

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH "DB" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)  
AND  
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 520/SRT/2025  
Assessment Year: 2021-2022**

Rajvee Exports,  
400, Shri Godiji Building,  
Devidas Pipla Road,  
Mahidharpura, S.O.  
Surat-395003.

**PAN NO. AAGFR 1008 K  
Appellant**

**Vs.** DCIT, Central Circle 3,  
Aayakar Bhavan,  
Surat-395001.

**Respondent**

Assessee by : Mr. Rasesh Shah, CA  
Revenue by : Shri Mukesh Jain, CIT-DR

Date of Hearing : 08/10/2025  
Date of pronouncement : 30/10/2025

**ORDER**

**PER OM PRAKASH KANT, AM**

This appeal by the assessee is directed against order dated 31.03.2025 passed by the Ld. Principal Commissioner of Income-tax (Central), Surat [in short 'the Ld. PCIT'] for assessment year 2021-2022, wherein he has held the assessment order passed by the Assessing Officer u/s 143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 30.12.2022 as erroneous in so far as prejudicial to the interest of the Revenue. The grounds raised by the assessee are reproduced as under:

- 1. On the facts and in circumstances of the case as well as law on the subject, the learned Pr. CIT has erred in passing the*



- order u/s. 263, although the assessment order passed u/s. 143(3) of the I.T. Act, 1961 was neither erroneous nor prejudicial to the interest of the revenue.
2. On the facts and circumstances of the case as well as law on the subject, the learned Pr. CIT has erred in setting aside the order passed u/s. 143(3) with a direction to the assessing officer as per para no. 7 of the revision order to pass fresh assessment order after taking into consideration, the issues as may be considered together with the issues discussed in order. Accordingly, PCIT has erred in setting aside the assessment order making it wide open instead of restricting the issues raised in show cause notice.
  3. On the facts and circumstances of the case as well as law on the subject, the learned Pr. CIT has erred in directing the assessing officer to make fresh inquiry and verification in respect of quantity of stock as per assessee's books of accounts.
  4. It is therefore prayed that above order passed by Pr. CIT u/s. 263 may please be quashed or modified as your honours deem it proper.

2. Briefly stated, facts of the case as emanating from the record, reveals that a survey action under section 133A of the Act was conducted on 17th December, 2022, at the business premises of the assessee, wherein the books of account and other relevant documents were duly impounded. During the course of such proceedings, the stock of diamonds found on physical verification was discovered to be substantially in excess of that recorded in the regular books of account.

2.1 It is recorded that during the survey, physical stock of 155 carats of diamonds was found, as against a meagre 3 carats reflected in the books. The authorised officer, in the course of statement recorded under oath, elicited an admission from **Shri Kiran Kumar B. Patel**, a partner of the assessee firm, acknowledging such discrepancy and offering the differential value, duly quantified at ₹33,09,548/- as per valuation by a Government-approved valuer, for taxation as unexplained stock.



2.2 Subsequent to the said survey action, the assessee filed its return of income for the year under consideration on 29th December, 2021, declaring a total loss of ₹5,22,462/-. The case was selected for scrutiny under the compulsory manual selection criteria owing to the survey proceedings aforementioned. During the assessment, the assessee revised its stand and contended that, on reconciliation, the stock as per books of account was 146.662 carats as against 155 carats found physically. Accordingly, it computed the value of excess stock at ₹6,24,787/- and offered the same as unaccounted stock. The Assessing Officer, while not entirely persuaded by such explanation, nonetheless accepted the assessee's computation and made an addition of ₹6,24,787/- as unaccounted stock under section 69 read with section 115BBE of the Act. The relevant finding of the Assessing Officer in assessment order dated 30.12.2022 is reproduced as under:

*6.3 The reply of assessee with regard to stock has been perused and the contention of assessee is not found to be acceptable in totality. The assessee is well aware that the books of account was incomplete as on the date of survey proceeding. During course of survey proceedings, stock was taken by department. The summary chart of the stock-position of the assessee is as below:*

<i>Sr</i>	<i>Stock as per books</i>	<i>Stock found physically</i>	<i>Difference</i>
<i>1.</i>	<i>Diamond-3 cts</i>	<i>Diamond-155 cts Gold- 145.38 gm</i>	<i>Gold-145.38 gm Diamond-152 cts</i>

*In order to verify the excess stock whether it is accounted in books of account or not, on being asked the assessee has submitted the reconciliation of stock of diamond and Gold. As per reconciliation submitted by assessee, it is found that as on date the stock position of Gold and Diamond is as under:*

<i>Sr</i>	<i>Stock as per books</i>	<i>Stock found physically</i>	<i>Difference</i>	<i>Value (in Rs.)</i>
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1.	Diamond 146.662	Diamond- 155 cts	Diamond 8.34 cts	1,66,800 @ 20,000/-
2.	Gold 0.093 gm	Gold- 145.38 gm	Gold-145.38 gm	4,57,987
<b>Total value (in Rs.)</b>				<b>6.24,787/-</b>

As it is evident from above, the assessee itself admitted that Gold stock as per books of account was 0.093 gram. With regard to excess stock, the assessee has stated that jewellery found from the premises on the date of survey was received for repairing purpose which was already sold. This jewellery was sold earlier and part of such jewellery should not be considered as assessee's stock in hand. However, the assessee has not submitted any corroborative evidence i.e. copy of bill/invoice raised earlier, copy of delivery/receipt of jewellery etc. to prove that the such jewellery was sold earlier. As on date of survey, the statement of partner of assessee was recorded and he was categorically asked regarding position of stock. In response to the same, he stated that no other stock was lying at the business premise as well as no stock pertaining to business concern was lying at another premise at that time, It clearly indicates that the assessee has nothing to submit in respect of excess stock, The assessee is putting only cooked up story.

The assessee merely provided the details of jewellery for so called repairing in tabular form. On this basis, the excess stock amount of Rs.6,24,787/- (Diamond 8.34 cts and Gold-145.38 g) cannot be treated as explained

Looking the above facts and circumstances of the case, in absence of any corroborative evidence for sold out the jewellery earlier, the excess stock amount of Rs.6,24,787/- is treated as unaccounted stock and added back to the total income of assessee. Therefore, the amount of Rs.6,24,787/- is hereby added back to the total income of assessee as unaccounted unexplained investment u/s 69 r.w.s 115BBE of the I.T. Act, 1961.

I am satisfied that assessee has concealed its income to evade the due taxes, hence penalty proceedings u/s 271AAC is separately initiated for concealment of income.”

3. Thereafter, The Id PCIT on examination of the assessment record, was of the considered view that the Assessing Officer had erred in accepting the reconciliation and explanation of the assessee without conducting any meaningful inquiry or verification of the supporting documentary evidences. He observed that the Assessing Officer had reduced the quantum of



excess stock from ₹33,09,548/-, admitted during survey, to ₹6,24,787/- merely on the basis of unverified statements.

3.1 Accordingly, a notice under section 263 of the Act was issued, calling upon the assessee to show cause why the assessment order should not be treated as erroneous in so far as it is prejudicial to the interest of the Revenue. After due consideration of the assessee's submissions, the Ld. PCIT held that the Assessing Officer had failed to make requisite inquiries and verification, and consequently, the assessment order was liable to be set aside under the provisions of section 263 of the Act. The relevant finding of the Ld. PCIT is reproduced as under:

*"5.1 Having carefully considered the factual matrix of this case and the legal position in this regard, my comments on the specific arguments taken by the assessee and the evidence relied upon by him during the present proceedings are as under:-*

*A. Before me, the assessee has argued that he had submitted full details and reconciliation during the assessment proceedings and after considering and verifying the same the altered figures of excess stock of diamond and gold were accepted by him. However, on verification of the assessment record, I observe that complete details or reconciliation was not furnished by the assessee during the assessment proceedings. It may be relevant to note that vide point no. 2 of the Annexure to the notice issued by the A.O. under section 142(1) on 05.09.2022, the A.O. had inter alia called for the following specific details :-*

*"2. Please give details of method of stock maintained by you and also state as to whether any stock accounts including day to day stock register etc are maintained by you, if yes, please give details of the opening stock and closing stock in the following format.*

Sr. No.	Nature/description of item	Quantity	Rate	Value	Basis of Valuation for each item separately
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*If stock details are not maintained, then please clarify as to how stock records are verifiable, vis-à-vis purchase/consumption/sale. Please also give details of month wise purchase and sales made during the year under consideration in terms of quantity and value. Please furnish*



*details regarding method of valuation of closing stock along with necessary supporting evidences such as bills, etc."*

*It is observed that these details were not submitted in full by the assessee despite getting sufficient opportunity during the assessment proceedings. No details of valuation of opening stock had been given by it to the A.O. or even during the present proceedings. No stock register for gold was produced before the A.O. or during the present proceedings. It is seen that the assessee had claimed before the A.O. that on the date of survey, the stock, as per books, was 146.662 carats of diamond and 0.093 grams of gold instead of 3 carats of diamond and nil gold as admitted by it on the date of survey. The AO had accepted the contention of the assessee without any further verification and supporting documentary evidence.*

*B. In respect of the reconciliation statement of stock submitted during the course of the assessment proceedings and in this proceeding, it is specifically noticed that:-*

*a. During the course of the assessment proceedings, the assessee had submitted that the jewellery found during the course of the survey was received for repairing purposes only, but no supporting documentary evidence in this regard has either been submitted in the assessment proceedings or in the present proceeding even though it was specifically pointed out to the assessee in the notice issued under section 263 of the I.T. Act.*

*b. The AO had merely relied upon the submission of the assessee and reconciliation of stock of the assessee without any supporting documentary evidence and had adopted the reduced value and quantity of excess stock even though the assessee had failed to explain the same during the course of survey proceedings. TAX DEPAR*

*c. During the course of survey proceedings, the assessee could have prepared a stock statement on the basis of record of purchases and sales but had failed to explain the difference and instead agreed to the figures of excess stock. Therefore, any variance to the same can be validly accepted on the basis of genuine and verified evidences, which in the instant case were not supplied by it.*

*d. The assessee had failed to explain why it had admitted that the stock, as per the books of account, was only of 3 Cts. Of Diamond and why it had not prepared the stock statement as on the date of survey with the help of the record of purchases and sales. Without any proper explanations and supporting documentary evidence, the A.O. erroneously accepted the stock statement submitted by the assessee during the course of the assessment proceedings.*

*C. The assessee's argument that any addition as per the proposal given by this office under section 263, will lead to double taxation because the additions have already been made on account of profit on unaccounted income, is not acceptable. This is so*



*because any excess stock found in a year need to be taxed in that year itself as per the principles of accounting and provisions of law.*

*D. The assessee has submitted copies of bills of purchases and sales but has not submitted, either during the course of assessment proceedings, the copies of confirmations of those parties or even a copy of ledger accounts, especially of the sellers. In the absence of such details, the genuineness of the claim of purchases claimed in the P&L account to increase the stock could not be verified.*

*E. These facts clearly suggest that the AO had not applied his mind to verify the stock as on the date of the survey as per the books of accounts and the reconciliation statement submitted by the assessee.*

*F. In this case the issue involved is stock as per the books of account as on the date of survey, and during the course of the survey the assessee had admitted that there was stock of only 3 cts. of diamond after verifying its record of stock, and hence, with due respect to those, the judicial pronouncements on which the assessee has relied upon are not applicable to the assessee's case.”*

3.2 After referring to the decisions of the two precedents on the issue in dispute, the Ld. PCIT held the order passed by the Assessing Officer as erroneous in so far as prejudicial to the interest of the Revenue and directed the ld AO to pass a fresh assessment order. The relevant finding is reproduced as under:

*“6. Conclusion*

*Adverting to the facts of the instant case, it is seen that the AO has not examined the issue of quantity of stock as per the assessee's books of account on the date of survey that was "admitted as only 3 carats of diamond and nil gold, and without such examination during the course of the assessment proceedings, the assessee's revised figures for the same have been accepted by him thereby reducing the figure of excess stock found physically on the date of survey and in turn underassessing the assessee's income. It neither emanates from the order nor from the records that there was application of mind by the A.O. on this issue. Therefore, I am convinced that in the instant case the assessment order is erroneous in so far as it is prejudicial to the interest of revenue.*

*7. Directions*

*In view of the above facts and findings, using the powers vested in me by the provisions of section 263, the assessment order*



*passed under section 143(3) on 30.12.2022 is set aside with a direction to the Assessing Officer to pass a fresh assessment order after taking into consideration the issues that may have been already considered together with the issue discussed hereinabove also. Further, the assessment is to be completed within the stipulated time frame after conducting the necessary enquiries and giving due opportunity of being heard to the assessee. The assessing officer is also directed to initiate penalty proceedings wherever applicable as per the provisions of the Income Tax Act, 1961.”*

4. The assessee, aggrieved by such action, has preferred the present appeal before us. Before us, the Ld. Counsel for the assessee filed a Paper Book containing pages 1 to 188.

5. The Ld. Counsel for the assessee, relied on submission made before the Ld. PCIT and drawn our attention to the detailed assessment order running into fifty pages. He contended that the Assessing Officer had undertaken a comprehensive examination of the material facts and submissions, and had thereafter consciously determined the addition of the unexplained stock. It was submitted that the order of the Ld. PCIT amounts to a mere substitution of his subjective opinion for that of the Assessing Officer, which is impermissible in law. Reliance was placed upon the judgment of the Hon'ble Supreme Court in *CIT v. G.M. Mittal Stainless Steel (P) Ltd.* [(2003) 263 ITR 255 (SC)] and the decision of the Hon'ble Gujarat High Court in *CIT v. Amit Corporation* [(2013) 81 CCH 69 (Guj.)].

6. Per contra, the Ld. Departmental Representative supported the order of the Ld. PCIT, contending that the Assessing Officer had, despite acknowledging the absence of corroborative evidence, accepted the assessee's self-serving computation of



146.662 carats of diamond stock as per books without any verification of records, bills, or valuation statements. It was urged that the Ld. PCIT had merely corrected a manifest error that had occasioned prejudice to the Revenue and had therefore acted within the bounds of jurisdiction conferred by section 263. He submitted that the Assessing Officer without verifying the supporting documentary evidences admitted claim of the assessee, which is based on incorrect assumption of facts and without proper inquiry and therefore, Ld. PCIT has validly set aside the order of the Assessing Officer holding it to be erroneous in so far as prejudicial to the interest of the Revenue.

7. We have heard rival submissions of the parties and perused the relevant material on record. The short controversy centres on whether the assessment order dated 30th December, 2022, suffers from the twin vices of being erroneous and prejudicial to the interests of the Revenue, within the meaning of section 263 of the Act. It is trite law that an order can be said to be erroneous not only when it contains an incorrect assumption of facts or application of law, but also when the Assessing Officer fails to make necessary inquiries or verification which circumstances of the case demand. The Explanation 2(a) and (b) appended to section 263 places beyond pale of doubt that where an order is passed without making inquiries or verification which should have been made, the same shall be deemed to be erroneous and prejudicial to the interests of the Revenue.



7.1 In the present case, the survey proceedings revealed a substantial excess of physical stock as compared to the books. The assessee, during such proceedings, had unequivocally admitted to such discrepancy and had offered ₹33,09,548/- to tax. However, at the stage of assessment, it revised its claim, asserting that the stock as per books was 146.662 carats. No cogent evidence in the form of books of account, purchase registers, stock registers, or supporting bills was produced either before the Assessing Officer or before the Ld. PCIT to substantiate this claim. Despite noting this very deficiency in paragraph 6.3 of the assessment order, the Assessing Officer inexplicably proceeded to accept the assessee's explanation. The ld PCIT asked the assessee to reconcile as how the assessee has worked out stock in books of accounts as on the date of the survey amounting to 146.662 carats diamonds as against the stock of only three carats of diamond, which was found recorded during the course of the survey. Even before us no justification has been filed by the Ld. Counsel for the assessee explaining 146.662 carats diamonds in books of accounts, as submitted during assessment proceedings. The record is bereft of any indication that the Assessing Officer had conducted verification commensurate with the gravity of the discrepancy or that he had called for reconciliation supported by contemporaneous documents. Such perfunctory acceptance, in our considered view, amounts to a non-application of mind and renders the order amenable to revision under section 263.



7.2 In such circumstances, there is no doubt that Assessing Officer has admitted the claim of the assessee without proper verification and the documentary evidence and therefore, the order passed by the Assessing Officer is deemed to be erroneous in so far as prejudicial to the interest of the Revenue in view of clause (a) and (b) of Explanation 2 to section 263 of the Act.

7.3 The reliance placed by the Ld. Counsel on *G.M. Mittal Stainless Steel (P) Ltd.* (supra) and *Amit Corporation* (supra) is misplaced. Those decisions were rendered in contexts where the Assessing Officer had made a conscious and reasoned choice after proper inquiry. In the present case, the deficiency lies not in the conclusion arrived at but in the absence of inquiry itself — a situation expressly covered by the deeming provisions of Explanation 2 to section 263.

7.4 We accordingly concur with the finding of the Ld. PCIT that the assessment order is erroneous in so far as it is prejudicial to the interest of the Revenue. The direction issued by the Ld. PCIT to the Assessing Officer to frame a fresh assessment after conducting requisite inquiries and verification, and after affording the assessee a reasonable opportunity of being heard, is both justified and within jurisdiction.

7.5 In the result, we find no infirmity in the impugned order passed under section 263 of the Act. The grounds of the appeal of the assessee are accordingly dismissed.



8. In the result, the appeal of the assessee is dismissed.

**Order pronounced by way display of result on notice board on 30/10/2025 under Rule 34(4) of ITAT Rules, 1963.**

**Sd/-  
(SANDEEP GOSAIN)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Surat;

Dated: 30/10/2025

Rahul Sharma, Sr. P.S. (on Tour)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Surat
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)  
**ITAT, Surat**