आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.823/Ahd/2025
Asstt.Year : 2020-21

Vitthaldas Nathubhai Shah 1st Floor, Tax Planning House Above Usmanpura Underbridge Ahmedabad 380013. PAN : ACWPS 4622 C	Vs.	The Pr.CIT-3 Vejalpur Ahmedabad.

(Applicant)		(Responent)

Assessee by	:	Shri Mukesh Patel, AR
Revenue by	:	Shri Sher Singh, CIT-DR

सुनवाई की तारीख/**Date of Hearing : 23/09/2025**
घोषणा की तारीख /**Date of Pronouncement: 24/09/2025**

आदेश/O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

This appeal by the assessee is directed against the order dated 27/03/2025 passed by the learned Principal Commissioner of Income-tax, Ahmedabad-3 (hereinafter referred to as "the PCIT") under section 263 of the Income-tax Act, 1961 ("the Act"), for the Assessment Year (AY) 2020-21.

2. Facts in Brief

2.1 The assessee filed his return of income for the AY 2020-21 on 05/02/2021 declaring total income of Rs.1,01,09,280/-. The case was selected for limited scrutiny under CASS with the specific reason of verification of deductions claimed under Chapter VI-A of the Act.

2.2 During the course of assessment proceedings, the learned Assessing Officer (AO) issued notice u/s. 142(1) of the Act on 05/11/2021, calling upon the assessee to furnish section/sub-section wise details of deductions claimed under Chapter VI-A with supporting documentary evidences, details of earnings under relevant heads, note on eligibility criteria, and bank statements along with details of all bank accounts.

2.3 In response, the assessee submitted his detailed reply dated 17/11/2021 enclosing, inter alia, audited accounts, computation of income, passbook of PPF account, medical insurance premium receipts, and receipts of donations made to political parties under section 80GGC of the Act. The assessee specifically furnished receipts in respect of donations made to the Kisan Party of India (Rs.15,00,000/- in aggregate) as well as other political parties, along with bank account statements substantiating the claim.

2.4 After examination of the submissions, the AO, in the assessment order dated 25/08/2022 passed u/s. 143(3) r.w.s. 144B of the Act, accepted the claim of deduction made by the assessee under section 80GGC, along with other deductions, and completed the assessment by accepting the returned income.

2.5 Subsequently, the learned PCIT, on examination of the assessment record, noted that the assessee had made donation of Rs.15,00,000/- to the “Kisan Party of India” and claimed deduction u/s. 80GGC of the Act. It was further noted that the said political party was a “Registered Unrecognized Political Party” and had been subjected to search action u/s. 132 of the Act in March 2021. According to the PCIT, the investigation had revealed that the said party was engaged in a bogus donation racket, whereby donations

received through banking channels were returned back to donors in cash after deducting commission. The learned PCIT, therefore, formed a view that the deduction claimed by the assessee u/s. 80GGC of Rs.15,00,000/- ought to have been disallowed by the AO, and failure to do so had resulted in underassessment of income to that extent. Accordingly, notice u/s. 263 of the Act was issued to the assessee on 16/01/2025 proposing to revise the order of the AO.

2.6 In response, the assessee filed detailed submissions dated 28/01/2025 objecting to the assumption of jurisdiction by the PCIT. The assessee, inter alia, contended that the AO had made detailed enquiries on the claim of deduction under Chapter VI-A, including u/s. 80GGC, to which the assessee had furnished full particulars, evidences and receipts. It was argued that the AO, after due verification, had accepted the claim. The assessee further relied on several judicial precedents, including those of the Hon'ble jurisdictional High Court and the Hon'ble Supreme Court, to contend that once the AO had taken a plausible view after due enquiry, the PCIT could not invoke revisionary jurisdiction u/s. 263 merely to substitute his own view.

2.7 However, the learned PCIT, after considering the reply of the assessee, was not convinced with the submissions so made. The PCIT observed that the Assessing Officer had failed to make proper and meaningful enquiries with regard to the claim of deduction of Rs.15,00,000/- under section 80GGC of the Act, despite the fact that adverse material had come to light during search and seizure action u/s. 132 in the case of Kisan Party of India indicating that the donations received were not genuine. According to the PCIT, the mere production of receipts and banking channel transactions by the assessee could not establish the genuineness of the donations, and

the Assessing Officer was duty bound to have examined the matter in greater depth before allowing such claim. Placing reliance on the ratio laid down by various judicial forums, the PCIT concluded that the assessment order dated 25/08/2022 passed u/s. 143(3) r.w.s. 144B of the Act suffered from error both on facts and in law, and such error had caused prejudice to the interest of the Revenue. The PCIT, therefore, set aside the said assessment order and directed the Assessing Officer to frame a fresh assessment de novo after making proper and detailed enquiries on the claim of deduction u/s. 80GGC of the Act.

3. Aggrieved by the order of PCIT the assessee is in appeal before us raising following grounds:

> 1. *That the learned PCIT has erred in law in holding that the assessment order passed by the Assessing Officer (AO) on 25/08/2022, u/s. 143(3) r.w.s. 144B is erroneous and prejudicial to the interest of the revenue on the ground that the AO was bound to disallow the deduction of Rs. 15,00,000/- u/s.80GGC of the I.T. Act. He further erred in setting aside the original assessment order finalized as referred above.*
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> 2. *That the learned PCIT has grievously erred in rejecting the submissions of the Appellant contending that both on facts and in law there was no ground for the learned PCIT to assume jurisdiction u/s.263 and direct the AO to pass a fresh Assessment Order de novo.*
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> *The appellant prays that leave may be granted to add, amend or alter any of the grounds at any time before the final hearing of the appeal.*

4. During the course of hearing before us, the learned Authorised Representative (AR) of the assessee submitted that all the requisite details as were called for by the Assessing Officer vide notice issued u/s. 142(1) dated 05/11/2021 were duly furnished by the assessee in the reply dated 17/11/2021. It was emphasised that the Assessing Officer, after considering the said reply and after recording specific verification in the body of the assessment order, accepted the claim of

deduction u/s. 80GGC and completed the assessment. In these circumstances, it was argued that the Assessing Officer had taken a possible and plausible view after conducting enquiry, and therefore, the assumption of jurisdiction by the learned PCIT u/s. 263 was wholly without authority of law.

4.1 The learned AR further submitted that the jurisdiction under section 263 cannot be invoked merely on the ground that the learned PCIT entertained a different opinion or considered the enquiry conducted by the AO to be inadequate. In the present case, the PCIT relied only on an audit objection and generic search findings without any material linking the assessee's donation, thus proceeding on "thin air," which cannot satisfy the statutory requirement of showing the order to be both erroneous and prejudicial to the Revenue. Placing reliance on the decision of the Co-ordinate Bench in *Gujarat Mineral Development Corporation Ltd. v. PCIT* [2025] 176 taxmann.com 227, it was contended that when the Assessing Officer has raised queries, obtained replies, and applied his mind to the material before him, the revisional jurisdiction under section 263 cannot be exercised merely because the PCIT not satisfied with the conclusion drawn by the AO.

5. On the other hand, the learned Departmental Representative (DR) strongly supported the impugned order passed by the PCIT. It was submitted that the revisional jurisdiction was validly exercised in the present case since the PCIT had before him specific material in the form of audit objection as well as information emanating from the search action carried out in the case of the concerned political party. The DR pointed out that the Investigation Wing had unearthed a racket of bogus donations involving the said political party, wherein donations received through banking channels were being returned in cash after deduction of commission.

5.1 The DR invited our attention specifically to para 4.2 of the order of the PCIT, wherein the PCIT has elaborately recorded the basis for invoking jurisdiction u/s. 263, namely, that the assessee's donation of Rs.15,00,000/- to Kisan Party of India fell within the ambit of such bogus donation racket, and that the Assessing Officer had failed to conduct any meaningful enquiry into the genuineness of the same. According to the DR, the failure of the AO to make proper and necessary enquiry into a claim of deduction, despite the existence of adverse information in the possession of the Department, rendered the assessment order both erroneous and prejudicial to the interests of the Revenue.

5.2 The learned DR further submitted that the assessment order passed by the AO is cryptic and non-speaking, inasmuch as no reasons have been set out while allowing the claim of deduction u/s. 80GGC. It was argued that such a non-speaking order, bereft of reasons, by itself establishes non-application of mind and justifies the assumption of revisional jurisdiction by the PCIT under section 263 of the Act. In reply, the learned AR of the assessee vehemently opposed this contention. It was submitted that the law is well-settled that the requirement of a speaking order arises where the Assessing Officer chooses to make a disallowance or addition, so that the reasons for such action are placed on record. However, in cases where the AO, after calling for details, examining the evidence and applying his mind, accepts the claim of the assessee, the assessment order need not set out detailed reasons for such acceptance.

6. The learned AR also drew our attention to the fact that the PCIT, while assuming revisional jurisdiction, has not brought on record any specific fact or material directly relating to the assessee or his

donation to the said political party. It was contended that the PCIT merely referred to general observations made in the course of search action against the political party, without establishing any nexus of such adverse material with the assessee's own donation. In absence of such specific material, the assumption that the assessee's donation was also bogus is wholly unfounded and unsustainable in law. The AR further submitted that the assessee had in fact made total donations aggregating to Rs. 30,00,000/- during the year under consideration, of which two donations amounting to Rs. 15,00,000/- were made to the Kisan Party of India. The details of these donations were duly furnished in the reply to the notice u/s. 142(1) before the AO and were verified from the assessee's bank accounts and supporting receipts.

7. We have carefully considered the rival submissions, perused the material on record, and duly examined the assessment order, the impugned order passed u/s. 263 by the PCIT, and the judicial precedents cited before us.

7.1 It is an admitted position that the Assessing Officer issued a detailed notice u/s. 142(1) dated 05/11/2021 calling for specific information regarding the deductions claimed under Chapter VI-A, including the donation made u/s. 80GGC. In response, the assessee furnished a detailed reply dated 17/11/2021 enclosing donation receipts, bank statements, and supporting documents, which were taken on record. The AO, after recording that the evidences had been verified, accepted the claim and completed the assessment u/s. 143(3) on 25/08/2022.

7.2 It is also an undisputed fact that the search action under section 132 in the case of the political party was conducted in March 2021,

i.e., much prior to the passing of the assessment order. However, the learned PCIT, while invoking revisional jurisdiction, has not referred to or brought on record any incriminating material, seized documents, or statements recorded during such search which specifically connect the assessee's donation to the alleged racket of bogus donations. The order of the PCIT merely proceeds on general observations and on the basis of audit objection, without establishing any nexus of adverse material with the assessee's case.

7.3 In this context, we note that the Hon'ble Supreme Court in *Malabar Industrial Co. Ltd. v. CIT* (243 ITR 83) has laid down that both conditions, namely, that the assessment order is "erroneous" and "prejudicial to the interests of the Revenue," must be satisfied before the revisional power u/s. 263 can be exercised. Further, the Hon'ble Gujarat High Court in *CIT v. Arvind Jewellers* (259 ITR 502) and *CIT v. R.K. Construction Co.* (313 ITR 65) has consistently held that where the AO has conducted enquiries and accepted the assessee's explanation, the PCIT cannot invoke section 263 merely because he does not agree with the conclusion drawn by the AO.

7.4 Recently, the Coordinate Bench in *Gujarat Mineral Development Corporation Ltd. v. PCIT* [2025] 176 taxmann.com 227 (Ahd-Trib.) has reiterated that if the AO has examined the claim based on replies and evidences furnished, the revisional jurisdiction cannot be assumed merely because the PCIT prefers a different view. The distinction between "lack of enquiry" and "inadequate enquiry" is well settled by the Hon'ble Supreme Court and various High Courts, and only in cases of "lack of enquiry" can jurisdiction u/s. 263 be exercised.

7.5 In the present case, the AO has made enquiries, called for supporting documents, verified the evidences, and taken a plausible

view. The learned DR was unable to point out any specific enquiry that remained to be conducted by the AO, nor could the Revenue place on record any incriminating material from the search directly implicating the assessee's donation. If such material were indeed available, the proper recourse for the Department would have been to initiate proceedings u/s. 148 of the Act rather than invoking the revisionary power u/s. 263 on the basis of audit objection.

7.6 We also take note of the reliance placed by the learned PCIT on the orders of the co-ordinate Benches in *Rakesh Balubhai Padariya vs. PCIT* (ITA No. 283/Ahd/2023, order dated 29.12.2023) and *Milind Pankajbhai Shroff vs. PCIT* (ITA No. 93/Rjt/2023, order dated 20.05.2024). On careful examination, we find that both these decisions are clearly distinguishable on facts. In *Rakesh Balubhai Padariya* (supra), as noted in para 4 of that order, the source of the donation did not emanate from the assessee's own funds but from a third party, and further, the assessee's name was not even reflected in the donation list of the political party concerned. The Co-ordinate Bench, in that context, upheld the revision since the AO had not enquired into the anomaly of donation source and the absence of assessee's name. In *Milind P. Shroff* (supra), the Bench recorded that during pre-search enquiry, no party office was found at the declared addresses of the political party, and during the search, statements u/s. 132(4) of the National Party President and her husband revealed, in categorical terms, the *modus operandi* of a bogus donation racket whereby donations were routed through multiple layers and returned to donors after deducting commission. The findings were thus supported by incriminating material and specific statements implicating the party in bogus donation activities. In contrast, in the present case, the assessee had admittedly made donations aggregating to Rs. 30,00,000/- out of his own disclosed funds,

including Rs.15,00,000/- to the Kisan Party of India. The assessee furnished all details in response to notice u/s. 142(1), including receipts and bank statements, which were verified by the AO. Crucially, no incriminating material, no third-party statement, and no specific adverse fact connecting the assessee's donations to any bogus transaction have been brought on record by the PCIT. The reliance on the aforesaid precedents is, therefore, misplaced as the factual matrix is entirely distinguishable.

7.7 Even at the cost of repetition, we note that the assessment order was passed on 25/08/2022 whereas the search action in the case of the political party was conducted in March 2021. Despite this, no material from the said search relatable to the assessee's donation was ever placed before the Assessing Officer in the course of assessment proceedings. In such circumstances, we are unable to appreciate what further enquiry the AO could have reasonably undertaken, apart from calling for the details, examining the donation receipts, and verifying the bank statements which were in fact furnished by the assessee. To hold the order of the AO as erroneous and prejudicial in absence of any incriminating information directly concerning the assessee, would be to set a wrong precedent. The assumption of jurisdiction u/s. 263 on mere general observations, without material nexus to the assessee, is impermissible in law, particularly when other statutory remedies such as reopening u/s. 148 were always available to the Revenue in the event of discovery of concrete incriminating material.

7.8 In view of the foregoing, we are of the considered opinion that the assumption of jurisdiction by the learned PCIT u/s. 263 is unsustainable in law, as the assessment order cannot be said to be either erroneous or prejudicial to the interests of the Revenue. The action of the PCIT, in effect, amounts to substituting his opinion for

that of the AO, which is not permissible within the limited scope of section 263.

7.9 In the light of the above discussion, and respectfully following the judicial precedents, we hold that the impugned order passed by the PCIT u/s. 263 of the Act is liable to be quashed. Accordingly, the same is set aside and cancelled.

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

Order pronounced in the Court on 24th September, 2025 at Ahmedabad.

Sd/-	**Sd/-**
(SIDDHARTHA NAUTIYAL)	**(MAKARAND V. MAHADEOKAR)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Ahmedabad, dated 24/09/2025