*
- (i) any other document you would like to rely upon.*

*9. In case you have received repayment of any unsecured loan advance by you then please furnish the following information in case of each unsecured loan (please provide English translation of document also in case communication in other language.*

- (a) Purpose of unsecured loan*
- (b) PAN and address of the party*
- (c) Whether any interest received and if received, through which mode*



- (d) Bank statement for complete year of your account in which unsecured loan was advanced to third party.*
- (e) Copy of confirmation of the third party.*
- (f) Ledger account of the party for relevant years*
- (g) ITR of the third Party for the AY 2015-16*
- (h) Bank statement of the third party for FY 2014-15*
- (i) Any other document you would like to rely upon.”*

8. In response to the above notice of the assessing officer, the assessee furnished two replies before the assessing officer, which are placed in the paper book of the assessee, wherein the assessee submitted details and documents and evidence in respect of the said loan taken from various persons.

9. The Ld. Counsel also took us through, another notice 142(1) of the Act issued by the assessing officer, wherein the assessing officer asked, the assessee, the pertinent question which is reproduced below:

*“Please refer to the re-assessment proceeding pending in your case for AY 2015-16. In this connection, you are required to furnish the following information:-*

*1. Vide your reply dated 12.01.2023, you have submitted that you have received unsecured loan from (i) Rajeshkumar Abhachand Mehta (ii) Gaurav Girish Mehta (iii) Vaishali Gaurav Mehta (iv) Vardhman Trading Co (v) Ganpatlal P. Gupta HUF AAAHG9717N (vi) Nidhi Agarwal AQYPK5136D (vii) Vishakha Gupta ABAPG4087G (viii) Veena Agarwal AASPA8075H however you have not submitted the following details about 04 parties namely (i) Rajeshkumar Abhachand Mehta (ii) Gaurav Girish Mehta (iii) Vaishali Gaurav Mehta (iv) Vardhman Trading Co, you are requested to provide the same (please provide English translation of document also in case communication in other language) -*

*(a) PAN and address of the third party*

*(b) Whether any interest paid and if paid, through which mode and date of payment with documentary evidence.*

*(c) Copy of confirmation of the third party*

*(d) ITR of the Party for the AY 2015-16*

*(e) Bank statement for complete year of the third party for FY 2014-15 reflecting the date of unsecured loan given to you*

*(f) any other document you would like to rely upon.”*

10. In response to the above notice, the assessee submitted its reply before the assessing officer which is placed on paper book no.139. The assessee also



submitted its reply before the assessing officer vide letter dated 07.03.2023 which is placed on the paper book page No. 147. Therefore, the Ld. Counsel stated that during the assessment proceedings the assessing officer has conducted further enquiry also and the assessee submitted required documents and evidences before the assessing officer. Therefore, the order passed by the assessing officer is neither erroneous and nor prejudicial to the interest of revenue.

11. On the other hand, the Ld. DR for the revenue submitted that no doubt the assessee has taken the loan in the current year and repaid in the subsequent year, however, the Ld. PCIT has given the specific finding in his order that assessing officer, during the assessment proceedings did not conduct detailed enquiry, therefore, order passed by the assessing officer is erroneous and prejudicial to the interest of revenue.

12. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id PCIT and other materials brought on record. We note that during the course of assessment proceedings, assessing officer has asked for the following details with respect to unsecured loans taken such as, Purpose of unsecured loan, PAN and address of the third party, Whether any interest paid and if paid, through which mode and date of payment with documentary evidence, Bank statement of account highlighting the date of receipt and payment (if repaid) of unsecured loan, Copy of confirmation of the third party, Ledger account of the party for FY 2014-15, the copy of ITR of the Party for the AY 2015-16, Bank statement for complete year of the third party for FY 2014-15 reflecting the date of unsecured loan given to assessee. In response to the same, the assessee has



filed reply along with following documents in respect of unsecured loan accepted during the year, viz: Copy of Confirmation Accounts mentioning PAN and address, Copy of Bank statement of lenders, Copy of acknowledgement of return of income, Details regarding purpose of loan taken and repayment of loan. Thus, we note that in the present case, the order passed by the Assessing Officer was based on due consideration of facts and submissions made by the assessee and was arrived at after verification of all the supporting documents and proper application of mind. There was no failure on the part of the Assessing Officer to make necessary inquiries or verification that were warranted by the facts of the case. As such, the assessment order cannot be termed "erroneous in so far as prejudicial to the interest of revenue" in the eyes of law.

13. We note that order passed by the assessing officer is sustainable in the eye of law, because, loan has been fully repaid during the year under consideration. Once, the repayment is made and accepted by the department no addition for such loan is to be made in the hands of the assessee. For that reliance can be placed on the following judgments of Jurisdictional High Court of Gujarat, viz:(i)Murlidhar Lahorimal Vs CIT (280 ITR 512 Guj), and (ii)CIT Vs Ayachi Chandrashekhar 42 taxmann.com 251 Guj. The revisionary authority has not established or demonstrated how the assessment order, as framed, has resulted in any loss of revenue or incorrect allowance of a claim and as to how the order is "prejudicial to the interest of revenue". We note that in compliance to various notices requiring specific details about unsecured loan accepted by assessee, the assessee has furnished detailed reply wherein comprehensive explanations and supporting documents were provided. These submissions included:



- (a) Complete particulars like Name, Permanent Account Numbers (PANs) and address of the persons from whom unsecured loans were borrowed (**Identity**);
- (b) Copy of return of income (**credit worthiness**);
- (c) Copy of bank statement of lenders reflecting the transaction (**Genuineness**);
- (d) Documentary evidence of the repayment of such loans to the respective lenders;
- (e) Proof of utilization of the borrowed funds, specifically showing that the loan amount was used for the purpose of acquiring immovable property;
- (f) A copy of the registered purchase deed in support of the property transaction.

Thus, all relevant details and evidences to prove identity, creditworthiness and genuineness were duly placed on record before the Assessing Officer and were available for verification. Moreover, once the repayment of loan has been accepted, acceptance of loan cannot be said as unexplained.

14. Hon`ble Delhi High Court in the case of PCIT v. Delhi Airport Metro Express Pvt. Ltd. [ITA No. 705/2017] has categorically held that for the purpose of exercising jurisdiction u/s 263 and reaching a conclusion that the order is erroneous and prejudicial to the interest of revenue, the ld. PCIT has to undertake some minimal inquiry and in fact where the ld. PCIT is of the view that AO had not undertaken any inquiry, it becomes incumbent on the ld PCIT to conduct such enquiry. The assessee filed voluminous submission before ld PCIT, however, ld PCIT has not given any reasons in the order passed u/s 263 for holding that assessment order is erroneous as well as prejudicial to the interest of revenue. In case of CIT v/s. G. M. Mittal Stainless Steel P. Ltd. - 130 taxman 67 (SC) it was held by the Hon`ble Apex Court that power of Commissioner u/s 263 must be exercised on the basis of material that is available to him when he has exercised power. It was further held by Apex



Court that PCIT should give the proper reasons. In any event, we note that the Assessing Officer has adopted one of the courses permissible in law and even if it has resulted in loss to the revenue, the said decision of the Assessing Officer cannot be treated as erroneous and prejudicial to the interest of the revenue as held by Hon'ble Supreme Court in Malabar Industries Ltd. vs. CIT, 243 ITR 83(SC). Since the order of the Assessing Officer cannot be held to be erroneous as well as prejudicial to the interest of the revenue, in the facts and circumstances narrated above, the usurpation of jurisdiction exercising revisional jurisdiction by the Principal CIT is "null" in the eyes of law and, therefore, we are inclined to quash the very assumption of jurisdiction to invoke revisional jurisdiction u/s 263 by the Learned Principal CIT. Therefore, we quash the revision order of the ld Principal CIT dated 21.02.2025 being *ab initio* void.

15. In the result, the appeal filed by the assessee is allowed.

**Order pronounced in the open court on 25/08/2025.**

Sd/-

**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

Rajkot

दिनांक/ Date: 25/08/2025

**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

Sd/-

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

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot