

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.110/DDN/2024
(ASSESSMENT YEAR: 2015-16)**

Vibhu Grover, M/s Grover Sales Corporation, Garage Road, Kotdwara, Pauri-246169 PAN:AGDPG5842R (Appellant)	Vs.	PCIT, Dehradun. (Respondent)
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Assessee by	Shri Anil Jain, Adv.
Department by	Shri S.K. Chaterjee, CIT-DR

Date of hearing	08.07.2025
Date of pronouncement	26.09.2025

ORDER

PER MANISH AGARWAL, AM:

This Appeal is filed by the assessee against the order of Learned Principal Commissioner of Income Tax, Dehradun passed u/s 263 of the Income Tax Act, 1961, dated 08.02.2024 for Assessment Year 2015-16.

2. From the perusal of the record, it is found that the appeal of the assessee is barred by limitation by 73 days, for which an application for condonation of delay alongwith an affidavit is filed wherein it is stated that assessee was not well and was advised for complete bed rest. Therefore he could not contact the counsel for filing of the appeal. Copy of medical certificate issued by Dr. Ashok Gahlot was also filed in support of the contentions raised.

3. After considering the prayer made and the facts stated, we find that there is a bonafide reasons with the sufficient and reasonable cause for delay in filing the appeal, therefore, the same is hereby condoned and appeal is admitted for adjudication on merits.

4. Brief facts of the case are that assessee is an individual and case of the assessee was reopened u/s 147 in terms of the reason recorded which are available at PB page 21 & 22. According to the same, assessee took accommodation entry of expenses in the shape of bogus purchases from proprietorship firms of Sh. Manoj Kumar, Dayanand Parasar and Sh. Pawan Mishra. Thereafter, the during the course of reassessment proceeding, it is found that assessee has not entered into any transactions with these three persons and accordingly, the income declared by the assessee was accepted in terms of the reassessment order passed u/s 147 r.w.s 144B of the Act dated 25.03.2022. Thereafter, the Ld. PCIT initiated the revisionary proceedings by issue of show cause notice u/s 263 dated 30.06.2023 wherein the Ld. PCIT observed that the assessee has purchased Scrap from M/s Shri Ganpati Enterprises, Faridabad which firm is related to Manoj Kumar, Dayanand Parasar and Sh. Pawan Mishra and, accordingly, purchase made from M/s Ganpati Enterprises is accommodation entry. As per Ld. PCIT, the AO has not made proper and inadequate enquiries, therefore, cancel the reassessment order passed u/s 147 r.w.s 144B of the Act dated 25.03.2022 and direct the AO to pass fresh assessment order after due enquiries and verification.

5. Against the said order, the assessee is in appeal before the Tribunal. All the grounds of appeal taken by the assessee are challenging the revisionary order passed u/s 263 without appreciating the facts of the case, therefore, they are taken together for consideration.

6. Before us the Ld. AR of the assessee submits that before the issue of notice u/s 148, the AO has recorded reason for reopening which are available at PB 21 to 22. The assessee during the course of reassessment proceedings before the AO clearly established that no transaction whatsoever was made of Rs. 6.00 lacs. With these three persons and in support, copy of the bank statement, audited financial statements along with return of income and computation, complete sales ledgers and purchase ledgers, list of debtors, creditors, secured and unsecured loans were submitted before the AO in terms of the letter filed on 16.03.2022. Copies of the same are available in PB page 27 to 70.

7. Ld. AR further drew our attention to the notice issued u/s 142(1) dated 14.03.2022 by the AO wherein again AO has asked to provide the details of the transactions carried with these three persons namely Sh. Manoj Kumar, Dayanand Parasar and Sh. Pawan Mishra during the previous year under appeal and never referred to any transaction with M/s Shri Ganpati Enterprises. He thus, submitted that AO has made proper and adequate enquiries and after considering the submissions reached to the conclusion that no transaction was carried out by the assessee with these three persons and, accordingly, accepted the income declared by the assessee.

8. Ld. AR further submitted that Ld. PCIT in the show cause notice wrongly observed that in the reasons there was mentioned of firm M/s Ganpati Enterprises from whom purchase of Rs.6.00 lacs was made by the assessee. He further submits that information reproduced at page 2 of the revisionary order is not born out from the reasons recorded in the case of the assessee. The AO never asked the assessee about the purchases from M/s Shri Ganpati Enterprises. It is submitted by Ld. AR that since the AO has made proper and sufficient enquiries with respect to the reasons recorded, therefore, the reassessment order passed is neither erroneous nor prejudicial to the interest of

the Revenue and was passed after making all the necessary enquiries and examining the veracity of the purchases claimed by the assessee. He therefore, prayed that the revision order passed u/s 263 deserves to be quashed.

9. On the other hand, the Ld. CIT-DR vehemently supported the orders of the lower authorities and submits that information was available with the Assessing Officer from the Investigation Wing, Faridabad that assessee had taken accommodation entries of purchases of Rs. 6.00 lacs through Sh. Sh. Manoj Kumar, Dayanand Parasar and Sh. Pawan Mishra from a firm M/s Ganpati Enterprises. He further submits that the information was available with the AO and therefore, AO was duty bound to make verification of the said information from the assessee and since no enquiries was made with respect to the transactions made with Shri Ganpati Enterprises, the reassessment order passed is erroneous and prejudicial to the interest of Revenue. He thus requested for the confirmation of the order passed u/s 263 of the Act.

10. Heard both the parties at length and perused the material available on record. In the instant case, the sole issue is whether the AO had made proper and sufficient enquiries of the accommodation entries from the parties referred in the reasons recorded for reopening the assessment and whether the satisfaction was recorded with respect to the bogus accommodation entries of Rs.6.00 lacs of purchases allegedly obtained from three persons namely Sh. Manoj Kumar, Dayanand Parasar and Sh. Pawan Mishra. However, as per Ld. PCIT, the AO had the information that assessee had obtained accommodation entry of bogus purchase of Rs.6 lacs from M/s Ganpati Enterprises through these three persons and not from them.

11. From the perusal of the copy of the reason recorded as supplied by the AO to the assessee along with notice u/s 143(3), as available at PB page 21 to 22, we find that there is no mention of any firm named as M/s Shri Ganpati

Enterprises with whom alleged transactions of Rs.6.00 lacs is stated to be made by the assessee of bogus accommodation entry. The AO in his wisdom made all the necessary enquiries with respect to the transaction of Rs. 6 lacs of accommodation entry of purchases from Sh. Manoj Kumar, Dayanand Parasar and Sh. Pawan Mishra as appearing in the reasons recorded and there was no occasion for him to make any further verification of the purchases made from M/s Shri Ganpati Enterprises. The assessee has already filed all the necessary details with respect to the purchase and sales and AO had made proper verification of the facts before reaching to the conclusion that no alleged transaction of bogus purchases was made with these persons.

12. Now Id. PCIT alleged that the AO has not made sufficient enquiries on the basis of so called information supplied by Investigation Wing which contained details of transactions with Sh. Ganpati Enterprises. It is seen that the same is not borne out from the reason recorded and therefore, the AO had no occasion to make any such enquiry in this regard. Once the AO has made adequate and sufficient enquiries, therefore, the same cannot be held as erroneous and the order passed could not be treated as prejudicial to the interest of the Revenue.

13. The Hon'ble Supreme Court in the case of ***Pr. CIT vs Shreeji Prints (P.) Ltd.*** reported in ***[2021] 130 taxmann.com 294 (SC)*** has held as under:-

“Section 69, read with section 263, of the Income-tax Act, 1961 - Unexplained investments (Unsecured loans) - Assessment year 2013-14 - Assessee-company had received unsecured loans from two different companies - Commissioner noting that said loans were shown as investment in assessee's name in balance sheet of respective companies exercised revisionary powers and passed an order without giving an opportunity to assessee of being heard, invoking Explanation 2 to section 263 - High court by impugned order held that since Assessing Officer has made inquires in details and accepted genuineness of loans receive by assessee, such view of Assessing Officer was a plausible view and same cannot to be considered erroneous or prejudicial to interest of revenue - Whether SLP against said impugned order was to be dismissed – Held, Yes”

14. Further Hon'ble Supreme Court in the case of **PCIT vs NYA International**, while dismissing the SLP filed by the Revenue in Special Leave Petition (civil) Diary No.1845/2025 the Hon'ble Court vide order dated 17.02.2025 has observed as under:-

“Delay condoned.

This special leave petition is misconceived and is completely contrary to the law pertaining to Section 263 of the Income Tax Act, 1961.

The notice under Section 148 of the 1961 Act referred to two reasons. The first reason was with regard to non-declaration of the account in ING Vysya Bank with a credit of Rs.70,13,43,319/- (Rupees seventy crores thirteen lakhs forty three thousand three hundred and nineteen only). The second reason was with regard to the claim of deduction under Section 10AA of the 1961 Act.

It is accepted that a reassessment order under Section 148 read with Section 143(3) of the 1961 Act was passed. Addition was not made for the first reason.

In the given facts, the assertion by the Revenue that inquiry and verification in re the bank account was not made is ex-facie incorrect. This being the position, this is not a case of failure to investigate, but as no addition was made, the Revenue can argue that it is a case of wrong conclusion and decision in the re-assessment proceedings. Therefore, to exercise jurisdiction under Section 263 of the 1961 Act, the Commissioner of Income Tax should have examined the merits and only on reaching a finding that the re-assessment order was erroneous and prejudicial to the interest of the Revenue made an addition.

This is not a case of 'no inquiry and verification', but as made out by the Revenue, a case of wrong conclusion. The difference between the two situations is clear and has different consequences.

This being the position, the High Court was right in dismissing the appeal preferred by the Revenue.

The special leave petition is dismissed in the above terms.

Pending application(s), if any, shall stand disposed of.”

15. The Hon'ble Delhi High Court in the case of PCIT vs. Clix Finance India Ltd. while concurring to the findings of the Tribunal has observed as under:

“27. Considering the aforesaid judicial pronouncements, it can be safely concluded that inadequacy of enquiry by the AO with respect to certain claims would not in itself be a reason to invoke the powers enshrined in Section 263 of the Act. The Revenue in the instant case has not been able to make out a sufficient case that the CIT has exercised the power in accordance with law. Rather, in our considered opinion, the facts of the case do not indicate that the twin conditions contained in Section 263 of the Act are fulfilled in its letter and spirit.

28. Notably, the ITAT, while making a categorical finding that the CIT had failed to point out any definite or specific error in the assessment order, has satisfactorily explained both the claims in question in Paragraph 8.2 of its order, which reads as under:-

"8.2 In the Impugned Order, the Ld. Commissioner of Income Tax-IV, Delhi held that the AO had not examined the aforesaid two issues properly and, therefore, set aside the issues for further inquiries to be conducted by the AO. As regards the first issue is concerned, we note that out of total provision of Rs. 1114.68 lacs, a sum of Rs. 7,60,76,105/- was suo moto added back in the computation of income and a further sum of Rs. 73,46,160- was disallowed by the AO in the original assessment order dated 30.3.2005. Therefore, out of Rs. 1114.68 lacs, Rs. 834.22 lacs already stood disallowed in the original assessment order. The balance amount represented actual write off which was palpably clear from page 2 of the impugned order itself. No deduction on account of any such provision was, therefore, allowed to the assessee. Hence, there is no error or prejudice to the interest of revenue. As regards second issue it was noted that interest rate swap was an actual loss and only the net loss of Rs. 114.05 lacs after setting of gain of interest rate swap was claimed as deduction. However, we find that both these issues were duly examined by the AO vide Questionnaire dated 2.11.2004 (Page 1-2 of the Paper Book) to which replies dated 9.12.2004, 20.12.2004 and 6.1.2005 (Page No. 3-39 of Paper Book-1) were furnished and, therefore, the finding of the Ld. CIT that the issues were not examined properly was not correct. Even the Ld. CIT has not pointed out the definite and specific error in

the original assessment order and observed that the inquiry made by the AO was inadequate or improper without first pointing out the error in the original assessment order passed by the AO, particularly because both the aforesaid issues were duly examined at the stage of the original assessment proceedings, hence, the impugned order is beyond jurisdiction, bad in law and void-ab-initio."

29. *It is discernible from the aforesaid findings of the ITAT that both the claims were duly examined during the original assessment proceedings itself and neither there was any error nor the same was prejudicial to the interests of the Revenue. Thus, the findings of fact arrived at by the ITAT do not warrant any interference of this Court.*

30. *So far as the reliance placed by the CIT on Umashankar Rice Mill is concerned, the same is misplaced, particularly in light of the insertion of Explanation 2 to Section 263 of the Act, brought in place by the Finance Act, 2015. The said amendment markedly specifies various conditions to exercise the authority vested in the Commissioner under Section 263 of the Act, leaving no ambiguity in the interpretation of the said provision.*

31. *In view of the aforesaid, the appeal preferred by the Revenue is dismissed alongwith the pending application(s), if any. "*

16. Further the Hon'ble Supreme Court in the case of PCIT vs. V. Con Integrated Solutions Private Ltd. in **SPECIAL LEAVE PETITION (CIVIL) Diary No. 13205/2025** while dismissing the SLP of the assessee observed as under:-

"In our opinion, the order passed by the High Court, which upheld the decision of the Tribunal, is correct on facts and in law. This case does not involve a failure by the assessee officer to conduct any investigation. Instead, according to the Revenue, it is a case where the assessing officer having made inquiries erred by not making additions.

The assessee does not have control over the pen of the Assessing Officer. Once the Assessing Office carries out the investigation but does not make any addition, it can be taken that he accepts the plea and stand of the assessee.

In such cases, it would be wrong to say that the Revenue is remediless. The power under Section 263 of the Income Tax Act, 1961, can be

exercised by the Commissioner of Income Tax, but by going into the merits and making an addition, and not by way of a remand, recording that there was failure to investigate. There is a distinction between the failure or absence of investigation and a wrong decision/conclusion. A wrong decision/conclusion can be corrected by the Commissioner of Income Tax with a decision on merits and by making an addition or disallowance

There may be cases where the Assessing Officer undertakes a superficial and random investigation that may justify a remit, albeit the Commissioner of Income Tax must record the abject failure and lapse on the part of the Assessing Officer to establish both the error and the prejudice caused to the Revenue.”

17. As observed above, in the instant case the AO has made adequate and sufficient enquiries and reached to the conclusion that no income has escaped assessment therefore, the order cannot be held as erroneous and prejudicial to the interest of revenue. This view is fully supported by the aforesaid order of hon'ble Supreme court and hon'ble Delhi high court. Therefore, by respectfully following the same, we find no error in the reassessment order passed by the AO and accordingly, the order passed u/s 263 is hereby quashed.

18. In the result appeal of the assessee is allowed.

Order pronounced in the open Court on 26. 09.2025.

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 26.09.2025.

PK/Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

ASSISTANT REGISTRAR
ITAT, DEHRADUN