

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" D " BENCH, AHMEDABAD

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER  
And  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos. 1052 to 1054/AHD/2025  
निर्धारण वर्ष/Asstt. Years: 2017-18 to 2020-21

Arunaben Kishorkumar Mandalia, 12, Ashwamegh-III, 132 Feet Ring Road, Satellite, Ahmedabad-380015.  <b>PAN: ABLPM2848Q</b>	बनामVs	The Principal Commissioner of Income Tax (Central), Ahmedabad.
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(अपीलार्थी /Appellant		(प्रत्यर्थी /Respondent)
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Assessee by :	Shri M K Patel, with Shri Vartik Choksi, ARs
Revenue by :	Shri Sher Singh, CIT.DR

सुनवाई की तारीख/Date of Hearing : 10/12/2025  
घोषणा की तारीख /Date of Pronouncement: 20/01/2026

**आदेश/ORDER**

**PER NARENDRA PRASAD SINHA, AM:**

These three appeals are filed by the assessee against the separate orders passed by the Principal Commissioner of Income Tax, (Central) Ahmedabad (in short "the PCIT") all dated 30.03.2025 for the Assessment Years 2017-18, 2018-19 and 2020-21 in his revisional jurisdiction under section 263 of the Income Tax Act, 1961 (in short "the Act"). As the facts involved in these three appeals were identical, all the matters were heard together and are being disposed of vide this

common order for the sake of convenience. We will take ITA No.1054/Ahd/2025 for AY 2020-21 as the lead case for the purpose of adjudication.

**ITA No.1054/Ahd/2025: AY 2020-21**

2. The brief facts of the case are that assessee had filed original return of income for A.Y 2020-21 on 28.12.2020 declaring total income of Rs.51,66,100/-. A search and seizure action u/s.132 of the Act was carried out in the case of "Land Broker & Financier Group" on 15.10.2019. In the case of search conducted at the premises of one of Shri Suresh R Thakkar, certain incriminating materials/digital data were found and seized which pertained to the assessee. Accordingly, the Assessing Officer of the search person had recorded his satisfaction and forwarded the incriminating material to the Assessing Officer of the assessee, who had recorded his independent satisfaction and initiated proceedings u/s.153C of the Act in the case of the assessee for A.Ys. 2014-15 to AY 2020-21.

3. In the course of assessment proceeding, enquiries were conducted in respect of seized materials pertaining to the assessee. Being satisfied with the explanation of the assessee, the assessment order for AY 2020-21 was completed u/s.143(3) r.w.s 153C of the Act on 19.09.2022 at total income of Rs.51,66,100/-, as per return of income. Subsequently, the case record was called for and examined by the Ld. PCIT, who held that the Assessing Officer did not conduct the enquiries which were required to be made and the assessment order u/s.153C of the Act was

passed without making any addition. The Ld. PCIT, therefore, set-aside the assessment order vide the impugned order and directed the Assessing Officer to make fresh assessment after making enquiries afresh.

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

*1. In law and in the facts and circumstances of the appellant's case, the Ld. PCIT has grossly erred in not appreciating that in order to invoke the section 263 of the Act two conditions must be fulfilled viz. the impugned assessment order must be erroneous and that error must be prejudicial to the interest of the revenue. In the appellant's case, the Ld. Assessing Officer has passed the assessment order after analysing all required details and therefore was no error in the impugned assessment order so as to justify action u/s 263 of the Act. In the case of the Appellant, the very assumption of power u/s 263 of the Act is unjustified and bad in law and therefore, the order passed u/s 263 of the Act deserves to be quashed.*

*2. In law and in the facts and circumstances of the appellant's case, the Id. Assessing Officer based upon the available information and the power vested under the law has carried out adequate and sufficient inquiries and based upon which he has finalized his assessment order which is irreversible.*

*3. In law and in the facts and circumstances of the appellant's case, the Id. Assessing Officer has made complete and adequate inquiry as per the law and reached to the conclusion by passing the assessment order. Since the Id. AO has carried out comprehensive inquiries, there is no reason to revise the order under Section 263 of the Act.*

*4. In law and in the facts and circumstances of the appellant's case the entire revision proceeding is being initiated on account of the fishing and rowing inquiry the proceeding initiated on fishing rowing inquiry deserves to be quashed.*

*5. In law and in the facts and circumstance of the appellant's case the entire revision proceeding is being carried out and concluded in the arbitrary manner and thus the proceeding is in violation of principle of natural justice. Hence, the proceeding was being void and bad in law deserves to be quashed.*

*6. In law and in the facts and circumstances of the appellant's case, the Id. PCIT has erred in setting aside concluded proceeding on factually wrong observation by resulting into miscarriage of justice and violation of the fundamental rights of the taxpayer (Appellant) and thus the entire appeal proceeding is void and bad in law.*

*7. In law and in the facts and circumstances of the appellant's case, the revision order passed by Id. PCIT is perverse and has reduced the procedure to an empty formality, which has to be deprecated. Therefore, the order passed by PCIT liable to be quashed.*

8. *In law and in the facts and circumstances of the appellant's case, the Id. PCIT has failed to appreciate that the alleged transaction relates Sellers including Appellant and Sun Shilp Construction for non-agriculture land and that the Appellant has not entered into any transaction with Sun Group for the referred land. Therefore, the observation of the Id. PCIT is void and deserves to be quashed.*

9. *In law and in the facts and circumstances of the appellant's case, the Id. PCIT has failed to appreciate that when the impugned alleged material of a Sauda Chitthi found to have never been materialized then no allegation in any manner of on-money can be made when a Sauda Chitthi was not executed and thus the observation of Ld. PCIT is against the settled position of the law and deserves to be quashed.*

10. *In law and in the facts and circumstances of the appellant's case, the Id. PCIT has failed to appreciate that alleged material was found from the third-party Shri Suresh Thakker being into business of land broker and who has made contradictory statements for each of the three single images and subsequently he has retracted his owns statement taken during the search proceeding and there was also no addition in his case for the impugned deal. Therefore, from the source from which impugned material is found there is no adverse view then how can there be any adverse view on the non-search party which Id. AO has rightly appreciated by making comprehensive humanly possible inquiry and concluded the same, which Id. PCIT did not accept and arbitrarily set-side which is unjustified and bad in law and therefore, the order passed u/s 263 of the Act deserves to be quashed, on this ground.*

11. *In law and in the facts and circumstances of the appellant's case, the Id. PCIT has failed to appreciate that on the inquiry carried out by the Id. Assessing Officer it has come on record that except the statement of third-party being Shri Sureshbhai Thakkar there was no other material or evidence to show that the impugned transaction pertains to the Appellant. The observation in the revision order of Id. PCIT is superficial to connect the alleged material to the appellant without any evidence and thereby, is unjustified and the order under section 263 of the Act is bad in law deserves to be quashed.*

12. *The appellant craves leave to add, amend, alter or delete any of the above grounds of appeal.*

5. Shri M K Patel, the Ld. AR of the assessee submitted at the outset that the twin conditions to invoke the provisions of section 263 of the Act, that the assessment order should be erroneous and prejudicial to the interest of revenue, was not fulfilled in this case. He explained that the proceeding u/s.153C of the Act was initiated in this case to examine the materials seized from the premises of the Shri Suresh R Thakkar and pertaining to the assessee. He submitted that in the course of assessment proceeding, the Assessing Officer had made due enquiries in this regard

and the assessee had furnished the detailed explanation in respect of the seized materials. Being satisfied with the explanation of the assessee, the Assessing Officer did not make any addition for the reason that no addition was called for at all. According to the Ld. AR, the Assessing Officer had made all the relevant enquiries and had taken a conscious decision that no disallowance was called for in respect of the seized documents. The Ld. Counsel contended that when the matter was examined in-depth by the AO, the Ld. PCIT was not correct in initiating proceeding under Section 263 of the Act on the ground that the matter was not examined by the AO. He further submitted that considering the facts of the case, it was not correct for the Ld. PCIT to superimpose his view that no enquiry was made in the case and that the order was passed without making any addition. The Ld. AR has taken us through the queries raised by the Assessing Officer vide notices u/s.142(1) of the Act and the reply filed by the assessee thereto, a copy of which has been brought on record in the paper book filed by the assessee. The Ld. AR reiterated that when the matter was examined in depth by the Assessing Officer, the Ld. PCIT was not correct in initiating the proceeding u/s.263 of the Act on the ground that the matter was not examined by the Assessing Officer. The Ld. AR also relied on the following decision in support of his contention that the order of the Assessing Officer not erroneous and prejudicial to the interest of revenue.

1. *CIT Vs. Kamal Galani (2018) 95 taxmnn.com 261(Guj)*
2. *CIT Vs. Kamal Galani(2019 110 taxmnn.com 213(SC)*

6. Per Contra Shri Sher Singh, Ld. CIT. DR submitted that the Assessing Officer did not make proper enquiry in this case and merely accepted the explanation of the assessee without any further verification. He further submitted that the order of the AO was cryptic, only accepting the returned income of the assessee, and there was no evidence of application of mind by the AO on the issues involved in this case. Accordingly, the Ld. PCIT had rightly exercised the revisional jurisdiction to set aside the matter for fresh examination of this issue. The Ld. CIT-DR strongly supported the order of the Ld. PCIT.

7. We have carefully considered the rival submissions. As per the provisions of section 263 of the Act, the PCIT has power to review the order of the Assessing Officer, if the order is found to be erroneous and prejudicial to the interest of revenue. The twin conditions namely:

(i) the order of the Assessing Officer sought to be revised is erroneous, and;

(ii) the order of the Assessing Officer is prejudicial to the interest of revenue;

both have to be satisfied in order to invoke the jurisdiction u/s.263 of the Act. If any of them is absent then the recourse cannot be taken to the provision of section 263 of the Act. We have to, therefore, examine whether these basic conditions were satisfied in the present case and, if so, how this fact was brought on record in the order u/s. 263 of the Act passed by the Ld. PCIT.

8. From the digital images found and seized from the mobile phone of Shri Suresh R Thakkar, it transpired that he had brokered a deal for Shri Rajeshbhai Brahmbhatt and Smt. Arunaben Kishorkumar Zhaveri (the assessee) for sale of land. Three documents found from the mobile of Shri Suresht R Thakkar pertaining to this transaction and referred in the order of the Ld. PCIT are as under:

- i. Page no. 105 of volume-1: mutual agreement for land transactions bearing survey No. 430/3/1, 430/2, 430/4 & 429 situated at Makarba, Vejalpur sold at the rate of 48168 per Sq. yard for a total consideration of Rs.61,43,34,672/-.
- ii. Page 576 and 579 of volume -1 : Regarding sale of plot of land at the rate of 48168 per Sq. yard for total consideration of 61.43 crore
- iii. Page No.271 of volume No.1 : Sale of land for document price of Rs.18.11 crores.

Shri Suresh R Thakkar had confirmed that these seized documents were in respect of sale of land by Rajeshbhai Brahmbhatt and Arunaben K Zhaveri to one Shri N. K. Patel of Sun Builder Group. He had also stated that cash and cheque payments were involved in this transaction and that the deal was facilitated through him.

9. The contention of the Ld. PCIT is that in the course of assessment, no proper inquiry was conducted by the Assessing Officer in respect of transactions recorded in the seized documents. The assessee has brought on record a copy of notices u/s.142(1) of the Act dated

15.07.2022 and 24.08.2022 issued by the AO. It is found that the AO had issued a detailed questionnaire along with the notice u/s 142(1) dated 24/08/2022 running into six pages with 20 questions and seven sub-questions. It is further noted that the Assessing Officer had made the following specific enquiries regarding the seized materials vide notice dated 24/08/2022:

*20. As Intimated vide Satisfaction note, copy of which has already been provided to you, that a search action u/s 132 of the Act was carried out on 15/10/2019 in the case of "Land Broker & Financier Group" of assessees. It was further intimated that during the search and seizure action, the residential premise of Shri Suresh Ranchhodhbhai Thakkar, PANABXPT1494K at 8-7, Shantiniketan Bungalows, Behind AUDA Garden, Prahladnagar, Ahmedabad was also covered u/s. 132 of the Act as he is one of the leading land brokers. You were also apprised that during the course of search action, various incriminating documents and digital data relating pertaining to you were found & seized during the course of Search Action carried out.*

*20.1 Your attention is drawn towards the seized document bearing page no. 105, 576 and 579, the snippet of which has already been communicated to you vide satisfaction note as well as order disposing off objection.*

*20.1.1 A plain reading of the seized document bearing page no.105, it is quite evident that this seized document is a MOU executed for sale of land bearing survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarba admeasuring 12,754 sq. yards in total Rs.48,168/- per sq. yard, the aggregate consideration of which comes to Rs.61,43,34,672, It is an undisputed fact that when the aforesaid MOU was executed, the land survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarba was co-owned by the assessee. Thus, it can clearly be concluded that the said MOU for sale of land bearing survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarba @ Rs.48,168/- per sq, yard was executed by the assessee.*

*20.1.2 On perusal of the seized document bearing page no. 576, it becomes apparent that the documentation of land bearing survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarba was agreed to be made at Rs. 18,11,00,000/-only as against the actual agreed sale price/consideration of Rs.61,43,34,672. This goes on to fortify that the difference of Rs.43,32,34,672/- (Rs.61,43,34,672-Rs. 18,11,00,000) was agreed to be settled in cash which takes the character of 'on-money.*

*20.1.3 Further, it can be noted from the seized document bearing page no.579 that at the top right expression 12754 48168 has been written. Here it is mentioned that the expression '12754 represent the aggregate area of land survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarba which is also found written in the seized MOU reproduced above. Likewise, the figure '48168 written in the seized document represents the rate at which the aforesaid land was agreed to sale which is also getting matched with the seized MOU reproduced above.*

*Thus, it is concluded that all these seized documents i.e. page no.105, 576 & 579 are inter-connected and contains the financial transactions in respect of land survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarta.*

*20.1.4 On further perusal of the seized document bearing page no. 579, it can be noted from the top that '61.44' has been noted which actually represents the aggregate agreed sale consideration ie. Rs.61,43,34,672/-. Thus, it becomes clear that the figures recorded/noted in the seized document bearing page no. 579 runs into crores. It can be further noted that a sum of Rs.31 crores, Rs.7.93 crores, Rs.7.93 crores, Rs.6.50 crores and Rs.5.92 crores has been reduced from the agreed sale consideration of Rs.61.44 crores. The reduction of Rs.31 crores, Rs.7.93 crores, Rs.7.93 crores, Rs.6.50 crores and Rs.5.92 crores aggregating to Rs.59.28 crores from the agreed sale consideration of Rs.61.44 crores clearly goes on to imply that aggregate sum of Rs.59.28 crores has been paid by the intended buyers to the assessee and other co-owners.*

*20.1.5 Now attention is invited to the sworn statement of Shri Suresh R Thakkar from whose possession the aforesaid seized documents were retrieved, the operative excerpt of which has already been communicated to you. From the statement of Shri Suresh R Thakkar given in relation to page no. 576 and 579, it also flows that out of total agreed sale consideration of Rs.61.44 crores, a sum of Rs.2.16 crores merely is pending to be paid by the proposed purchaser. Thus, the seized document vis-à-vis the swom statement of Shri Suresh R Thakkar makes it clear that you and the other co-owner against the proposed sale of land survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarba has in aggregate received a sum of Rs.59.28 crores as against the agreed consideration of Rs.61.44 crores.*

*20.1.6 The objection so filed by you in this regard has already been dealt with at length and disposed of vide a speaking order treating the same not terable. Vide objection so filed, you could produce the documentary evidence in respect of refunding to the purchaser a sum of Rs.7.93 crores only in the event of non-materialization of the deal but nothing can be brought on record either by you or the other co-owner that apart from refunding a sum of Rs.7.93 crores, the remaining consideration amounting to Rs.51.35 crores (Rs.59.28 crores - Rs.7.93 crores) so received has been returned to the purchaser. Since you have failed to produce any supporting evidence proving the refund of entire amount to purchaser, the consideration so received amounting to Rs.59.28 crores reduced by Rs.7.93 crores (i.e. refunded sum) which comes to Rs.51.35 crores is, therefore, construed to have been forfeited by you along with other co-owner.*

*20.1.7 Since your stake in each of the land parcel bearing survey no. 430/3/1, 430/2, 430/4 & 429 situated at Makarba stands at 50%, you are therefore requested to show cause as to why a sum of Rs.25,67,50,000/- being 50% of forfeited sum should not be added to your total income on substantive basis and the remaining 50% being Rs.25,67,50,000/- on protective basis.*

10. It is thus seen that the AO had made a detailed enquiry in respect of the seized documents pertaining to the assessee in the course of assessment proceeding. In response, the assessee vide letter dated

05.09.2022 had made the following submissions to the queries raised by the Assessing Officer:

*I am in receipt of Your Honour's above stated notice. In the matter I reply as follows by filing my reply on e-filing portal.*

**1. Details of the nature of business/profession carried on by you in detail. Please furnish addresses of all your premises from where the business/profession activities carried out. (Para 1 of notice 142(1) dt. 24/08/2022)**

*I earned profit being a partner in firm viz. Priyal Realty and Vrundavan Garden LLP which is exempt u/s 10(2A) of the Act.*

*Apart from above income from business and profession I have earned income from house properties given on rent and income from other sources such as saving interest, interest from bonds etc. were earned.*

*No business is carried on by me during the year*

**2. Details of copy of Return of Income filed by you for the relevant Assessment Years along with copy of P&L a/c., Balance Sheet, Capital A/c., Auditor's report, etc. along with all schedules/annexures in respect of business activities carried out by you, if any, as well as personal set of accounts (Para 2 of notice 142(1) dt. 24/08/2022)**

*I have mentioned herein above that I was a partner in Priyal Realty and Vrundavan Garden LLP. No other business is carried out by me and hence, only one set of accounts containing all incomes is maintained by me. Further, no audit was required to be conducted during the year. Below mentioned details are enclosed: - [Page 1 to 16]*

a) Profit & Loss Account

b) Balance Sheet

c) Capital Account

d) Trial Balance

e) Return of Income i.e. Acknowledgement of return filed u/s 153C

1) Statement of Income

**3. Details of furnish copy of partnership deed and any other supplementary deed. addition/reduction/withdrawals in the partnership capital also furnish details of Piditto also produce ledger account of partnership capital and a brief note of ratio/percentage of profit/loss/capital of the partners in you alongwith remuneration, interest salaries, profits paid to the partners duly establishing the**

**allowability of the same as per Partnership deed or supplementary deed. (Para 3 of notice 142(1) dt. 24/08/2022)**

As explained vide Para 1 above, I am a partner in firm viz. Priyal Realty and Vrundavan Garden LLP. I don't have any substantial financial interest in any of these entities. Please note that my share of profit in Priyal Realty was 1.5% and 7% in Vrundavan Garden I.L.P during the year. Apart from share profit from firm, no other income has been received by me being a partner in these concerns. The above statement can be substantiated from the Original as well as Supplementary partnership deed attached herewith. I attach herewith following documents to substantiate my relationship with the above stated concerns:

[Page 17 to 85]

- a) Original Partnership Deed
- b) Supplementary Partnership Deed, if any
- c) Please note that ledger Account from the books of Priyal Realty and Vrundavan Garden LLP and ledger account from my books are enclosed at Para 5 below.

**4. Details of all the bank accounts operated during the relevant assessment years along with copies thereof (AYwise). Please also furnish a copy of Bank Reconciliation with reference to the balance as on the last date of the relevant financial year for all your bank accounts. (Para 4 of notice 142(1) dt. 24/08/2022)**

In respect of all the bank accounts operated during the year, following details are enclosed Page 86 to 114):-

- a) Bank Books:
- b) Bank Statements
- c) Bank Reconciliation Statements

**5. Details of other entities in which you have substantial financial interest along with nature and quantum of such interest. (Para 5 of notice 142(1) dt. 24/08/2022)**

There is no substantial financial interest in any entities. Please note that my share of profit in Priyal Realty and Vrundavan Garden LLP was 1.5% and 7% respectively during the year. Copy of ledger account from my books of account and from the books of Priyal Realty and Vrundavan Garden LLP are enclosed. [Page 115 to 120]

**6 Details of copy of yearwise cashbook and cash flow statement. (Para 6 of notice 142(1) dt. 24/08/2022)**

Copy of year wise cash book is enclosed. [Page 121 to 123]

**7. Details of business income, produce Trial balance in following format with complete grouping and with all accounts appears in the books of account for**

*verification for the relevant assessment years. (Para 7 of notice 142(1) dt. 24/08/2022)*

*As mentioned herein above, apart from share from firm exempt u/s 10(2A), being a partner in Priyal Realty and Vrundavan Garden LLP no other business income is earned by me. During the year under reference, there were a profit of Rs. 19,80,214/- and 2.289/from being a partner in Priyal Realty and Vrundavan Garden LLP were earned Trial balance in the required format is enclosed at Para 2 of this reply.*

**8. Details of secured/unsecured loans obtained during the year and its utilization. Furnish name and address of all the persons from whom fresh unsecured loan/deposits were received during the relevant assessment year. Please also furnish details of squared up loan/deposits. First of all please furnish the very basic purpose of obtaining the loan and evidence of its utilisation for the said specific purpose. Secondly, please furnish full details viz. Full name, PAN, Xerox copy of acknowledgement of ITR, confirmation, Balance Sheet and evidences supporting credit worthiness of the depositors/lenders in respect of fresh unsecured loans. For old unsecured loans please furnish Full name, PAN, confirmation and copy of ledger accounts. Please specify as to what percentage of interest was paid to the depositors on their loans/deposit. Furnish details of unsecured loans/deposits taken during the year including squared up loans in the given format:**

**Please furnish the age wise break up of opening balance of loans. Please do furnish detailed working of disallowances made, if any, u/s 36(1)(iii) or 57 of the Act. (Para 8 of notice 142(1) dt. 24/08/2022)**

*Your Honour may note that for the year under reference, I have obtained Loans from parties namely Zaveri & Co. Exports, KIFS Enterprise and Kishor Mandalia. Following details of lenders are enclosed. [Page 124 to 165):-*

- a) Copy of ITR V
- b) Copy of Balance Sheet and Profit & Loss Account
- c) Copy of ledger account from the books of lenders
- d) Copy of ledger account from in my books.
- e) Copy of Bank Statement of all the lenders

*It will be found from the attached Statement of Income that no expense has been claimed by me against any of the Income reflected in my return of Income for the year under consideration.*

*Your Honour may note that for the year under reference, I have obtained Loans from lender mentioned in the below table.*

*I must be noted that amount received from the lenders were utilised as per the table below:*

Received From	Amount	Utilization	Date
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Kishorbhai Mandalia	P	2,50,00,000/-	Payment made to Dollyben N Patel, Devrat T Patel, Deep N Patel	09/12/2019
Kishorbhai Mandalia	P	2,50,00,000/-	Payment made to Dollyben N Patel, Devrat T Patel, Deep N Patel	09/12/2019
Kishorbhai Mandalia	P	2,50,00,000/-	Payment made to Dollyben N Patel, Devrat T Patel, Deep N Patel	09/12/2019
Kishorbhai Mandalia	P	1,52,00,000/-	Payment made to Alka Ketan Desai and Dollyben N Patel	27/12/2019
Kishorbhai Mandalia	P	1,52,00,000/-	Payment made to Alka Ketan Desai and Dollyben N Patel	27/12/2019
Kishorbhai Mandalia	P	2,50,00,000/-	Payment made to KIFS Enterprise	16/010/2020
Kishorbhai Mandalia	P	2,61,50,000/-	Payment made to KIFS Enterprise	16/12/2019
Kishorbhai Mandalia	P	3,00,000/-	Payment made to Zaveri and Company(Gujarat) LLP for Purchase of Gold Ornaments	04/03/2020
Zaveri and Exports Co		500000/-	Repaid to Zaveri and Co Exports on 16/10/2019	16/10/2019
Zaveri and Exports Co		200000/-	Payment made to Zaveri and Company (Gujarat) LLP for purchase of Gold and Diamond Ornaments	

The summary report in the required format along with the ledger account is enclosed.

**9. Details of given loans and advances to various entities. Provide additional details as per given format: (Para 9 of notice 142(1) dt. 24/08/2022)**

Loan of Rs. 2,13,10,000/- was given Zaveri and Co(Guj) LLP during the year and interest thereon was charged of Rs 32,20,279/- A summary enclosed also evidences the fact. [Annexure Bl. Copies of ledger accounts are enclosed. [Page 166 to 168]

**10. Details regarding exempt income earned during the year under consideration, along with any expenditure incurred to earn the same. Please specify the applicability of section 14A of I.T. Act, 1961 in your case. If yes, please submit computation for disallowances u/s 14A r.w. Rule 8D. (Para 10 of notice 142(1) dt. 24/08/2022)**

During the year under reference, I have earned exempt income of Rs 9,82,639/-which can be substantiated from attached ledger [Page 169 to 170). No expenditure is claimed, hence, question of disallowance u/s 14A does not arise.

**11. Details of any capital assets sold/purchased during the year along with supporting documents and computation of capital gain thereon. (Para 11 of notice 142(1) dt. 24/08/2022)**

W.r.t. of purchase and sale of capital asset during the year under reference along with its supporting documents, we are submitted the details vide Para 16 hereinbelow.

**12. Details of all the transactions entered into with the persons described u/s. 40A (2)(b) of the IT Act, 1961, viz. nature of transaction, amount of transactions, whether such transactions were entered into with the rate comparable to market rate or not. If yes, then give the proof in this respect. (Para 12 of notice 142(1) dt. 24/08/2022)**

Please note that since I have not claimed any expenditure under the head profits & gains of business, Section 40A(2)(b) does not apply to me.

**13. Details of addition/disallowance made for scrutiny assessment occasions for the relevant assessment years and explain as to why similar addition/disallowance should not be made for the year under review. Please also furnish copy of order passed u/s.143(3)/147/154/263 of the Act, if any, for the relevant assessment years and details of brought forward loss, if any, for the AY2014-15. Please also furnish copy of appellate order w.r.t. to the such orders. (Para 13 of notice 142(1) dt. 24/08/2022)**

Apart from the current ongoing proceedings, no assessment is done in my case for ITAY 2020-21. This question is repeated in the subsequent assessment years, hence, answers to these questions are given in the respective years.

**14. Details of interest received and interest paid on loans obtained and loans and advances given/deposits made, showing rate of interest by furnishing a detailed Interest Account. (Para 14 of notice 142(1) dt. 24/08/2022)**

Copies of ledger account of Interest income are enclosed. Your Honour will find from my Statement of Income that no interest expense is claimed while computing total income for the year under reference. [page 171 to 172]

**15. Details of the justification of interest expenditure by way of providing nexus to utilization of fund in earning taxable income, if any. (Para 15 of notice 142(1) dt. 24/08/2022)**

It may be noted that I have not claimed any expenditure against income earned during the year.

**16. Details about acquisition & disposal of movable/immovable properties during the year under consideration. Also, please prove the source of investment; furnish the copy of documents and highlight the transaction in bank statement; bank book; and in cash book if any. Please also furnish Name, PAN, Address of counter parties. (Para 16 of notice 142(1) dt. 24/08/2022)**

During the year under reference I had invested my funds in Shares of SBI Cards and Payment service Ltd. Following documents are attached: [page 173 to 179]

a) Ledger of SBI Cards and Payment Service Ltd

b) Relevant pages of Bank statements

I had also purchased loose diamonds and gold ornaments, Mani, Moti from Zaveri and Company (Guj) LLP during the year. And also purchase 22 Crt gold ornaments from Vijyalaxmi Dhirajbhai Soni. [Page 180 to 200]

Purchase	Amount	Purchased from (Counter Party)	PAN and Address of Counter Parties	Attachments
Loose Diamonds ornaments and Gold ornaments	8,94,500/-	Zaveri and company (Gujarat) LLP	AABFZ3907E	Copy of Retail Invoice from Zaveri and Co(Guj) LLP.  Copy of Ledger Account of Zaveri and Co(Guj) LLP  Copy of Relevant pages from Bank
Gold ornaments	95,116/-	Vijyalaxmidhirajbhai Soni	FYYPS9296B	Copy of Retail Invoice from Vijyalaxmi Dhirajbhai Soni  Copy of ledger account of Vijyalaxmi Dhirajbhai Soni  Copy of Relevant pages from Bank

**17. Details of exempt income earned during the year along with supporting evidence. (Para 17 of notice 142(1) dt. 24/08/2022)**

During the year under reference, I have earned exempt income of Rs 9,82,639/- which can be substantiated from the above attached ledger account.

**18. Details of movable/immovable property held in foreign countries along with explanation for source with supporting evidences thereof. Further, please state whether it is shown in the regular books of account. Please furnish copy of the relevant ledger a/c. and the Balance Sheet highlighting the same. Please also state whether all the foreign properties have been disclosed by you in the Income Tax Returns filed by you for all the years under consideration. (Para 18 of notice 142(1) dt. 24/08/2022)**

No movable or immovable properties are held by me in foreign countries.

**19. Details of original return was filed u/s 139(1) of the Act? If yes, whether the income/loss reported thereon has been revised subsequently or any additional income has been offered in the ROI filed in response to the notice issued u/s 153C of the Act? Please furnish complete details with supporting evidence/documents w.r.t. such enhancement/reduction of reported income(Para 19 of notice 142(1) dt. 24/08/2022)**

No additional income was offered to tax while filing return of income u/s 153C of the Act. Copies of ITR V of original returns of income, and Return of income filed u/s 153C are enclosed. [Page 201 to 202]. This question is repeated in the subsequent assessment years, hence, answers to these questions are given in the respective years.

**20. Show cause as to why a sum of Rs.25,67,50,000/- being 50% of forfeited sum should not be added to the total income on substantive basis and the remaining 50% being Rs.25,67,50,000/-on protective basis. (Para 20 of notice 142(1) dt. 24/08/2022)**

(a) The assessee along with the co-owner namely Rajesh Brahmhatt had proposed to sell agricultural parcels of land bearing survey No. 430/1, 430/2, 430/3/4, 429 at Makarba, Ahmedabad to M/s. Sunshilp Construction (earlier known as Shilp Construction) However, since the land was not able to be converted into non-agricultural land the deal was cancelled and the amount paid was received back by the partnership firm.

(b)The assessee intended to sell parcels of agricultural land bearing survey Nos. 430/1, 430/2, 430/3/4, 429 at village Makarba, Ahmedabad to Sunshilp Construction. For this we have entered into an understanding by which it was agreed that the land would be transferred if and only if we were successful in converting the land into non-agricultural land.

(c) As a part of the understanding part payment of Rs. 15,86,00,000 (7.93 crore each) was made to them but since we were not successful in converting the land which was very critical to the successful completion of the deal, the entire deal was called off and the advances were paid back to Sunshilp Construction respectively.

(d) The reason as to why this land was not tabled to be converted was on account of the fact that it was originally purchased by a Co. Operative society on 20/04/1987 i.e. after deletion of section 64A of the Gujarat Tenancy and Agricultural Lands Act 1948. According to section 63 of the said Act, prior permission of Collector is required which was not taken by the Co. Operative society. Thus, the permission of Collector required under Gujarat Tenancy

and Agricultural Lands Act 1948 was not taken. Thus, the title of the land remains defective. Title of the land still remains defective i.e. after almost 2.5 years of money refunded. Copy of 7/12 Utara also contains my name. Thus, I till date I am owning the same parcel of agricultural land.

**On the basis of the above facts and details obtained it is submitted as under.**

(a) Vide Point No.20.1.1 as a part of the revised understanding entered it is submitted that the noting reflected in the images were not acted upon which is evident from the fact that the first payment by way of cheque was made on 29.09.2016. The assessee along with the co-owner has received total amount of Rs.15.86 crores only.

(b) Vide Point No.20.1.2 and with reference to the noting of document value of 18.11 crores pertains the alleged sell consideration of 61.43 crores it is submitted that the notings in the image which has been referred by your good-selves are not in my handwriting. Further, the area which has been noted against the survey no reflects with the gross area of agricultural land as per old sharat which was around 18369 sq. yrd. The final plot (FP) works out to approximately 12,754. The noting of 598 which has been reduced from the above is that portion of land which they were not interested to purchase. So far as the document value of 18.11 crores is concerned it is submitted that it reflects the tentative purchase price of these survey numbers (actual amount is 19.85 crores) and it does not reflect the sale value of this survey numbers so as to come to the alleged conclusion that the difference of Rs.43.32 crores was to be settled in cash and is in the nature of alleged on-money. It is again reiterated that for the reasons stated here-in-above this deal was never concluded and accordingly the question of executing document does not arises.

(c) Vide Point No.20.1.3 it is submitted that your goodselves has come to the alleged conclusion that the seized documents are inter-connected and contains the financial transaction in respect of the above referred survey numbers is incorrect and erroneous for the reason that as per the understanding entered the land was to be converted into a non-agricultural land and since we were not successful the deal could not go through, the very fact that I am still the owner of the agricultural land itself justifies that deal has not gone through. All the payments received has also been returned back.

(d) Vide Point No.20.1.4 it is submitted that the above notings are not in my handwriting. However, I would like to state that the top of the right hand side 12754 is the area in terms of sq. yard of these survey numbers and 48168 is the rate at which the deal was proposed. The total works out to 61.44. from the notings of 61.44, 31 was deducted to which I would like to state that there was a understanding that if and only we were successful in converting the land into an non-agricultural land and in that circumstances only the payment of 31 crores would have been received. Since, we were not successful in converting the land no such payment was received since the entire proposal of selling these survey number was called off.

Regarding the noting of 7.93 crores it is submitted the same was received through banking channel from Sun shilp Construction which eventually was returned back since the deal could not go through.

*Regarding the noting of 6.5 crores, 5.92 crores and 2.16 crores these were estimation and projections and were never transformed into an actual transaction.*

*(e) Vide Point No.20.1.5 it is submitted that only 7.93 crores was received by me and the future receipts and transactions were dependent upon the conversion into non-agricultural land but since the conversion was not done the deal never got through. It is categorically submitted that no portion of cash component directly or indirectly was received towards these parcels of land by the assessee. In fact Mr. Suresh Thakkar in his statement has also stated that because of the defect in title document was not done.*

*(f) It is further submitted that no amount of brokerage or commission was paid to Mr. Suresh Thakkar who is assessed to Income Tax vide PAN: ABXPP1494K, and this has been accepted by the department while passing his order.*

*(g) Further, since the land could not been converted into agricultural land the proposed transfer had to be called off. Moreover, a legal notice was also given through our Advocate Mis. Lakhani Gandhi & Co. of Ahmedabad to return the amount since the assessee was not successful in converting the said land.*

*Considering the above facts, it is submitted that the entire deal was cancelled and the alleged observation that the assessee has received the alleged consideration is uncalled for and accordingly it is requested not to take adverse action in this regard. Further in view of the above mentioned contention the question of forfeiture or for that matter protective of the substantive addition does not arise.*

*Sir, if any further information or explanation is required vis-à-vis the details furnished so far. Please inform me so that I can file necessary details/information/reply.*

11. It is thus found that the assessee had responded to each and every issue raised in the questionnaire of the AO. In respect of seized material/data also, the assessee had given clarification to each and every query of the AO. According to the assessee, the transaction referred in the seized document never took place and the deal was cancelled prior to the date of search for the reason that the agricultural land was not converted into non-agricultural one.

12. The Ld. PCIT has treated the assessment order as erroneous for the reason that the Assessing Officer did not conduct the enquiries which were required to be made. However, from the evidences as

brought on record and discussed above, it is evident that the Assessing Officer did make enquiry and verified the seized materials pertaining to the assessee. Further, the assessee had furnished a detailed explanation in respect of each and every query raised by the Assessing Officer. In fact, statement of the assessee was also recorded in the course of assessment proceeding, which is found duly reproduced in the order u/s.263 of the Act passed by the Ld. PCIT. Considering these facts, the contention of the Ld. PCIT that the enquiries which were required to be conducted was not made by the Assessing Officer, is not found correct. Thus, the basic premise of the Ld. PCIT to treat the order of the AO as erroneous, fails.

13. The next condition to exercise the jurisdiction of section 263 of the Act was that the order of the AO should be prejudicial to the interest of revenue. The Ld. PCIT has acknowledged in his order that the sale deed was not executed with Shri NK Patel as the conversion of land into non-agriculture land did not materialize and the deal was cancelled. It is found that at one hand the Ld. PCIT has observed that the receipt of on-money in cash was contingent upon execution of sale deed which didn't materialize, and at the same time he is of the opinion that the on-money was liable to be treated as unexplained money u/s.69A of the Act. This stand is found to be self-contradictory and fallacious. In the course of search, no evidence for any on-money received by the assessee was found, neither any such evidence for cash receipts was appearing in the seized documents. Nor payment of any on-money was acknowledged

by the buyer of the property. As explained the deal was cancelled and cheque payments received by the assessee towards the transaction were returned back to the buyers, prior to the date of search. This fact has not been denied or controverted by the Revenue. As a natural corollary to the cancellation of deal, the on-money received by the assessee, if any, would also have been returned. Under the circumstances, no addition could have been made on account of on-money receipt as the amount received by the assessee was only in the nature of advance, which would have been returned on cancellation of the deal. Further, the on-money, if any, received in cash was part of sale consideration and exigible to "Capital Gain Tax" and could not have been considered as unexplained money u/s 69A of the Act. The provision of section 69A of Act was not at all applicable in the facts of the present case. The provision of 69A is attracted only when an assessee is found to be owner of any money, bullion, jewellery or other valuable article which is not recorded in the books of account, if any, maintained by him and the assessee offers no explanation about the nature and source of their acquisition. In the present case no such money, bullion, jewellery or other valuable article was found from the assessee and the provision of section 69A was not at all applicable to the facts of the present case. Further, with cancellation of the deal there was no question of any capital gains arising in the hands of the assessee. In view of these facts and the legal position, the order of the AO couldn't have been treated as prejudicial to the interest of revenue.

14. From the facts as discussed above it is evident that the Assessing Officer had not only properly examined the evidences collected during the search but also made further enquiries by recording the statement of the assessee. Thereafter, the AO being satisfied with the explanation of the assessee, took a conscious decision that no addition was called for in the hands of the assessee on the basis of the seized documents. The Ld. PCIT, in his order, didn't specify or point out as to what further specific enquiry was required to be made in the present case, which was not carried out by the Assessing Officer. Neither did the Ld. PCIT set out the point of further enquiries nor did he record any reason or refer to any material to elucidate as to how the order of AO was erroneous and prejudicial to the interest of revenue. Merely because the explanation of the assessee was accepted and the order of the Assessing Officer was brief and cryptic, that by itself cannot be held as sufficient reason to brand the assessment order as erroneous and prejudicial to the interest of revenue. The conclusion of the Ld. PCIT that order of the Assessing Officer was erroneous and prejudicial to the interest of revenue can't be a matter of subjective satisfaction but specific finding was required to be given on the basis of objective material, after considering the reply of the assessee, which is found missing in the present case. As per the scheme of section 263 of the Act, the Commissioner does not have unfettered discretion to revise the order but the conditions necessary for invoking such power must exist. The order of assessment cannot be set-aside merely to conduct another purposeless and fruitless enquiry. The Ld. PCIT has not pointed out any

apparent error of reasoning or of law which could establish that the order of the Assessing Officer was erroneous and prejudicial to the interest of revenue.

15. It has been held by the Hon'ble Jurisdictional High Court in the case of *CIT vs. Kamal Galani (supra)* that once the Assessing Officer carried out detailed inquiries, it was not open for the Commissioner to reopen the issue on mere apprehension and surmises. The Explanation-2 to Section 263 of the Act stipulates that the order of the AO will be deemed to be erroneous and prejudicial to the interest of the revenue, if such order is passed without making enquiries for verifications which should have been made or if the order is passed allowing any relief without enquiring into the claim. This condition is not found fulfilled in the present case as the AO had made detailed inquiries on the issue of seized documents pertaining to the assessee in the course of assessment proceedings. It was held by the Hon'ble Delhi High Court in the case of *CIT Vs. Sunbeam Auto Ltd. - (2011) 332 ITR 167 (Delhi)* that one has to see from the records as to whether there was application of mind before allowing the claim and one has to keep in mind the distinction between 'lack of inquiry' and 'inadequate inquiry'. If there was any enquiry, even inadequate, that would not by itself give occasion to the Commissioner to pass order under Section 263 of the Act merely because he has a different opinion in the matter. It is only in cases of 'lack of inquiry' that such a course of action would be open. The present case cannot be treated as a case of 'lack of inquiry' as the AO had deeply

examined the issue in the course of assessment proceeding. Even if the inquiry was not adequate in the opinion of the Ld. PCIT, this doesn't give him unfettered jurisdictional power to review the order of the AO. The PCIT should have demonstrated as to what specific enquiry was not conducted by the AO vis-à-vis the queries as already made by him in the course of assessment and the response of the assessee thereto. The scope of Commissioner's power under Section 263 of the Act would be available when the AO conducts no enquiry or no proper enquiry or doesn't apply his mind to the legal issues arising out of the material on record; only then the revisional power is available. The Ld. PCIT has not brought out any inadequacy in the enquiry as conducted by the AO in the course of assessment proceeding rather the entire foundation of the order u/s 263 of the Act is found to be based on change of opinion. In the present case, the AO did conduct proper inquiries based on which he came to a legal conclusion, which was plausible and, therefore, the Ld. PCIT was not justified in invoking the revisional jurisdiction u/s 263 of the Act directing further inquiries or taking different view in the matter. The powers under Section 263 of the Act cannot be exercised only on the basis of change of opinion. It had to be first established that order was erroneous and prejudicial to the interest of the revenue and, this condition is not found fulfilled in this case.

16. In view of the above facts, we are of the considered opinion that the present order of the Ld. PCIT is not tenable in law as the foundation to exercise the revisional jurisdiction u/s 263 of the Act is missing in the

present case since the order of the AO was neither erroneous nor prejudicial to the interest of revenue. Therefore, the order of the PCIT passed u/s 263 of the Act is quashed and set aside.

17. In the result, the appeal preferred by the assessee is allowed.

ITA Nos. 1052 and 1053/Ahd/2025 for AY 2017-18 & 2018-19

18. The facts involved in these two appeals are identical to ITA No.1054/Ahd/2025 for A.Y 2020-21, which we have decided in favour of the assessee. Therefore, the decision taken in ITA No.1054/Ahd/2025 for AY 2020-21 will apply mutatis mutandis to the appeals in ITA Nos.1052 and 1053/Ahd/2025 for AY 2017-18 & 2018-19 respectively. Accordingly, both the appeals of the assessee are allowed.

19. In the final result, all the three appeals of the assessee are allowed.

**Order pronounced in the Open Court on 20<sup>th</sup> January, 2026 at Ahmedabad.**

**Sd/-  
(SANJAY GARG)  
JUDICIAL MEMBER**

**Sd/-  
(NARENDRA PRASAD SINHA)  
ACCOUNTANT MEMBER**

अहमदाबाद/Ahmedabad, दिनांक/Dated 20/01/2026

*Manish, Sr. PS*

*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)-(NFAC)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad