



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
AND  
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.359/RJT/2024  
Assessment Year: 2014-15

Shri Pankajkumar Manilal Kalariya Shiv Park Society, Kenal Road, Morbi- 363 641	बनाम /Vs.	Principal Commissioner of Income-tax-1, Rajkot, Aaykar Bhawan, Race Course Ring Road, Rajkot – 360 001
स्था यी ले खासं / .जी आइ आर सं / .PAN/GIR No.: <b>BSQPK0006D</b>		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)

निर्धारित की ओर से/Assessee by : Shri Mehul Ranpura, Ld.AR  
राजस्व की ओर से/Revenue by : Smt. Pallavi, Ld. CIT-DR

सुनवाई की तारीख/Date of Hearing : 04/08/2025  
घोषणा की तारीख/Date of Pronouncement : 09/10/2025

आदेश / ORDER

**Per, Dr. A. L. Saini, AM:**

By way of this appeal, the assessee has called into question correctness of impugned order passed by the learned Principal Commissioner of Income Tax, (in brief, ld.PCIT) under section 263 of the Income tax Act, 1961, in the matter of assessment under section 147 r.w.s.144B of the Act, for the assessment year 2014-15, on the following grounds:

- “1. The grounds of appeal mentioned hereunder are without prejudice to one another.*
- 2. The order passed by Pr. Commissioner of Income-tax, Rajkot-1 [hereinafter referred to as to the “PCIT”] is bad in law, invalid and requires to be quashed, the same may kindly be quashed.*
- 3. The Ld. PCIT erred in law and on facts in arriving at a conclusion to the effect that the assessment order passed by the AO was erroneous as well as prejudicial to the interest of the revenue on the ground that the AO has not applied his mind and not conducted any inquiry or*



*verified source of cash deposited of Rs.20,60,000/- in the bank account held with HDFC Bank Ltd. The order passed by PCIT requires to be quashed and may kindly be quashed.*

*4. The learned Pr.CIT erred on facts as also in law in setting aside the assessment order dated 27.03.2022 passed u/s 147 of the Income Tax Act, 1961 directing the AO to pass a fresh assessment order. The order passed u/s 263 of the Act by the learned Pr.CIT is totally unjustified on facts as also in law therefore the same may kindly be quashed.*

*5. Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal."*

2. The facts of the case which can be stated quite shortly are as follows: The assessee filed his return of income for assessment year (A.Y.) 2014-15, declaring total income of Rs.1,90,580/-. The assessment was finalized by the assessing officer, u/s 147 r.w.s. 144 read with section 144B of the Act, on 27.03.2022, determining total income of Rs.19,90,580/-, by making addition of Rs.18,00,000/-, on account of unexplained unsecured loans.

3. Later on, Learned Principal Commissioner of Income Tax, ( in brief, "ld.PCIT"), exercised his jurisdiction, under section 263 of the Income tax Act, 1961. The Learned Principal Commissioner of Income Tax, on perusal of case records, it was observed that the assessee has deposited the aggregate cash of Rs.20,60,000/-, in his bank account maintained with HDFC Bank Ltd. Further on perusal of the assessment records, it was noted that the Assessing Officer issued notice u/s 142(1) dated 15.12.2021 and has asked to submit the source of cash deposits. It was further observed that cash was deposited in the account and the same day or next day, it was transferred to M/s Fenix Ceramics wherein the assessee was partner. The assessee did not file any explanation, w.r.t the source of the cash deposit in his bank account maintained with HDFC Bank Ltd. Therefore, the source of cash deposited of Rs.20,60,000/- remained unexplained. Considering such fact, notice u/s 263 of the Act was issued to the assessee, dated 04.03.2024 and duly served upon the assessee.



4. In response to the above notice, the assessee has filed the reply before the learned PCIT with documentary evidences. The assessee submitted before the Ld.PCIT, the audited books of accounts in the form of trading and profit and loss account, balance sheet and capital account. The balance-sheet of the assessee, reflects the cash balance at the end of the accounting year. The cash deposited in the Bank account has nexus with the cash book. Besides, during the assessment proceedings, the assessee submitted the audited books of accounts and explained the source of cash deposited during the assessment proceedings, before the assessing officer. The assessing officer, after going through the documents of the assessee, took a plausible view and did not make the addition, therefore order passed by the assessing officer is neither erroneous nor prejudicial to the interest of the revenue.

5. However, the learned PCIT rejected the above contention of the assessee and noticed that it is apparent from assessment order that Assessing Officer has not applied his mind and has not conducted any enquiry despite the necessary information for making such enquiry being available as noted earlier in this order. Keeping in view these fact, the Ld. PCIT was of the considered view that this is a fit case for invoking section 263 of the Act as the twin conditions namely, (i) the order of the Assessing Office sought to be revised is erroneous and (ii) it is prejudicial to the interests of the revenue are satisfied. Accordingly, the impugned assessment order passed by the Assessing Officer u/s 147 r.w.s. 144 r.w.s. 144B of the Act on 27.03.2022 was set aside for fresh assessment only to the extent of the issues discussed supra and directed the Assessing Officer to pass a fresh assessment order after making proper enquiries.

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



7. Learned Counsel for the assessee, explained the source of cash deposit by submitting following chart and all these explanation, which were given in the following chart has already been filed before Assessing Officer, during assessment proceedings. The said chart is reproduced below:

Sr. No.	Date of cash withdrawal	Amount of cash withdrawal	Date of receipt of funds from parties (USL)	Source of cash withdrawal & details of cash deposits	Amount	Cah deposit date	Cash deposit amount	Refere nce page no. paper r boo k	Reference of reply and page no. of paper book filed before AO
1	05.04.13	--	--	Cash deposited from Op. balance of Rs.5,17,193/- as on 01.04.2013	--	05.04.13	2,50,000	20	
2	18.04.13	2,10,000	17.04.2013	Unsecured loan from Shilpaben Sanadiya	2,00,000	--	--	59	12.08.21/ page 71 & 72
3	22.04.13	5,00,000	18.04.2013	Unsecured loan from Sandip V Knani	5,00,000	--	--	60	
4	24.04.13	2,90,000	22.04.2013	Unsecured loan from Sandip V Kani	3,00,000	--	--	60	
5	25.04.2013	2,00,000	24.04.2013	Unsecured loan from Jayntilal J Vyas	2,00,000	--	--	61	
6	26.04.2013	2,00,000	25.04.2013	Unsecured loan from Sarmistaben C Agola	2,00,000	--	--	62	
7	27.04.2013	4,00,000	27.04.2013	Unsecured loan from Natvarlal G Gopani	2,00,000	--	--	63	
8	--	--	--	Cash deposited from cash-on-hand available	--	02.05.13	9,00,000	57	
9	--	--	--	Cash deposited from cash-on-hand available	--	03.05.13	9,00,000	57	
10	--	--	--	Cash deposited from cash-on-hand available	--	16.09.13	10,000	57	
Total		18,00,000	--		18,00,000		20,60,000		

Note: Cash withdrawal of Rs.2,10,000/- on 17.04.2013 is out of unsecured loan of Rs.2,00,000/- from Shilpaben Sanadiya and opening cash on hand available of Rs.5,17,193/-

8. The Ld. Counsel also took us through the appeal effect order passed by Assessing Officer u/s 147 r.w.s. 263 of the Act, on 27.03.2022 and stated that in the appeal effect order also, the Assessing Officer accepted the plea of assessee and did not make addition, however, made addition on a different footing, that is, on account of unsecured loans. The cash deposit made by the assessee pertains to and link with the unsecured loans, therefore, double addition should not be made in the hands of assessee. Besides, Ld. Counsel also submitted that during the assessment proceedings, the assessing officer conducted enough enquiry by issuing notices u/s. 142(1) of the Act, and in response to there



notices, the assessee has submitted its reply with documentary evidences. The AO applied his mind and frame the assessment order, which is not erroneous.

9. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Id.PCIT, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

10. 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 in appeal effect proceedings, under section 263 r.w.s. 143(3) of the Act, the assessing officer has deleted the addition of Rs.20,60,000/-, in respect of the issue raised by the Id.PCIT, vide appeal effect order of Pankaj Kumar Manilal Kalariya -Pan no. BSQPK0006D for A.Y. 2014-15, order dated, 28/03/2025, wherein, the assessing officer held as follows:

*“3.In view of the above, to form a fresh assessment, a notice u/s. 142(1) of the I. T. Act, 1961 was issued on 24.01.2025 & 31.01.2025. In response to these notices, the assessee submitted his replies on 30.01.2025 and 03.02.2025. The assessee, in his reply dated 03.02.2025 furnished his explanation regarding cash deposit of Rs.20,60,000/- that Rs.2,50,000/- was deposited from cash available as on 31.03.2013 and remaining amount of Rs. 18,10,000/- was deposited out of withdrawal from HDFC bank account No.03071000092915. The assessee also furnished copy of bank statement and cash book in support of his explanation. The documents submitted by the assessee regarding cash deposit of Rs.20,60,000/- in his HDFC bank account are verified and no any adverse inference has been drawn on the issue.*

11. We also note that in appeal effect proceedings, in the assessee`s case, under consideration, vide appeal effect order of Pankaj Kumar Manilal Kalariya -Pan no. BSQPK0006D for A.Y. 2014-15, order dated, 28/03/2025, the assessing officer has made addition on different footing, that is, on account of unsecured loan, the relevant para, of the assessment order, is reproduced below:



*“7. In view of the above, it is concluded that the assessee failed to establish genuineness and creditworthiness of unsecured loan received by him amounting to Rs. 18,50,000/- from various persons as discussed above. Therefore, above mentioned unsecured loan of Rs. 18,50,000/- received by the assessee is treated unexplained cash credit within the meaning of provisions of section 68 r.w.s. 115BBE of the Income Tax Act, 1961 and added to the total income of the assessee.”*

12. Considering the above facts, we note that in respect of the issue raised by the Id. PCIT, in the appeal proceedings, the assessing officer deleted the addition, therefore, this appeal filed by the assessee should be allowed on the fact that no double addition should be made in the hands of the assessee. That is, in appeal effect proceedings, instead of making addition on account of cash deposit, the Assessing Officer made addition on account of unsecured loan and unsecured loans is connected with the amount deposits in the bank account of assessee, hence, there is double addition in the hands of the assessee, and which is not permitted. Therefore, the assessment order, under consideration, passed by the AO is neither erroneous nor prejudicial to the interest of revenue nor is in the domain of proceedings u/s 263 of the Act.

13. We also find that the assessee, during the assessment stage, has submitted books of accounts, Bank statement of the bank, details of cash deposits which were made out of withdrawal from his bank. Thus all the documents, details and the explanations required by the Assessing Officer were submitted by the assessee. Just because the Assessing Officer does not bring these documents and details in his assessment order does not mean that assessing officer has not conducted proper enquiry during the assessment stage. In fact, assessing officer has applied his mind. The Learned Counsel for the assessee is right in his submission that one has to keep in mind the distinction between "lack of inquiry" and "inadequate inquiry". If there was any inquiry, even inadequate, that would not by itself, give occasion to the Commissioner to pass orders under section 263 of the Act, merely because he has different opinion in the matter. If an Income-tax Officer acting in accordance with law makes a certain assessment, the same cannot be branded as erroneous by the Commissioner



simply because, according to him, the order should have been written more elaborately. Therefore, in the assessee`s case, it cannot be said that it is a case of 'lack of inquiry'. 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 Principal CIT. Therefore, we quash the order of the Principal CIT dated 31.03.2024, being ab initio void.

14.In the result, assessee`s appeal is allowed.

Order is pronounced in the open court on 09/10/2025

**Sd/-**  
**(DINESH MOHAN SINHA)**  
न्यायिक सदस्य/JUDICIAL MEMBER

राजकोट /Rajkot  
दिनांक/ Date: 09/10/2025

**Sd/-**  
**(DR. ARJUN LAL SAINI)**  
लेखा सदस्य/ACCOUNTANT MEMBER

By order/आदेश से,  
सहायक पंजीकार  
आयकर अपीलीय अधिकरण, राजकोट