

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

**BEFORE S/SHRI SANJAY GARG, JUDICIAL MEMBER
AND
MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No.1137 and 1138/Ahd/2025
Asstt.Year : 2018-19 and 2019-20**

Safal Constructions (India) P.Ltd. B-Safal House B/h. Mirch Masala Restaurant Off S.G. Highway Ahmedabad. PAN : AAGCB 8828 G	Vs.	The Pr.CIT(Central) Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Ms.Nupur Shah, AR
Revenue by:	Shri R.P. Rastogi, CIT-DR

सुनवाई की तारीख/Date of Hearing : 12/11/2025
घोषणा की तारीख /Date of Pronouncement: 27/11/2025

आदेश/O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

Principal Commissioner of Income Tax (Central), Ahmedabad [hereinafter referred to as "the PCIT"] under section 263 of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] for Assessment Years 2018–19 and 2019–20. Since common issues are involved and the factual matrix is substantially interconnected, both appeals were heard together and are being disposed of by this consolidated order.

2. Facts of the Case

2.1 For both assessment years, assessments were framed under section 153C of the Act consequent to the search conducted on 15.10.2019 in the case of "Land Broker and Financier Group" and the seizure of certain documents and digital data from the residential premises of Shri Suresh

Ranchhodbhai Thakkar. In consequence of seizure of material allegedly pertaining to the assessee, the Assessing Officer of the Central Circle issued notices under section 153C.

2.2 The assessment for A.Y. 2018–19 was completed under section 153C on 30.09.2022, after obtaining mandatory approval from the Additional Commissioner of Income Tax, Central Range–1, Ahmedabad under section 153D dated 29.09.2022. Similarly, the assessment for A.Y. 2019–20 was completed under section 153C on 30.09.2022, with prior approval under section 153D accorded on 29.09.2022. In both assessment years, the Assessing Officer made only limited disallowances on account of education cess and employees' welfare fund contribution, and did not draw any adverse inference on the basis of the seized and impounded material.

2.3 For both years, the Principal Commissioner of Income Tax (Central), Ahmedabad considered that the assessments completed under section 153C were erroneous in so far as they were prejudicial to the interest of the Revenue, invoking the jurisdiction under section 263.

2.4 For A.Y. 2018-19, the PCIT issued a detailed show cause notice referring to search and seizure action carried out on 15.10.2019 and seized materials pertaining to TDR transactions, land documents relating to parcels situated at Makarba, digital pages and rough jottings recovered from Shri Suresh Thakkar, and statements recorded under section 131.

2.5 After considering the reply of the assessee, the PCIT passed the revisionary order dated 31.03.2025, holding that the assessment order dated 30.09.2022 and the approval under section 153D dated 29.09.2022 were "erroneous and prejudicial to the interest of the Revenue" and directing the Assessing Officer and Additional CIT to examine the issues in detail and frame a fresh assessment.

2.6 For A.Y. 2019–20 also, the PCIT issued notice under section 263 narrating the incriminating documents seized from the searched person

and survey proceedings under section 133A conducted on 12.02.2019 and 13.02.2019, the admission of undisclosed income during survey, discrepancies between income offered during survey and income recorded in the return. The PCIT noted failure by the AO to enquire into TDR transactions reflected in page 260 and pages 152 and 170 of the digital data, substantial cash payments recorded therein, land documents relating to survey numbers 430/3/1, 430/2, 430/4 and 429 at Makarba, alleged involvement of group entities in transactions emanating from the seized material, and the admitted undisclosed income of Rs.43.52 crore during survey.

2.7. The PCIT passed the revision order under section 263 on 31.03.2025, setting aside the assessment and directing fresh examination.

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

In ITA No. 1137/Ahd/2025 for A.Y. 2018-19

1. The Ld. PCIT has erred in law and on facts in passing the order u/s. 263 of the Act by holding in Para 8 on Page 9 that “the assessment order passed by the AO u/s. 153C of the Act on 30.09.2022 for AY. 2018-19 and order of approval u/s.153D of the Act dated 29.09.2022 issued by the Addl. CIT, Central Range-1, Ahmedabad are erroneous and prejudicial to the interest of Revenue. Accordingly, the same are set aside to the file of the Assessing officer and Addl. CIT for examining the above issue in detail while framing the fresh assessment order.

Transaction in TDR

2. The Ld. PCIT has erred in not considering that the issue under consideration as regards to the TDR and land deal were already examined by the Ld. AO by issuing the notice u/s. 142(1) of the Act in the assessment proceedings u/s.153C of the Act and hence, the very premise of 263 proceedings the Ld.AO has not verified the details in the assessment proceedings is unjustified and bad in law and merely under the grab change of opinion by the Ld. PCIT.

3. The Ld. PCIT has erred in not considering the reply filed by the appellant vide letter dated 24.03.2025 wherein, appellant has stated that a notice u/s.142(1) of the Act dated 10.02.2022 has been issued by the Ld.AO and in response to the same appellant vide its reply dated

11.02.2022 already submitted the page-wise explanation to the seized material so recovered during the course of search at the residential premises of Shri Sursh Thakkar.

4. The Ld. PCIT has not considered the pointwise rebuttal submitted by the appellant in respect of various incriminating documents and digital data found and seized from the residential premises of Shri Suresh Thakkar vide submission dated 11.02.2022 in the 153C proceedings and the Ld. AO on being satisfied, passed assessment order u/s. 153C of the Act dated 30.09.2022 without making any addition or making any adverse comments on the same. Thus, the order passed by the Ld.AO u/s.153C of the Act is neither erroneous nor prejudicial to the interest of revenue.

5. "The Ld. PCIT has failed to consider that the statement of Shri Rajesh Brahmhatt was recorded on oath on 06.07.2022 u/s. 131 of the Act at Aayakar Bhavan, Ashram Road, Ahmedabad and Shri Rajesh Brahmhatt in his statement has stated that he is the joint owner of the land bearing Survey No. 430/3/1, 430/2, 430/4 and 429 situated at Makarba, Ahmedabad and in reply to question No. 31, he has stated that the different survey numbers land stated above have not been sold and he along with Smt. Arunaben Zaveri are still the owners of these parcels of land and the documentary evidence regarding the same has been filed by him vide submission dated 21.06.2022. Thus, there was no spoke for the erst while AO also to make an addition in the case of appellant.

6. The Ld. PCIT has erred in not appreciating that the scrutiny assessment was carried out for A.Y. 2023-24 in the case of Shri Rajesh Brahmhatt and in such scrutiny assessment year, the issue of Makarba Land is duly examined at length and he himself while making addition in A.Y. 2023-24 with respect to on-money for sale of land at Makarba has stated that since the deal for the said land was not materialized at the time of conclusion of the assessment proceedings u/s. 153C of the Act, no adverse inference was drawn in the case of Rajesh Brahmhatt.

Transaction with Malaybhai

7. The Ld. PCIT erred in relying on transactions with Malaybhai (Pages 152-170 of seized documents), ignoring that the AO had already examined these in 153C proceedings through a notice u/s 142(1) dated 10.02.2022, and the appellant filed the reply to the same vide letter dated 11.02.2022. Hence, the claim that the AO ignored key evidence is unjustified.

8. The appellant humbly submits that various judicial pronouncements relied upon by the Ld.AO are not applicable in the case of the appellant as the facts in the case of appellant are totally different and

distinguishable from the facts of the case of appellant as in the case of the appellant the Ld.AO has carried out extensive and deep inquiry by issuing the notices u/s. 142(1) of the Act.

9. The Ld. PCIT has erred in law and on facts in failing to properly consider the submission made before him as well as various judicial pronouncements relied upon by the appellant.

In ITA No. 1138/Ahd/2025 for A.Y. 2019-20

1. The Ld. PCIT has erred in law and on facts in passing the order u/s. 263 of the Act by holding in Para 8 on Page 9 that “the assessment order passed by the AO u/s. 153C of the Act on 30.09.2022 for AY. 2019-20 and order of approval u/s.153D of the Act dated 29.09.2022 issued by the Addl. CIT, Central Range-1, Ahmedabad are erroneous and prejudicial to the interest of Revenue. Accordingly, the same are set aside to the file of the Assessing officer and Addl. CIT for examining the above issue in detail while framing the fresh assessment order.

Transaction in TDR

2. The Ld. PCIT has erred in not considering that the issue under consideration as regards to the TDR and land deal were already examined by the Ld. AO by issuing notice u/s 142(1) of the Act in the in the assessment proceedings u/s 153C of the Act and hence, the very premise of 263 proceedings the Ld.AO has not verified the details in the assessment proceedings is unjustified and bad in law and merely under the grab change of opinion by the Ld. PCIT.

3. The Ld. PCIT has erred in not considering the reply filed by the appellant vide letter dated 12.03.2025 wherein, appellant has stated that a notice u/s.142(1) of the Act dated 12.02.2022 has been issued by the Ld.AO and in response to the same appellant vide its reply dated 07.03.2022 already submitted the page-wise explanation to the seized material so recovered during the course of search at the residential premises of Shri Sursh Thakkar and has pointed out various infirmities in the seized material so referred during the search and seizure action in the case of Shri Suresh Thakkar. The Ld. PCIT has not considered the pointwise rebuttal of the seize material submitted by the appellant vide submission dated 07.03.2022 during the course of the 153C proceedings, and the Ld. AO on being satisfied, the submission, passed assessment order u/s. 153C of the Act dated 30.09.2022 without making any addition or making any adverse comments on the same. Thus, the order passed by the Ld.AO u/s.153C of the Act is neither erroneous nor prejudicial to the interest of revenue.

4. The Ld. PCIT has failed to appreciate that the statement of Shri Rajesh Brahmhatt was recorded on oath on 06.07.2022 u/s. 131 of the Act at Aayakar Bhavan, Ashram Road, Ahmedabad wherein he

has stated that he is the joint owner of the land bearing Survey No. 430/3/1, 430/2, 430/4 and 429 situated at Makarba, Ahmedabad and the said lands are agricultural land and the conversion into N.A. Land is subjected to dispute and litigation. Thus, the said seized documents in respect of land at Makarba have no relevance in the case of appellant company and the same cannot form basis of considering the assessment order passed by the Ld.AO u/s.153C dated 30.09.2022 for A.Y. 2019-20 as erroneous.

Income declared on account of survey

5. The Ld. PCIT has erred in not considering that that during the course of survey proceedings conducted on 12.02.2019 and 13.02.2019 the statement of Shri Rajesh Brahmhatt, director of the appellant company was recorded wherein he has duly explained the details of profit earned in Vasna Slum Project and Khokra Slum Project and has also given the break up of profit of Vasna Slum Project and Khokra Slum Project shown in the books of account for F.Y. 2018-19, 2019-20 and 2020-21 and the total profit shown was higher than the amount declared during the survey. The said fact was already available on record of the Ld. A.O. and after duly considering the details and explanation offered by appellant, the Ld.AO has passed the order u/s.153C rws 153D dated 30.09.2022 which is neither erroneous nor prejudicial to the interest of revenue.

6. The appellant humbly submits that various judicial pronouncements relied upon by the Ld.AO are not applicable in the case of the appellant as the facts in the case of appellant are totally different and distinguishable from the facts of the case of appellant as in the case of the appellant the Ld.AO has carried out extensive and deep inquiry by issuing the notices u/s. 142(1) of the Act.

7. The Ld. PCIT has erred in law and on facts in failing to properly consider the submission made before him as well as various judicial pronouncements relied upon by the appellant.

4. During the course of hearing, the Authorised Representative of the assessee explained the factual matrix with the assistance of the paper book filed before the Bench. He reiterated that during the search conducted on 15.10.2019 in the case of Shri Suresh Ranchhodbhai Thakkar, several documents were seized, which formed the basis of the revisionary proceedings. These included:

i. Page 260 of Volume I showing cash payment of Rs. 2,24,16,250 towards TDR transactions.

ii. Pages 152 and 170 showing payment of Rs. 4.20 crore, including Rs. 2 crore in cash, stated to have been paid by Shri Malavbhai towards TDR.

iii. "Document No. 37 of Annexure A-1" reflecting purchase of 10 TDRs at Rs. 2.25 crore each.

iv. Pages 105, 271 and 576 of Volume I and mobile data page 579 relating to land at Makarba comprising survey nos. 430/3/1, 430/2, 430/4 and 429.

v. Statements of Shri Suresh Thakkar and other persons admitting receipt of brokerage on TDR transactions.

4.1 The AR drew our attention to the relevant pages of the paper book to submit that the assessee had furnished a complete, page-wise rebuttal of each of the seized documents, including digital data. It was explained that none of the seized materials pertained to the assessee company. The pages concerning Makarba land were stated to relate only to the personal holdings of Shri Rajesh Brahmhatt and Smt. Arunaben Zaveri. Reference was also made to the Statement of Shri Rajesh Brahmhatt recorded under section 131 on 06.07.2022, placed in the compilation, wherein joint ownership of the land was confirmed and it was further clarified that the land had not been sold and continued to remain in litigation.

4.2 The AR further submitted that prior to the aforesaid search, a survey action under section 133A had been conducted on 12.02.2019 and 13.02.2019, during which Shri Rajesh Brahmhatt admitted undisclosed income of Rs. 43.52 crore relating to the Vasna Slum Project and Khokra Slum Project. With reference to the workings placed in the paper book, the AR explained that the income subsequently recorded in the books exceeded the amount declared during survey. The break-up of profits from the two projects, as furnished during survey and thereafter, was also demonstrated before us.

4.3 Placing reliance on the written submissions filed before the PCIT and the documents forming part of the assessment records, the AR submitted

that the Assessing Officer had conducted complete and adequate enquiry for both assessment years. Notices under section 142(1) were issued on 12.02.2022 for A.Y. 2018–19 and on 10.02.2022 for A.Y. 2019–20, and the assessee had furnished detailed replies on 07.03.2022 and 11.02.2022 respectively. Copies of these notices and replies were also placed in the paper book.

4.4 The AR emphasised that the Assessing Officer had examined the seized documents, the materials submitted by the assessee, and the explanations furnished during the assessment proceedings. On the basis of such enquiries, the Assessing Officer had taken a plausible and sustainable view. It was contended that the PCIT, without demonstrating that the assessment orders were either erroneous or prejudicial to the interests of the Revenue, had merely substituted his view for that of the Assessing Officer. According to the AR, such substitution amounts only to a change of opinion, which does not confer jurisdiction under section 263.

4.5 The AR also placed on record the assessment order of Shri Rajesh Brahmhatt for A.Y. 2023-24 to demonstrate that the alleged incriminating materials forming the entire foundation of the PCIT's action had already been subjected to taxation in that year in the hands of the concerned person.

4.6 The AR accordingly submitted that the assumption of jurisdiction under section 263 for both years was unwarranted and the revisionary orders were liable to be quashed.

5. The Departmental Representative, on the other hand, placed reliance on the revision orders passed by the PCIT under section 263 and supported the conclusions recorded therein.

6. We have carefully considered the rival submissions, examined the material placed in the paper book, and perused the assessment orders as well as the impugned revisionary orders passed under section 263 for both A.Y. 2018-19 and A.Y. 2019-20. The DR relied on the orders passed by the

PCIT. The AR, on the other hand, took us through the paper book and demonstrated that the Assessing Officer had issued detailed notices under section 142(1), namely dated 12.02.2022 for A.Y. 2018-19 and dated 10.02.2022 for A.Y. 2019-20, and that the assessee furnished comprehensive replies on 07.03.2022 and 11.02.2022 respectively. The assessee also furnished a page-wise rebuttal of each of the seized and digital materials which were relied upon by the PCIT, and the AR emphasised that none of the documents pertained to the assessee company.

6.1 The jurisprudence is well settled that for the assumption of jurisdiction under section 263, the PCIT must demonstrate, based on material on record that the assessment order is erroneous, and that the error is prejudicial to the interests of the Revenue. Both conditions must co-exist. A mere possibility of a different view, or a situation where the PCIT prefers a deeper or further enquiry, does not confer jurisdiction unless the assessment order suffers from a demonstrable error causing prejudice. It is equally settled that where the Assessing Officer has made enquiries, applied his mind, and taken a plausible view, the PCIT cannot invoke the revisional power merely on the ground that in his opinion the enquiry was inadequate or the conclusion was not acceptable. A revision cannot be sustained where it is founded on a mere change of opinion.

6.2 On a perusal of the revisionary orders, we find that the PCIT has not discussed even a single reply filed by the assessee during assessment proceedings, not referred to any document from the paper-wise rebuttal filed before him, not conducted any independent enquiry in respect of the seized or digital material, not brought any tangible material to show that the view of the AO was erroneous, and not demonstrated how the assessment orders were prejudicial to the Revenue.

6.3 The revisionary orders merely reproduce extracts of seized materials found in the search of a third party and summarily state that the Assessing Officer “did not examine” the issues. However, the PCIT has not recorded any finding to support this statement. He has not contradicted the notices

issued by the AO or the replies furnished by the assessee. He has not verified the assessment records. He has not confronted the assessee with any adverse inference. Most importantly, he has not concluded in any categorical terms that the assessment orders suffer from any error.

Thus, the orders of the PCIT lack the mandatory foundational finding of error, which is a jurisdictional requirement under section 263.

6.4 The paper book demonstrates that detailed notices were issued under section 142(1) calling for project-wise details, break-up of profits, seized material explanations, and supporting accounts; the assessee furnished complete replies, including a page-wise rebuttal of every document; the assessee furnished explanations regarding the land at Makarba and the statement under section 131 confirming joint ownership; and the assessee furnished analysis of year-wise profits demonstrating that income recorded in the books exceeded the survey disclosure. These replies were on record before the AO.

6.5 The PCIT has not shown that the AO ignored any material. He has not undertaken any verification. He has not even concluded that the AO's view was wrong. He has merely stated that further enquiry was warranted. Such an approach amounts to a mere difference of opinion, which cannot justify revision under section 263.

6.6 The revisional jurisdiction cannot be exercised to direct the AO to conduct roving enquiries or to conduct fishing investigations in the absence of a finding that the earlier order suffered from an error.

6.7 Considering the totality of the facts, the replies filed by the assessee, the enquiries made by the Assessing Officer, the absence of any independent enquiry by the PCIT, the failure of the PCIT to discuss or deal with the assessee's detailed rebuttals, and the absence of any finding demonstrating an error in the assessment orders, we hold that the assumption of jurisdiction under section 263 is unsustainable in law for

both years. The orders passed by the PCIT for A.Y. 2018-19 and A.Y. 2019-20 are therefore quashed.

7. In the combined result both the appeals of the assessee are allowed.

Order pronounced in the Court on 27th November, 2025 at Ahmedabad.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad, dated 27/11/2025

Vk/Tanmay

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad