



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. 313/RJT/2024

Assessment Year: (2018-19)

Shri Sahadev Vajesinh Vaghela B-51, Prayag V, Nr. Hotel Mohit, Srir Harilal Gosalia Marg, Rajkot (Guj) – 380009	Vs.	PCIT – 1, Aayakar Bhava, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABOPV3678M		
(Appellant)		(Respondent)

Appellant by : Shri Mehul Ranpura, Ld. A.R.

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

Date of Hearing : 09/10/2025

Date of Pronouncement : 10/12/2025

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 29.03.2024, which in turn assessment order passed by Income Tax Department/Assessing Officer under section 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 (in short “the Act”), vide order dated 12.04.2021.

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



"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 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 in respect of staff salary Rs. 5,85,000/- paid in violation of provision of section 40A(3) of the Act. 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 12.04.2021 passed u/s. 143(3) 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 appellants craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal."

3. Brief facts of the case are that the Assessee had filed his return of income for A.Y. 2018-19 on 31/10/2018 declaring total income of Rs.NIL (loss of Rs.9,46,780/-). The case was selected for complete scrutiny. The Assessment was finalised 143(3) r.w.s. 143(3A) & 143(3B) of the I.T. Act, 1961 on 12.04.2021 accepting returned income. The AO was observed that during the year under consideration cash payments in excess of Rs. 10,000/- aggregating to Rs.5,85,000/- towards staff salary was made by the assessee, which shows violation of provisions of section 40A(3) of the Act. it is seen that none of the above payments are covered under exceptions provided under Rule 6DD of the IT Rules. Accordingly, the amount of Rs. 5,85,000/- is required to be disallowed and added to the total income of the assessee, in view of provisions of section 40A(3) of the Act.

4. The Ld. PCIT has issued a show cause notice u/s 263 of the Income-tax Act, 1961 dated 07.02.2024 on the basis of record perused and noticed that during the year cash payments in excess of Rs. 10,000/- aggregating to Rs.5,85,000/- towards staff salary was made by the assessee, which shows violation of provisions of section 40A(3) of the Act, that none of the above payments are



covered under exceptions provided under Rule 6DD of the IT Rules. Accordingly, the amount of Rs. 5,85,000/- is required to be disallowed and added to the total income of the assessee, in view of provisions of section 40A(3) of the Act. Considering such facts, notice u/s 263 of the Income-tax Act, 1961 on Dt 08.02.2024 was issued and duly served upon the assessee.

5. In response to the notice, the A.R. of the assessee submitted the relevant document. and the submission regarding contention which was raised by the Ld. PCIT in the notice The reply of the assessee was not acceptable.

6. The Ld.PCIT noted that the duty of the Assessing Officer to collect all relevant information relating to the income of the assessee for the purposes of assesment and proper application of law is to be made while making the assessment. since the twin conditions, namely, (i) the order of the Assessing Officer sought to be revised is erroneous; and (ii) it is prejudicial to the interests of the Revenue, are satisfied, the assessment order dated 12.04.2021 was set aside and the Ld. PCIT directed to the AO to pass a fresh assessment order after making necessary enquiry.

7. That the assessee filed an appeal against the impugned order dated 29.03.2024 passed by the Ld. PCIT before this Tribunal.

7.1. During the course of hearing, the Ld. AR submitted that the entire details of the assessee in paper-book submitted (page no. 41) regarding staff salaries as asked for notice dated 23.12.2022.

7.2. On the contrary, the Ld. Sr. DR for the revenue stated that the AO did not conducted enquiry, however, the Ld. DR relied on the order of the Ld. PCIT.



8. We have heard rival contention of both the party 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 cash payment towards staff salary consider to section 40A(3) r.w.r. 6DD of the I.T. rule. The assessee submitted before the Bench, a paper book containing 43 pages

1. Show Cause Notice u/s.263 of the Income-tax Act, 1961 dated 07.02.2024
2. Written Submission filed before Ld. CIT.
3. Copy of notice issued u/s. 142(1) of the Act dated 23.12.2020 by AO
4. Copy of replies dated 25.09.2021 filed before the AO.
5. Copy of Audit Report alongwith Audited Financial Statement
6. Copy of account of Staff Salary

to explain the details of cash payment towards staff salary, however, all these documents of paper book was available before the ld. PCIT during the course of proceedings. We also find that for assessment year 2018-19 the assessing officer has examined the details of cash book towards the staff salary. The AO has issued notice dated 23.12.2020 in the notice column 7 detail about cash payment and compliance of TDS, the assessee has furnished all details/information regarding cash payment, TDS and amount payable ask form the assessee. We note that the assessee has made a salary payment of Rs. 5,85,000/- during the year in cash, we further note that each salary payment to the employee was not more than the Rs.20,000/- (copy of detail salary payment in placed on record.) that is, less than the thrashed limit of Rs.20,000/- section 40A(3) of the Act, as the individual payment does not exceed the prescribed limit as fixed by law.

9. Accordingly, considering the above facts and circumstances of the case, we have no hesitation in holding that the Ld. PCIT had wrongly invoked the revisionary power u/s. 263 of the Act, we have no option but to quashed the order passed by the Ld. PCIT on dated 29.03.2024. All grounds of appeal disposed off accordingly.

10. In the result, the appeal of the assessee is allowed.



Order is pronounced in the open court on 10/12/2025

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

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

Rajkot

//True Copy//

दिनांक/ Date: 10/12/2025

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