



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT**  
**BEFORE Dr. ARJUNLAL SAINI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No. 75/Rjt/2025**  
**(निर्धारणवर्ष / Assessment Year: (2021-22))**  
**(Hybrid Hearing)**

Jay PrabhudasVithlani 201, VarajResidency, 8 – Patel Colony, Gujarat – 361008	Vs.	The Principal Commissioner of Income Tax, Aayakar Bhavan, Nr. Subhash Bridge, Jamnagar Rajkot Highway Gujarat – 361001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ABCPV0266A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

**आयकरअपीलसं./ITA No.74/Rjt/2025**  
**(निर्धारणवर्ष / Assessment Year: (2021-22))**

Khushaboo JaykumarVithlani 201, VarajResidency, 8 – Patel Colony, Gujarat – 361008	Vs.	The Principal Commissioner of Income Tax, Aayakar Bhavan, Lal Wadi Main Road, Kaushal Nagar, Gujarat – 361110
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR.: <b>AEFPV6723A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Sagar Shah, Ld. AR  
Respondent by : Shri Sanjay Kumar, Ld. CIT(DR)  
**Date of Hearing : 19/06/2025**  
**Date of Pronouncement : 05/08/2025**

**आदेश / ORDER**

**PER DINESH MOHAN SINHA, JM:**

Captioned two appeals filed by the different assessee, pertaining to Assessment Year (AY) – 2021-22, are directed against the separate order passed by the Principal Commissioner of Income Tax [(in short “Ld. Pr.CIT”) u/s. 263 of the Act, both orders dated 24.01.2025.



2. Since, these two appeals filed by the different assessee for same assessment years, same and identical issues are involved, therefore, two appeals (*ITA 75 & 74 /Rjt/2025, for Assessment Year 2021-22*) have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity.

3. The grounds of appeal raised by the assessee, in lead case, in ITA 75/Rjt/2025, for Assessment Year 2021-22, are as follows:

*“1. The order passed by the Ld. Principal Commissioner of Income Tax, Jamnagar under section 263 of the Income Tax Act dated 24.01 2025 is bad in law as well as on facts and is required to be quashed as the same is passed without satisfying the twin conditions as prescribed under the law.*

*2. Based on the facts and circumstance of the case, the order passed by the Ld. PCIT, Jamnagar is bad in law as well as on facts as he has failed to consider that all the purchasing parties are duly verified during the course of assessment proceedings as appellant has provided the bill wise details such as supplier name, supplier address, PAN, GST registration no., Product details, quantity purchased, Name of Transporter, Address of Transporter, Mode of Transportation and also mentioning Vehicle No. All such details are provided during the course of assessment proceedings as well as revisionary proceedings, however none of the lower authorities has ever considered these information to draw fair conclusion of the purchase transaction undertaken by the appellant.*

*3. Based on the facts and circumstance of the case, the order passed by the Id. PCIT is bad in law as well as on facts as the revisionary order passed is merely based on the allegation that supplier parties of the appellant are not genuine, Ld. PCIT failed to bring any concrete evidence which suggest that purchases made by appellant from the mentioned parties, even when all the parties have filed their GST returns such as 1 and 3B by payment of the taxes as collected from the appellant, and proof of the same is submitted before both the authorities.*

*4. The order passed by the Ld. PCIT, Jamnagar is bad in law as well as on the facts as whole revisionary proceeding is based on the mere reason that purchase parties have "either Non-Filers, had filed non-business ITRs, or had shown substantially low turnover which is not legal action to initiate that proceedings in case of appellant, whether to purchases can merely be bogus if supplier has not filed the ITR?*

*5. Based on the facts and circumstance of the case, the order passed by the Id. PCIT is bad in law as well as on facts as the revisionary order passed as Ld.*



*PCIT has failed to consider that purchase transaction of the appellant was supported by the strong third-party evidence such as bank payments, details of purchases made mentioning quantity purchase along with information of the transportation such as vehicle no. of truck use for transportation and name of transporter that duly confirms the physical delivery of the Goods purchased, Screen shot reflecting return filing frequency of the supplier and proof that transaction is reported in 2A of the appellant which subsequently proved that suppliers have filed their GSTR-1 and also paid tax in their GSTR-3B. Ld. PCIT has considered no value of all this documentary evidences and merely stated that suppliers are bogus.*

*6. Based on the facts and circumstance of the case, the order passed by the Id. PCIT is bad in law as well as on facts as Ld. PCIT stated that supplier's GSTRN has cancelled within short span however as per the data available on the GST portal, suppliers have filed all GST returns for the F.Y. 2020-21 and the same fact is placed on the record before the PCIT, which shows that there is contradiction in the statement of the PCIT as data available on the GST portal states that registration is valid for whole financial year and supplier has also filed GST returns afterwards.*

*7. The Ld. PCIT, Jamnagar has erred in law as well as on facts by ignoring the material placed on records during the course of assessment proceedings by the appellant. The learned Principal Commissioner of Income Tax, Jamnagar has ignored the details submitted by the appellant during the proceedings u/s. Section 263 of the Act and passed the order, holding that the order passed by the Assessing Offices is prejudicial to the interest of revenue*

*8. The Ld. PCIT, Jamnagar has erred in law as well as on facts in holding that the AO'S order suffered from lack of enquiry merely because the AO, conscious of all facts and Information, chose one of the possible views in law by opting to accept the contentions of the assessee and this was not an error prejudicial to the interest of the revenue. Therefore, the order of the assessment did not suffer from any lack of enquiry and non-application law and provisions of law.*

*9. The Ld. PCIT, Jamnagar has erred in law as well as on facts in ordering to do particular type of enquiry and thus the order is against the law and against the principal of natural justice and he has apparently exceeded the power vested upon him under section 263 of the Act, because the Principal Commissioner of Income tax, Jamnagar has no power to direct the assessing officer in framing the assessment order in particular way.*

*10. Based on the facts and circumstance of the case, the order passed by the Id. PCIT is bad in law as well as on facts as Ld. PCIT has merely alleged that there are various entities entering in the bogus transactions without giving any trail as to how the bogus transaction entered into by the appellant from the above*



*suppliers, the allegation of the PCIT is not supported by any third party or concrete evidences and hence need to be quashed.*

*The appellant craves to leave, to add, amend, alter, or delete any of the grounds of appeal at the time of personal hearing in the interest of natural justice.”*

4. Brief facts of the case that the assessee is a proprietor of two firms namely M/s Aries Impex and M/s Darsh Enterprise. The assessee is engaged trading of scrap business under the name & style of M/s Aries Impex and providing courier services under the name & style of M/s Darsh Enterprise, also the assessee is a partner in the firm M/s Monarch Overseas.

The assessee has e-filed his Return of Income for AY 2021-22 declaring total income of Rs.8,51,060/- on 26.02.2022, which was processed on 29.03.2022 under section 143(1) of the Income Tax Act, 1961 at returned income. The case of the assessee was selected for Scrutiny under CASS having reason for selection as "Purchase from suppliers who are either Non-filers or have filed non-business ITR (ITR-1 & 2) or reflected a substantially lower income in ITR.

5. The exercised of his jurisdiction u/s. 263 of the Act, the Ld. PCIT has issued a show cause notice on 04.12.2024, which are reproduced below;

*3. Show Cause Notice*

*a show cause notice under section 263 of the Act was issued to the assessee on 04/12/2024, requesting an explanation as to why the assessment order u/s 143(3) rws 144B of the Act dated 24/12/2022 should not be revised, which are as under:*

*"Please refer to the above*

*2 In this case, it is observed that Return of Income for the AY under consideration was filed on 26/02/2022 declaring total income at Rs. 8,51,060/- This case was selected for Complete Scrutiny under CASS for the reasons that "Assessee has made substantial purchases from such suppliers who are either Non-Filer(s) or have filed non-business ITR or reflected a substantially lower turnover in ITR as compared to turnover shown in GSTR 1 return Subsequently, the assessment was completed u/s 143(3) r.w.s. 144B of the Income-tax Act, 1961 (for short 'the Act') vide order dated 24/12/2022 accepting the returned income.*



3. On perusal of assessment records, it is seen that while finalizing assessment Proceedings, the Assessing Officer (AO) has not verified / examined following aspects of the taxability of income and thus the order passed by the AO appears to be erroneous in as much as it is prejudicial to the interests of the revenue.

*Verification of Business Purchases:*

3.1. On perusal of the case records, it is seen that one of the reasons for selection of the case for scrutiny under CASS is "verification of substantial purchases from suppliers who are either Non Filer(s) or have filed non-business ITR (ITR 1,2) or reflected a substantially lower turnover in ITR." Therefore, it was incumbent upon the AO to verify all the aspects of such purchases during the assessment proceedings. However, it is seen that the AO has not verified aspects which are discussed hereunder during assessment and allowed the claim of such purchases.

3.2 On perusal of the GST data available on INSIGHT Portal, it is seen that purchases have been made from the following persons who have not filed their return of income for the year under consideration.

3.3 Further, verifications on GST portal revealed that in most of the cases GST number are allotted & cancelled on the same date or within a short span of time. Abstract of few cases whose GST numbers are canceled.

3.4 Considering the above it is found that the above mentioned 16 entities are bogus entities and used only to accommodate unaccounted money. Hence, total purchase made from these 16 parties of Rs/ 11,58,12,894/-by the assessee during the year are required to be treated as unexplained within the meaning of sec. 69C r.w.s. of the Act.

3.5 The above peculiarities of the purchases lead to conclusion that the transaction of purchases are bogus and have remained unverified. The AO should have verified such transactions in details particularly when the core reason of selection of case for assessment is to verify the genuines of purchases. However, it is seen that AO allowed the claim of purchase without any verification."

6. In response to the Show cause notice issued by the Ld. CIT(A), the legal heir of the assessee submitted the entire details of Business, online on 15.01.2025, which is reproduced below;

*"The original assessment order was passed u/s 143(3) r.w.s 144B of the Act dated 24.12.2022 for A.Y. 2021-22 for which there was no addition made by the Assessing Officer after verifying all the details and third-party documentary evidence were submitted during the course of hearing.*

*That the assessee i.e. Mr. Jay Prabhudas Vithalani have left for heavenly abode on 28.02.2024, the death certificate placed on record. The wife of the assessee i.e. Khushboo Vithalani has registered herself as legal heir on the Income Tax Portal.*



*As I was totally unaware of the transactions undertaken at that time by my husband, I obtained detailed understanding from our accountant and based on the information available with me, I have made this detailed response.*

*During the assessment proceedings, various notices has been served to the assessee to justify the genuineness of the purchases made and the purchasing parties, and submissions have also been made against the same*

*i. Copies of financial statements ie. Balance Sheet & Profit/Loss, Tax Audit Report and Nature of business.*

*ii. Name, Address, PAN, GST Registration Number and ledger copies of the parties from which the purchases have been made.*

*iii. Bank Statements for the whole year under consideration evidencing the bank payments to the purchase parties. Re-conciliation of purchases reflected in Annual GSTR 2A as well as GSTR BC for the year under consideration. Comprehensive details, including GSTR-2A reconciliations, supplier ledgers, transportation evidence, and banking channel payments, were furnished during assessment proceedings.*

*The purchases were genuine, as evidenced by GST compliance (GSTR-1 and GSTR-3B filings by suppliers) and corresponding sales in the audited accounts.*

*iv. Notice u/s 133(6) of the Act was issued to the parties with the prior approval from the authority and in reply the AO and relied "Copy of Income tax Return, copy of ledger account with your concern, copy of bank statement reflecting and highlighting the entry of the transaction with assessee's concern, Copy of GST Return."*

*All the above submissions are duly recorded under Faceless Assessment Scheme by 4 independent Units i.e. Assessment Unit, Verification Unit, Review Units, Technical Units. The Original Assessment Order passed under Faceless Scheme is not Subjective to any assessee as the same was not passed by Single Jurisdictional Officer The Final Assessment order is drafted in one city, reviewed in another city, finalized in the third city.*

*-Show cause notice issued u/s 263 of the Act, nothing new Incriminating/corroborative evidence have been brought on the record regarding which aspects are not verified/fails to be verified by the Assessing Officer.*

*- AO after verifying the details submitted by assessee allowed the purchase expense duly supported by the third-party evidence. No incriminating/corroborative evidence have been placed on records by the Ld. PCIT which validate the initiation of the revisionary proceedings.*

7. The assessee filed reply to the notice after going through the reply of the assessee, the Ld. PCIT observed that the assessee fail to substantiate genuineness of the purchase transactions on account of following reasons:



- The suppliers' GST registrations were cancelled shortly after issuance. This leads to conclusion that the genuineness of transactions with supplier is not proved.
- There is no evidence to establish the physical delivery of goods from the alleged suppliers.
- No corroborative evidence was submitted to verify the existence and operational status of the suppliers.

In view of the above, the Ld. CIT(A) hold that the assessment order passed by the Assessing Officer u/s 143(3) r.w.s. 144B of the Act dated 24/12/2022 in the case of the above mentioned assessee for the AY 2021-22 is erroneous in so far as it is prejudicial to the interest of revenue within the meaning of section 263 of the Act. In exercise of powers conferred under section 263 of the Act, Ld. PCIT has set aside the assessment order passed under section 143(3) r.w.s. 144B of the Act dated 24/12/2022 for AY 2021-22, and the AO is directed to:

- Conduct detailed verification of the purchases from the sixteen entities flagged as suspicious.
- Ascertain the genuineness of transactions by examining all relevant evidence, including but not limited to physical delivery of goods, stock registers, and independent confirmations from the suppliers.
- Reassess the income after considering the findings from the above verification and in accordance with the law.

The AO should examine/investigate / verify the issue as discussed above during the course of revision proceedings u/s 263 of the Act. The Assessing Officer is directed to pass the assessment order afresh in respect of the above issues within the statutory time limit after giving reasonable opportunity of being heard to the assessee.

8. That the assessee filed an appeal against the impugned order of the Ld. CIT(A) dated 24.12.2022 before this Tribunal.



9. During the course of argument, the Ld. AR of the assessee submitted that due notice has been issued by AO and after the proper inquiry, the assessment completed on returned income.

10. On the contrary, the Ld. DR stated that genuineness of the purchase transactions was not examined; since the dealers who are either Non-filers or have filed non-business ITR (ITR-1 & 2) or reflected a substantially lower income in ITR. That the Ld. DR further relied on the order of the Ld. CIT(A).

11. We have heard both the parties and perused the material available on record, and also perused the paper book filed by the assessee. The assessment was complied under the Faceless Assessment Scheme, involving multiple independent units (Assessment, Verification, Review, and Technical). We note that during the assessment proceedings, the Ld. AR has submitted reply/details/documents, i.e, Books of account, Tax Audit Report, detail of purchase made with each and every part, Bank statement and total good purchase, vehicle number, variation in the purchase as per the GSTR-1 and GSTR-3B were submitted, and other documents are placed on record. We also note that there is no adverse material available on record, The assessee has submitted details of 16 parties and detail of purchase made by the parties of Rs. 11,82,24,376/-, no adverse found against the assessee. The assessee has placed on record documentary evidences of purchasing the goods and bank statement and also placed on record, the payment was made to the purchase of goods through banking channel, no adverse has deducted by the GST authority and their GSTR-3B has placed on record. We further note that during the assessment proceeding, the AO has issued notice u/s. 133(6) of the Act and after enquiry of entire facts, the assessment computed that nothing wrong has been done by the assessee. The assessee has drawn our attention to following judgement.



i. The judgement is passed by High Court of Bombay, in the case of Asteroids Trading & Investment P. Ltd. vs DCIT (2009) 308 ITR 190 (Bom) (193), it was held that,

*"No new material brought on records-Reassessment on change of opinion of officer not valid." The copy of the order is enclosed at page no. 175 to 177.*

ii. The judgement is passed by High Court of Bombay, in the case of ICICI Prudential Life Insurance Co Ltd. (2010) 325 ITR 471 (Bom), it was held that,

*"Reopening of assessment on the same ground in the absence of any tangible material was based on mere change of opinion and therefore is not sustainable."*

Hence, based on the above-mentioned judicial pronouncements, in the absence of any specific evidence, the revisionary proceedings-initiated u/s 263 of the Act is bad in law and required to be quashed. We note that the Prima Facie the observation for issuing of notice u/s 263 of the Act without quantifying the probable loss of revenue and the nature of omission on the part of AO, the present show cause notice is nothing but a change of opinion which cannot be a subject matter of action u/s 263 of the Act. This is against the principles laid down by the Hon'ble Apex Court in the case of Parshuram Pottary Works Ltd vs. ITO, 106 ITR 01.

12. Accordingly, the following ratio of various judgements has referred above, we have no hesitation in holding that the Ld. PCIT had wrongly invoked the revisionary power u/s. 263 of the Act. we have no option but to quashed the order passed by the Ld PCIT, dated 30.03.2024.

**ITA 74/Rjt/2025;**

The case of Shri Khushboo Jaykumar Vithlani for AY 2021-22 having the same facts and have the same issue involved in the case, therefore the appeal (ITA No. 74/Rjt/2025 for AY 2021-22) is disposed off, in the above terms.



13. In the result, both the appeals of the same assessee (*ITA No. 74&75/Rjt/2022 for AY – 2021-22*), are allowed.

**Order pronounced in the open court on 05-08-2025.**

**Sd/-  
(Dr. A.L. SAINI)  
ACCOUNT MEMBER**

**Sd/-  
(DINESH MOHAN SINHA)  
JUDICAL MEMBER**

Rajkot

(True Copy)

दिनांक/Date: 05 /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

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot