

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH, SURAT**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
Ms SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.359/Srt/2025  
(Assessment Year: 2018-19)

Tarachand Mohanlal Agarwal, D-509, Shreepal Residency, Near corner Point, City light Road, Surat-395007.  [PAN : AAZPA7937K]	Vs.	The Principal Commissioner of Income Tax-1, Surat.
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Hiren Vepari, AR
<b>Respondent by:</b>	Shri Mukesh Jain, CIT. DR
<b>Date of Hearing</b>	19.01.2026
<b>Date of Pronouncement</b>	21.01.2026

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-**

This appeal has been filed by the Assessee against the order dated 17.02.2025 passed by the Ld. Principal Commissioner of Income-Tax-1, Surat ("the Ld.PCIT in short), under Section 263 of the Income-tax Act, 1961 ("the Act"), relating to the Assessment Year 2018-19.

2. As per information, during the course of inquiry in the case of M/s Advance Computers and Mobiles India Pvt. Ltd. by the CGST authorities, it was observed that the said entity was engaged in issuing/generating/providing fake/bogus invoices for passing of fraudulent input tax credit without supply of goods from the following entities:

<b>Sr. No.</b>	<b>Name of the assessee</b>
1	Advance Computers and Mobiles India Pvt. Ltd
2	Madurai Multi Facilities Service Pvt. Ltd.

3	Germanium Trading Pvt. Ltd.
4	One Point One Solutions Ltd.
5	Flash Forge Pvt. Ltd.
6.	Himadri Foods Ltd.

3. The AO made addition treating the same as bogus purchases. Aggrieved assessee filed appeal before the Ld.CIT(A) on this issue. This fact has been confirmed as per the grounds taken by the assessee before the Ld.CIT(A). The similar matter is taken by the Ld.PCIT under section 263 for taxing the same as per the provisions of section 115BBE of the Act.

*263. Revision of orders prejudicial to revenue.*

*(1) The [Principal Chief Commissioner or Chief Commissioner or Principal Commissioner] or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing Officer [or the Transfer Pricing Officer, as the case may be,] is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, [including,—*

*(i) an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment; or*

*(ii) an order modifying the order under section 92CA; or*

*(iii) an order cancelling the order under section 92CA and directing a fresh order under the said section].*

*Explanation 1.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—*

*(a) an order passed on or before or after the 1st day of June, 1988] by the Assessing Officer [or the Transfer Pricing Officer, as the case may be,] shall include—*

*(i) an order of assessment made by the Assistant Commissioner or Deputy Commissioner or the Income-tax Officer on the basis of the directions issued by the Joint Commissioner under section 144A;*

*(ii) an order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer [or the Transfer Pricing Officer, as the case may be,] conferred on, or assigned to, him under the orders or directions issued by the Board or by the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner authorised by the Board in this behalf under section 120;*

*[(iii) an order under section 92CA by the Transfer Pricing Officer;]*

*(b) "record" shall include and shall be deemed always to have included all records relating to any proceeding under this Act available at the time of examination by the Principal [Chief Commissioner or Chief Commissioner or Principal] Commissioner or Commissioner;*

*(c) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject matter of any appeal filed on or before or after the 1st day of June, 1988, the powers of the Principal Commissioner under this sub-section shall extend and shall be deemed always to have extended to such matters as had not been considered and decided in such appeal.*

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4. Hence, keeping in view the provisions of section 263(1)(c), since the said transactions are already been subject matter of appeal before the Ld. CIT(A), we hold that Ld. PCIT doesn't have jurisdiction over the case at the time of passing of order u/s.263 of the Act.

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

**The order is pronounced in the open Court on 21.01.2026.**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

**Sd/-  
(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

Surat; Dated 21.01.2026

*\*mv*

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,अधिकरण अपीलीय आयकर ,/DR,ITAT, Surat,
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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