

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 1236/AHD/2025
Assessment Year: 2020-21**

Wardha Solar (Maharashtra) Private Limited Adani Corporate House, Shantigram Near Vaishnodevi Circle, SG Highway, Khodiyar, Gandhi Nagar - 382421 [PAN – AABCW 7314 K]	Vs.	Principal Commissioner of Income Tax, Ahmedabad - 380015
(Appellant)		(Respondent)
Assessee by	Shri S.N. Soparkar, Sr. Advocate and Ms. Ukti Shah, ARs	
Revenue by	Shri Rignesh Das, CIT-DR	
Date of Hearing	17.12.2025	
Date of Pronouncement	08.01.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order of Principal Commissioner of Income Tax, Ahmedabad-3 (in short “PCIT”) dated 30/03/2025 for the Assessment Year (AY) 2020-21 passed in his revisional jurisdiction u/s 263 of the Income Tax Act.

2. The brief facts of the case are that the assessee had filed its return of income for A.Y.2020-21 on 28.02.2021 declaring Nil income. The case of the assessee was selected for complete scrutiny under CASS. In the course of assessment, addition of Rs. 6,32,03,957/- was made on account

of disallowance of interest u/s 36(1)(III) and disallowance of carbon credit. After allowing set off of current income loss, the assessment was completed u/s 143(3) on 13.09.2022 at Nil income. Subsequently, the case record was called for and examined by the Ld. PCIT. He found that the assessee had claimed deduction from “Exceptional Item” of Rs.57,02,31,000/- during the year, the allowability of which was not examined by the AO in the course of assessment. Therefore, he held that the order of the AO was erroneous and prejudicial to the interest of the revenue as the assessment order was passed without making inquiries or verifications which were required to be made. Accordingly, he set aside the order of the AO vide the impugned order and directed the AO to pass a fresh assessment order after allowing an opportunity of being heard to the assessee.

3. Aggrieved with the order of the Ld. PCIT, the assessee is in appeal before us. Following grounds have been taken in this appeal:

“1. In law and in the facts and the circumstances of the case of the appellant, the order u/s 263 of the act passed by Ld. PCIT is bad in law and deserves to be quashed.

2. In law and in the facts and the circumstances of the case of the appellant, the Ld PCIT has erred in holding that assessment order passed u/s 143(3) r.w.s 144B on 13/09/2022 is erroneous and prejudicial to interest of revenue and set aside such order u/s 263 of the Act.

3. In law and in the facts and the circumstances of the case of the appellant, the Ld. PCIT has erred in holding that assessment order is erroneous and prejudicial to interest of revenue and directing the AO to examine allowability of claim of exceptional item of Rs. 57.02 crore when no such direction is required.

4. The appellant craves leave to add, alter or amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal.”

4. Shri S. N. Soparkar, Ld. Sr. Advocate, appearing for the assessee explained that the assessee had claimed deduction of Rs. 57.02 crore in the Profit and Loss account in respect of "Exceptional Item" which was duly explained in note no.46 of the audited account. He explained that this claim was on account of swap gain/loss, bank charge syndicate fee and break cost which was duly explained in the reply filed before the Ld. PCIT in response to the notice u/s 263 of the Act. According to Ld. Sr. Counsel, the expenses claimed by the assessee were all allowable and, therefore, the order of the AO was not prejudicial to the interest of revenue. Ld. Sr. Counsel fairly conceded that the claim of "Exceptional Item" was not examined by the AO in the course of assessment proceeding. He, however, was aggrieved with the direction of Ld. PCIT to also examine the allowability of loss when this issue was not a part of the notice issued u/s 263 of the Act.

5. Per contra, Shri Rignesh Das, Ld. CIT DR submitted that the case was selected for complete scrutiny. Therefore, the deduction for "Exceptional Item" of Rs. 57.02 crore claimed for the first time by the assessee, should have been examined by the AO in the course of assessment. He explained that the nature and allowability of the claim was not examined by the AO in the course of assessment proceeding. Therefore, the Ld. PCIT had rightly held that the order of AO was erroneous and prejudicial to the interest of revenue. He, therefore, strongly supported the order of the Ld. PCIT.

6. We have considered the rival submissions. It is found that the assessee had debited "Exceptional items" of Rs. 5702.31 lakhs in its Profit

and Loss account. No such claim was made by the assessee in the earlier year. Further, the Auditor in Note 46 to the audited account had remarked in respect of these “exceptional items” as under:

“The company has refinanced its earlier borrowings through issuance of secured senior notes (US\$ denominate bonds). On account of such refinancing activities, the company has incurred a onetime expense aggregating to Rs.5702.31 Lakhs. These expenses comprises of prepayment charges, unamortized portion of other borrowing cost related to earlier borrowings and cost of premature termination of derivative contracts. The same are treated as exceptional items in the financial statements.”

7. It is thus found that the claim for deduction of “Exceptional Items” was in respect of onetime expense on account of refinance of its earlier borrowings and included prepayment charges, unamortized portion of other borrowing cost, premature termination of derivative contracts, etc. Considering the exceptional nature of the claim and the onetime expenditure, the AO should have examined the claim of the assessee by making appropriate queries in this regard. Since this aspect was not examined by the AO in the course of assessment, the Ld. PCIT had rightly held that the order of the AO was erroneous and prejudicial to the interest of the revenue. The Explanation-2 of Section 263 stipulates that the order passed by the AO shall be deemed to be erroneous and prejudicial to the interest of revenue, if the order is passed without making inquiries or verifications should have been made. In the present case, the AO should have made inquiries or verifications in respect of first time claim of “Exceptional Items” in respect of one-time expense incurred on refinancing activities. In the absence of any such enquiry, the finding of the Ld. PCIT that the order of the AO was erroneous and prejudicial to the interest of revenue, is upheld.

8. At the same time, the finding of the Ld. PCIT that the assessee had claimed losses which were not allowable as per the provisions of the Act, cannot be held as correct. The Ld. PCIT did not issue any show cause notice u/s 263 of the Act in respect of losses claimed by the assessee. The only two issues referred in the order of the PCIT are the claim for "Exceptional Item" of Rs. 57.02 crore and difference of Rs. 9,48,187/- in the sundry balance written off as per audit report and the amount as written off in the Profit and Loss Account. Accordingly, the direction of the Ld. PCIT to examine the allowability of loss in the course of set aside proceeding is not found correct. The direction of Ld. PCIT is, therefore, modified to that extent and the AO is directed to restrict his inquiries only on the issues of "Exceptional Item" of Rs.57.02 crore and the difference in the sundry balance written off.

9. Subject to the above directions, the appeal of the assessee is dismissed.

Order pronounced in the Court on 08/01/2026 at Ahmedabad.

Sd/-
(TR SENTHIL KUMAR)
Judicial Member

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

Dated 08th January, 2026
Nimisha Arora

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