

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.4667/M/2025
Assessment Year: 2022-23**

J.B. Petit High School for Girls, 5, J.B. Petit High School for Girls, Maharshi Dadhichi Road, Fort, Mumbai – 400001. PAN – AAATJ2558E	Vs.	CIT (Exemptions), Room No. 601, 6 th Floor, Cumballa Hill MTNL TE Building, Pedder Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai – 400026.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Sukhsagar Sayal, Ld. AR
Revenue by : Shri Vivek Perampura, (CIT DR
(Virtually Appeared)

Date of Hearing : 12.12.2025
Date of Pronouncement : 27.01.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated **29.05.2025**, impugned herein, passed by the Ld. Principal Commissioner of Income Tax (Exemptions), (in short Ld. PCIT) u/s 263 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. **2022-23**.

2. In the instant case, the case of the Assessee was selected for limited scrutiny on the following issue:

“The Assessee has large amount of income accumulated or set apart by trust”

The Assessing Officer examined such issue and vide assessment order dated **23.02.2024** under Section 143 (3) r.w.s. 144B of the Act, made no addition and/or the above issue resulted into no variation.

3. The Ld. PCIT however, later on scrutinized such assessment order dated **23.02.2024** and the relevant record and material, and observe that the aforesaid assessment order was completed without making necessary enquiries or verification, which should have been made with respect of certain issues, which are relevant and material for determination of total income, as discussed below:

“(i) It is seen from records that during the year the assessee claimed to have utilized sum of Rs. 3 Crore, which was accumulated in Financial Year 2015-16, for the purpose of "building renovation and reconstruction". It was noticed that during the year there was no addition to immovable property, and increase in capital Work-in-Progress, also was not commensurate to the amount of Rs. 3 Crore claimed to have been utilized. Thus, requisite verification or inquiries in respect of utilization & utilization for purpose of accumulation in respect of aforementioned amount were not made. Thus, it is noted that the assessment was completed without making necessary enquiry or verification which should have been made. Hence, the assessment order is erroneous and prejudicial to the interest of revenue.

(ii) Further, it is seen from the record that during the year, the assessee Trust has received a sum of Rs. 9,31,38,300/- purportedly in relation to main objects of the Trust. However, requisite inquiries or verifications in respect of: (i) Whether receipts are directly related to object of Trust, establishing the correctness of exemption claimed were not made. Thus, it is noted that the assessment was completed without making necessary

enquiry or verification which should have been made. Hence, the assessment order is erroneous and prejudicial to the interest of revenue.

(iii) Additionally, during the year, the assessee applied a sum of Rs. 7,73,39,821/- towards the objects of trust. However, requisite inquiries or verifications into claim of application of aforementioned amount towards object of the Trust were not made. Assessing Officer has also not verified whether that was any specified violation, in the application of aforesaid sum during the year. Thus, it is noted that the assessment was completed without making necessary enquiry or verification which should have been made. Hence, the assessment order is erroneous and prejudicial to the interest of revenue."

4. The Ld. PCIT in order to examine the aforesaid issues, issued a show cause notice dated 18.03.2025 to the Assessee, who in response, filed its reply vide letter dated 01.04.2025 claiming inter-alia that the Assessee has accumulated a sum of Rs.3 crores in the assessment year under consideration and has utilized a sum of Rs.1,98,15,080/- for the project and declared the balance unutilized amount of Rs.1,01,84,920/- as deemed income. The Assessee with respect to receipt of Rs.9,31,38,300/-, has claimed that the receipts are as per the object of the trust i.e. to provide education. Further, the Assessee has also submitted item wise breakup of application of income of Rs.7,73,39,821/-. The Assessee further submitted before the Ld. PCIT that, since the case of the Assessee was selected for 'limited scrutiny' and resulted into making the assessment under limited scrutiny and therefore, its scope cannot be expanded under the provisions of Section 263 of the Act.

5. The Ld. PCIT though considered the aforesaid claim of the Assessee, however, not being satisfied with the same, ultimately set aside the assessment order dated 23.02.2024 for de novo assessment, by observing and holding as under:

"4. The assessee's detailed submissions and material available on the record were perused and the submissions are not tenable as discussed below.

4.1 The assessee submitted that since the assessment was completed under limited scrutiny, its scope cannot be expanded u/s. provision of 263. This argument is not admissible. Here, it is pertinent to mention that the case was selected for scrutiny based on the parameter that The assessee Trust has large amount of income accumulated or set apart by Trust and hence certainly the accumulated sum including accumulated fund which were to be utilized by the year under consideration, are the subject matter of examination. Hence, even as per the scrutiny selection parameter, the sum of Rs. 3 Crore accumulated during F.Y. 2015-16, which was required to be utilized by the end of F.Y. 2021-22, was mandatorily required to be examined. Further, on perusal of the record and assessee's submission, it is seen that out of accumulated sum of Rs. 3 crores, only a sum of Rs. 1,98,15,080/- was utilized till the end of F.Y. 2021-22, therefore the remaining unutilized amount must be offered as income, as per relevant provisions of the Act. Additionally, the assessee also did not submit any documentary evidence to substantiate the claim of utilized part. The Assessing Officer has not considered this aspect of non-utilization of accumulated sum. The assessment was completed without making necessary inquiries or verifications in this regard, and without bringing on record the relevant and material facts.

4.2 Furthermore, on perusal of submission made by the assessee in response to SCN u/s. 263 and material available on the record, it is seen that the assessee has also claimed sum of accumulation as application of income towards the object of Trust during the year. Here, it is pertinent to mention that the assessee Trust has accumulated large sum for the year (Schedule-I/ITR is reproduced below) and consequently amount claimed as utilized in the year under consideration is also out of accumulated sums. Hence, accumulated sum and entire application are to be examined in detail. Further, since utilization is related to and in result of accumulated sum, examination of utilization towards the objects of Trust does not amount of travelling beyond the scope of scrutiny parameter. On the perusal of material available on record necessary verifications or inquiries in respect of utilization towards the object of the Trust were not made.

As per Schedule of Return of income the details of accumulation are as under:

Total amount accumulated	35.01 crores.
Amount applied during the year	3.00 crores.
Balance amount	32.01 crores.

4.3 Further, as discussed earlier, the assessee Trust has made largescale accumulation and accumulated funds were result of receipts of funds on the account of object of the Trust. However, the necessary verifications or inquiries in respect of receipts of Rs. 0.31.31,300/- (being the sum of accumulation) as per objects of Trust were not allowed.

4.4 Thus, based on the above discussion, it is clear that revision proceeding u/s 263 does not result in arbitrary expansion of scope of scrutiny and issues are within the scope of examination. Further, without prejudice to above, provision of

section 263 does not restrict the power of revision in case of limited scrutiny, and only requirement is the assessment is found to be erroneous in so far as it is prejudicial to the interest of revenue, and hence revision is as per law. Further, the assessee's contention that details were already filed during the assessment, is not tenable. It is well settled that whether or not additional or relevant documents were submitted before the Assessing Officer is immaterial in the context of revision proceedings under section 263 of the Act. The core issue here is the failure on the part of the Assessing Officer to properly inquiry into and examine the facts, and to apply the correct position of law on such facts.

4.5 The assessee's contention that all relevant material was duly produced before the Assessing Officer, who subsequently rendered no adverse findings, would not be untenable, as the failure of the Assessing Officer to conduct proper inquiries or verifications renders the assessment order erroneous and prejudicial to the interests of the Revenue. In this context the provisions of Explanation 2 to section 263 [introduced by the Finance Act, 2015 w.e.f 01.06.2015] of the Act are as under.

Explanation 2 For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,

- (a) the order is passed without making inquiries or verification which should have been made;
- (b) the order is passed allowing any relief without inquiring into the claim
- (c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
- (d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person

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5. Applying these judicial principles to the present case and in view of facts and circumstances on the record, it is evident that the Assessing Officer failed to examine or conduct requisite inquiries into various issues mentioned above. This resulted in an assessment order that is both erroneous and prejudicial to the interest of the Revenue within the meaning of section 263 of the Act. I am satisfied about the existence of twin conditions that the order of the Assessing Officer is erroneous in so far as prejudicial to the interest of the Revenue.

6. Hence, by virtue of powers vested in the undersigned vide the provisions of section 263 of the Income Tax Act, **the assessment order for Assessment Year 2022-23 u/s. 143(3) r.w.s 144B of the Act dated 23.02.2024 is set aside for de novo assessment. The Assessing Officer is directed to make necessary detailed inquiries with the assessee to bring on record the complete relevant and material facts for determination of total income in relation to issues indicated above.** It is further directed that the Assessing Officer should give sufficient opportunity to the assessee to present its case, and pass a speaking order carefully enumerating facts, circumstances, verifications, findings as per applicable position of law."

{highlighted by us}

6. Thus, the Assessee being aggrieved, challenged the impugned order by filing instant appeal. The Ld. Counsel for the Assessee at the outset has claimed that the Assessee during the assessment year under consideration has accumulated the amount of Rs. 3 crores for the purpose of financing the project for the reconstruction and renovation of school building, out of which it has utilized the amount of Rs.1,98,15,080/- for reconstruction and renovation of the building and duly reflected the said amount in the audited balance sheet, as 'capital work in progress' as detailed below:

Sr. No.	Date of Expense booked / Payment made / Vendor Invoice	Name of Vendor	Payment reference	Nature of Payment	Amount (In Rs.)	Backup document	Encl.
I. Payment to Government Departments for various permissions							
1.	04/09/2021	MCGM	CBI Net	Payment to MCGM for Premium for .50 % Addition F.S.I and other charges	73,37,405	MCGM Receipt	Encl 1
2.	04/09/2021	MCGM	CBI Net	Payment to MCG for development charges	59,55,700	MCGM Receipt	Encl 2
3.	04/09/2021	State Govt Directorate Of Town Planning And Valuation Department	CBI Net	Urban Development Charges	54,14,400	Department challan	Encl 3

II. Professional Fees							
1.	27/04/2021	Shashank Mehendale & Associates	916352	Professional fees in respect of obtaining additional FSI 15% of Total Fees of Rs. 15 lakhs	2,65,500	Invoice dated 26.04.2021	Encl 4
2.	08/10/2021	Shashank Mehendale & Associates	916377	Professional fees in respect of obtaining additional FSI 10% of Total Fees of Rs. 15 lakhs (On receipt of IOD)	1,77,000	Invoice dated 09.04.2021	Encl 5
3.	15/04/2021	E M Electricals	916348	Consulting charges for BEST planning application	2,65,500	Invoice dated 12.04.2021	Encl 6
4.	13/05/2021	E M Electricals	916353	Consulting charges for BEST planning application	1,32,750	Invoice dated 07.05.2021	Encl 7
5.	25/08/2021	E M Electricals	NEFT	Consulting charges for BEST planning application	1,32,750	Invoice dated 04.08.2021	Encl 8
6.	25/08/2021	B J Enterprises	NEFT	Fees for obtaining permission in respect of Debris at Site	54,280	Invoice dated 24.08.2021	Encl 9

III. Expenditure incurred for alternative accommodation at The J. N. Petit Institute							
1.	24/10/2021	MCGM	CBI Net	Paid to MCGM Fire Department for Fire NOC for J N Petit Library	60,845	MCGM Challan	Encl 10
2.	12/08/2021	THE J. N. PETIT INSTITUTE	916367	Fire alarm system with Form B for The J. N. Petit Institute	5,900		
IV. Other Payments							
1.	11/08/2021	Govt of Maharashtra collector	CBI Net	Stamp Duty for Bank Guarantee given to BMC for solid waste management compliance	6,250	Challan	Encl 11
2.	26/08/2021	Bapurao Jadhav Ref AZB M:97696 99519	CBI Net	Registration charges for undertaking given to BMC	6,800		
Total Expenditure incurred					1,98,15,080		

7. The Assessee in support of the aforesaid expenditures, also submitted relevant bills/documents in the form of paper book filed on 03.11.2025. The Assessee further claimed that the remaining amount of Rs.1,01,84,920/- was appropriated, as deemed income of Rs.1,01,84,920/- and Rs.3,67,95,300/- against deemed application of income for the AY 2021-22, for which an option was exercised in that year, under clause 2 of Explanation 1 of Section 11 (1).

8. We in order to verify the aforesaid claim of the Assessee, have given liberty to the Ld. D.R. to file its reply to the details filed by the Assessee, vide letter dated 03.11.2025.

9. The Ld. CIT D.R. vide letter dated 11.12.2025 affirmed the aforesaid claim of the Assessee to the effect that out of Rs.3 crore of accumulation, the Assessee has submitted that Rs.1,01,84,920/- was considered as deemed income and remainder Rs.1,98,15,080/- has actually been utilized towards payment to Government departments namely MCGM for various approvals and other expenses and supporting documents have also been attached. The Ld. D.R. further submitted *"that these are the matters of record, and no specific comment has been made on the above, as the details provided by the Assessee are in essence and documents related to utilization of accumulation for the AY 2016-17. However, on merit, it is reiterated that he is placing reliance upon the order of the Ld. PCIT and the arguments are already made contradicting the claim of the Assessee."*

10. We have given thoughtful consideration to the peculiar facts and circumstances of the case. The Ld. PCIT more or less doubted the accumulation of the amount of Rs.3 crore and utilization of Rs.1,98,15,080/- and the remaining amount of Rs.1,01,84,920/- out of said amount and therefore, both the parties have demonstrated the case, mainly on this aspect.

11. Admittedly, the case of the Assessee was selected for '**limited scrutiny**' and for a '**single issue**' and never converted into complete security and/or for other issue(s) therefore, the Assessing Officer, vide assessment order referred to above examined the only issue, which was selected for 'limited scrutiny'. However, it is also a

fact that the Assessee has placed on record all the material facts and details and the relevant documents including profit & loss account, balance sheets, etc. which are otherwise audited and it is not in controversy that the same were made available before the Assessing Officer during the Assessment proceedings and thus he examined the same for adjudication of the issue selected for 'limited scrutiny'. In the limited scrutiny case, the Assessing Officer was not empowered to examine other issue(s), outside the purview of the limited scrutiny, without following the due procedure established by law and therefore, no fault can be faulted with the assessment order and consequently, **the order of the Ld. PCIT, on this aspect, is unsustainable.**

12. However, still coming to the merits of the case, as observed above, the Assessee has accumulated the amount of **Rs.3 crores** and out of which, it has actually utilized the amount of **Rs. 1,98,15,080/-** only for reconstruction and renovation of building and reflected the same in the audited balance sheet, as "capital work in progress" which is not in denial by the Revenue. Further, the Assessee by considering the remaining amount of Rs.1,01,84,920/- as deemed income has shown the same as deemed income, which has also been taken into consideration by the Assessing Officer in the original assessment proceedings. Further the Assessee, before the Ld. PCIT has also filed all the relevant details and the aforesaid facts are not in denial by the Revenue Department. **Thus, on the aforesaid analyzations, even on this aspect/merit as well, the impugned order is unsustainable.**

13. Thus, the impugned order is quashed.

14. In the result, the Assessee's appeal is allowed.

Order pronounced in the open court on 27.01 .2026.

**Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

Tarun Kushwaha
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.