



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No. 226/RJT/2025

Assessment Year: (2018-19)

Lunar Ceramics Lunar Ceramics, 8 – A, National Highway Lakaddhar (dhuva), Wankaner – 363641	Vs.	PCIT – 1, Income Tax Office, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AADFL3838D		
(Appellant)		(Respondent)

Appellant by : Shri Chetan Agarwal, Ld. A.R.

Respondent by : Shri Sanjay Punglia, Ld. CIT(DR)

Date of Hearing : 07/10/2025

Date of Pronouncement : 08/12/2025

आदेश/ O R D E R

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY)-2018-19, is directed against the order passed by the Principle Commissioner of Income Tax [(in short “Ld. PCIT”)] vide order dated 21.03.2025, which in turn assessment order passed by Income Tax Department/Assessing Officer under section 147 r.w.s. 144 and 144B of the Income Tax Act, 1961 (in short “the Act”), vide order dated 23.03.2023.

2. Grounds of appeal raised by the assessee are as follows:

“1. The Id. PCIT erred in law as well on fact in assuming jurisdiction u/s.263 of the Act and in holding assessment order has erroneous and prejudicial to the interest of revenue.”



3. Brief facts of the case are that Lunar Ceramics is a partnership firm for AY 2018-19 return was filed on 19.08.2018 declaring total income 18,21,190/-. The information available with the department that an accommodations entries of Rs. 41 Lacs in form of cheque, RTGS, transfer in lieu of cash given, the case was reopened u/s. 148A and 148A(d) was issued to the assessee. The assessee filed reply to the notice on 28.03.2022 amounting into Rs. 18,21,190/-. The assessee has submitted Audit Report, Bank statement, Bank Pass-book for AY 2018-19 before the assessing officer alongwith the other documentary evidences. assessee denied undertaking transaction with the said party and submitted its Audit Report, bank book and cash book for AY 2018-19. Notice u/s 133(6) dated 23.01.2023 was issued to HARESH SOJITRA calling for details of transactions entered into with the assessee. However, no response received. The assessee denied undertaking transaction with the said party and submitted its Audit Report, bank book and cash book for AY 2018-19. Notice u/s 133(6) dated 23.01.2023 was issued to Haresh Sojitra calling for details of transactions entered into with the assessee. However, no response received by the Haresh Sojitra. The assessee stated that no transaction with the Haresh Sojitra during the assessment year, an affidavit was filed in support of this. After considering the assessment order completed on returned income on 23.03.2023.

4. Based on the above information, the assessment of the assessee was reopened by issue of notice u/s 148. During the course of assessment proceedings, the assessee denied having any transaction with Shri Haresh Vajubhai Sojitra. The assertion of the assessee was accepted by the assessing officer without making any enquiry. The AO failed to make any enquiry/ investigation based on the information in possession of the Department and the report prepared on the basis of investigation done by the Department regarding the deposit of large value cash in the bank accounts of Shri Haresh Vajubhai Sojitra. As per the provision of



section 263 of the I.T. Act, Explanation-2, any order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue. In this case, the AO has failed to make any enquiry on the basis of information available with the department and simply accepted the assertion made by the assessee. Therefore, in view of the above, the assessment order has become erroneous and prejudicial to the interest of revenue. Therefore, the Ld.PCIT intend to initiate proceedings u/s 263 of the Act and pass a suitable order. Before passing such order, the Ld.PCIT given an opportunity of being heard in the matter. Please state as to why the order passed by the Assessing Officer in the assessee case should not be revised after making necessary inquiry. In this connection the assessee requested to furnish assessee reply/ submission / explanation or objection.

5. The assessee filed reply that reference to above, the Ld.PCIT have issued notice u/s.263 on the contention that the Ld.AO failed to make inquiry during the course of assessment. The Ld.PCIT contention in notice is as under:

"The AO failed to make any enquiry/ investigation based on the information in possession of the Department and the report prepared on the basis of investigation done by the Department regarding the deposit of large value cash in the bank accounts of Shri Haresh Vajubhai Sojitra."

6. In this regard, the assessee invited the Ld.PCIT kind attention to the fact that the Ld.AO has made due inquiries and necessary investigation in the matter and the Ld.PCIT observation and basis of issuing notice u/s.263 is factually incorrect. The assessee invited the Ld.PCIT kind attention to notice u/s.142(1) dated 27.10.2022 bearing DIN: ITBA/AST/F/142(1)/2022-23/1046493441(1), relevant questions reproduced as under:

"4. Please state the nature of transactions entered into with M/s SHREE HARI ENTERPRISES (Proprietorship concern of Mr HARESH VAJUBHAI SOJITRA) in AY 2018-19 along with copy of ledger account of said party maintained in your books showing complete narration of each entries and all bills/invoices involved in transaction with the said party."



5. Please furnish your cash book for AY 2018-19 maintained in your books of accounts showing complete narration of each entries.

6. Please furnish your complete bank statements for AY 2018-19 highlighting therein the transactions with M/s SHREE HARI ENTERPRISES."

7. In response to above, the reply was submitted to Ld.AO vide submission dated 10.01.2023. After considering the reply/submissions of the assessee, Ld.AO has issued notice u/s.133(6) to Haresh Sojitra on 23.01.2023 calling for details of transactions. The Ld.AO has also issued summons u/s.131 dated 01.02.2023 to Haresh Sojitra to remain present for cross-examination. Further, Ld.AO has issued letter to Income Tax Officer (HQ) Investigation, Rajkot dated 07.02.2023 requesting him to forward the relevant bank documents of Mr HARESH SOJITRA viz. bank accounts being AXIS BANK A/c No: 9770200429188388 and PNB Bank A/c No: 0400005900000446 through which the accommodation entries were claimed to have been carried out. Further, the Ld.AO has issued letter to Additional/Joint Director of Income Tax (Investigation), Rajkot with a copy to Pr. Director of Income (Investigation), Rajkot on 03.03.2023, with request to direct Income Tax Officer (HQ) Investigation, Rajkot to forward the relevant bank documents of Mr HARESH SOJITRA viz. bank accounts being AXIS BANK A/c No: 9770200429188388 and FNB Bank A/c No: 0400005900000446 through which the accommodation entries were claimed to have been carried out. Further, the Ld.AO has issued letter to Jurisdictional Assessing Officer to provide necessary evidence against the assessee. After making all above inquiries, it is concluded by Ld.AO that "Other than report of ITO(Inv) this office has no further tangible and cogent evidence to corner the assessee on the said issue of accommodation entry to the tune of Rs. 41,00,000/- in the form of cheque/RTGS/transfer from Shri Haresh Vajubhai Sojitra. Mere submission by the third party cannot form a basis for drawing adverse inference in the case of assessee. Hence, returned income of Rs.18,21,190/- is accepted." 11. In view of



above, your honour may kindly appreciate that the Ld.AO has made due inquiries, Investigation and with due application of mind and in absence of any evidences against the assessee addition was not made. Hence, the contention of the Ld.PCIT is factually incorrect and the assessment order passed by Ld.AO can not be a subject matter of section 263.

8. The Ld.PCIT have carefully considered the assessee's submission and relevant facts on record. The submission filed by the assessee is not acceptable. From the statement and submission of Shri Haresh V Sojitra, it is cleared that the assessee has received cheque/DD in lieu of cash by depositing their unaccounted cash of Rs.41,00,000/- in the bank accounts No. 917020042918838 & 0400005900000446 held with Axis Bank and Punjab National Bank respectively by ShriHaresh V. Sojitra, Prop. Of M/s Hari Enterprises. The Ld.PCIT note that sufficient evidences are available with the department which was proved that during the year under consideration, the assessee has deposited aggregate cash of Rs.41,00,000/-in the bank accounts of Shri Haresh V. Sojitra, Prop. Of M/s Hari Enterprises, Further, the AO has accepted assessee's submission without placing any material evidence on record to rebut the content of the assessee. Thus, assessee's contention that the assessee has not conducted any transactions with Shri Haresh V. Sojitra, Prop. of M/s Hari Enterprises was not acceptable. Thus, the argument that the AO collected details/information during assessment proceedings does not hold good any more. Once in the opinion of PCIT, the order was passed without making inquiries or verification which should have been done was not done and without considering the ratio laid down by decision of Jurisdictional High Court, such order needs to be treated as "erroneous". It was apparent from assessment order that AO has not applied his mind and failed to make any verification on the issue discussed earlier in the order and apply the correct provision of law. Therefore, the PCIT considered that the impugned order



was passed by the then AO without making enquiries/ verification, which should have been made. Thus, this case was covered by clause (a) of Explanation 2 to section 263. By virtue of the powers vested in me u/s. 263 of the IT Act, the PCIT has set-aside the order u/s 147 r.w.s. 144 read with section 144B of the Income-tax Act, 1961 on 23/03/2023, on the issue discussed and directed the Assessing Officer to pass a fresh assessment order after making necessary enquiries relating to cash transactions made by the assessee with M/s Hari Enterprises, Prop. ShriHaresh VajubhaiSojitraand if not found satisfactorily, appropriate addition under appropriate section should be made and relevant penalty proceedings should be initiated.

9. That the assessee filed an appeal against the impugned order dated 21.03.2025 passed by the Ld. PCIT before this Tribunal.

10. During the course of hearing, the Ld. AR submitted that the entire details including Audit Report, Bank Statement were reproduced. There were no relevant entry of Rs. 41 Lacs. The Ld. AR also stated that the assessee has no made any transaction with Haresh Sojitra, an affidavit was also placed on record.

11. On the contrary, the Ld. Sr. DR for the revenue relied on the order of the Ld. CIT(A) and not objected to the prayer of the Ld. AR of the assessee.

12. We have heard both the parties and perused the material available on record. We observed that the assessee filed Bank Statement, Audit Report and other relevant documents placed on record, in support of his claim that no transaction has been done with Haresh Sojitra during the assessment year. The assessing officer has issued a letter to the ITAT, headquarters investigation for undermentioned detail:

“(b) Letter was issued to ITO(HQ)Inv., Rajkot on 07.02.2023 requesting to forward the relevant bank documents of Mr HARESH SOJITRA viz. bank accounts being AXIS BANK A/c No: 9770200429188388 and PNB Bank A/c No: 0400005900000446



through which the accommodation entries were claimed to have been carried out. However, no reply received from ITO(HQ)Inv., Rajkot. Another letter was issued to Addl./Jt.DIT(Inv.) with copy to PDIT(Inv) on 03.03.2023 requesting to direct the ITO(HQ) to forward the relevant documents by 10.03.2023 in absence of which the assessment will have to be completed based on merits of the case. Subsequently letter written to JAO for forwarding of any other relevant document besides uploaded in Insight to enable completion of reassessment proceedings. No reply has come forth from JAO nor DDIT. Other than report of ITO(Inv) this office has no further tangible and cogent evidence to corner the assessee on the said issue of accommodation entry to the tune of Rs. 41,00,000/- in the form of cheque/RTGS/transfer from Shri Haresh Vajubhai Sojitra. Mere submission by the third party cannot form a basis for drawing adverse inference in the case of assessee. Hence, returned income of Rs. 18,21,190/- is accepted. Since returned income of the assessee is accepted, no separate show cause notice has been issued."

13. The Ld.PCIT in respect of his order dated 21.03.2025 related on various judgements for reopening assessment u/s. 263 of the Act. The Ld.PCIT has also relied on the decisions of various Hon'ble Courts/ITATs relied by the assessee is not relevant, not applicable as facts are distinct and distinguishable. Hon'ble Bombay High court in the case of Vedanta Ltd [2021] 124 taxmann.com 435 has held that "*Where assessment was completed without proper inquiries, Commissioner was competent to invoke revisional jurisdiction and direct Assessing Officer for fresh assessment*". It is relevant to refer to decision of Hon'ble Kolkata High court in the case of Daniel Merchants (P.) Ltd. [2018] 95 taxmann.com 365 and SLP dismissed by Hon'ble Supreme Court in [2018] 95 taxmann.com 366 wherein it is held as under:

"5. In all these cases, we find that the Commissioner of Income Tax had passed an order under section 263 of the Income-tax Act, 1961 with the observations that the Assessing Officer did not make any proper inquiry while making the assessment and accepting the explanation of the assessee(s) insofar as receipt of share application money is concerned. On that basis the Commissioner of Income Tax had, after setting aside the order of the Assessing Officer, simply directed the Assessing Officer to carry thorough and detailed inquiry. It is this order which is upheld by the High Court. We see no reason to interfere with the order of the High Court."

14. We have heard both the parties carefully and gone through the submission put forth on record. The Ld. PCIT in the proceeding u/s. 263 of the Act observed that assessee has failed to prove source of the source, as applicable to the assessee,



vide section 68 of the Act. The assessee submitted before the Bench, a paper book containing 515 pages to explain the source of the source, however, this paper book was not filed before the Id. PCIT during 263 proceedings. We also find that assessment year involved in the assessee's case is assessment year 2018-19, and the assessing officer has not examined the source of the source, as required by proviso to section 68 of the Act. The Ld. A.R. has filed paper book along with the documentary evidences in support of the transaction with the Haresh Sojitra and these supporting details such as bank statement, copy of return, copy of computation of income trading/balance sheet etc. These documents are also before the Ld. PCIT at the time of adjudication. We are of the considered view that Id. PCIT should re-consider these papers to adjudicate source of source. Therefore, we set aside the order of Id. PCIT and remit the issue back to the file of Ld. PCIT for deciding the issue afresh on merit after giving due opportunity to the assessee of being heard. We direct to the assessee to submit all relevant details/documents/evidences before the Ld. PCIT for disposal of the appeal.

15. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 08/12/2025

**Sd/-
(Dr. Arjun Lal Saini)
Accountant Member**

**Sd/-
(Dinesh Mohan Sinha)
Judicial Member**

Rajkot

//True Copy//

दिनांक/ Date: 08/12/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot