

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

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

**ITA No. 1536/AHD/2025  
Assessment Years: 2020-21**

Ammann India Private Limited, Block No. 157, At Ditasan State Highway, Post Jagudan, Mehasana, Gujarat - 384460 <b>[PAN – AACCA0194N]</b>	Vs.	Principal Commissioner of Income Tax – 3, Ahmedabad-380015
(Appellant)		(Respondent)
Assessee by	Shri Dhinal Shah, A.R.	
Revenue by	Shri Sher Singh, CIT- DR	
Date of Hearing	21.01.2026	
Date of Pronouncement	05.02.2026	

**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 31.03.2025 for the Assessment Year (A.Y) 2020-21 passed under his revisional jurisdiction u/s 263 of the Income Tax Act [hereinafter referred as “the Act”].

2. There was a delay of 65 days in filing this appeal. The assessee has filed a condonation application along with affidavit of one Shri Dhiraj Panda, Managing Director of the assessee company, explaining the reason for delay. It has been submitted that the finance and legal team

were pre-occupied with year-end financial closure activities and other statutory compliances. Further that the delay was neither intentional nor deliberate. Considering submission of the assessee, the delay in filing of the appeal is condoned.

3. The brief facts of the case are that the assessee had filed its return of income for A.Y. 2020-21 on 23.01.2021 declaring total income of Rs.44,60,36,340/-. The case was selected for complete scrutiny and the assessment was completed u/s 143(3) r.w.s. 144B of the Act on 09.09.2022 at total income of Rs.51,41,86,310/-. Subsequently the case record was called for and examined by the Ld. PCIT. He found that the order of the AO was erroneous and pre judicial to the interest of revenue for the reason that depreciation of Rs.7,47,78,417/- on goodwill was wrongly allowed by the AO. Further that the AO did not consider the note given in the audited accounts as per which the forfeited deposit of Rs.5,63,000/- was not considered as income of the assessee. Accordingly, the Ld. PCIT had passed the impugned order u/s 263 of the Act directing the AO to pass a *de novo* assessment order after considering these two issues.

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. *Invalid Assumption of Jurisdiction under Section 263***

*1.1 On the facts and in the circumstances of the case and in law the Learned Principal Commissioner of Income Tax ("Ld. PCIT") has erred in invoking revisionary jurisdiction under section 263 of the Income-tax Act, 1961 ("the Act") and in setting aside the assessment order passed by the Learned Assessing*

Officer ("Ld. AO") under section 143(3) read with section 144B of the Act dated 9 September 2022, which was passed after due inquiry and application of mind.

1.2 On the facts and in the circumstances of the case and in law, the Ld. PCIT has erred in holding that the assessment order is both erroneous and prejudicial to the interest of the Revenue without satisfying the twin conditions required under section 263 of the Act.

## **2. Erroneous Observations on Goodwill and incorrect disallowance of depreciation on Goodwill**

2.1 On the facts and in the circumstances of the case and in law, the Ld. PCIT has erred in disregarding the bona fide nature of the business acquisitions undertaken by the Appellant, being the acquisition of the Asphalt Plant business from Gujarat Apollo Industries Limited ("GAIL") and the Sensor Paver business from Apollo Earth Movers Limited ("AEML") on a slump sale basis, and in questioning the resulting goodwill arising from such genuine business transactions.

2.2 On the facts and in the circumstances of the case and in law, the Ld. PCIT has erred in disallowing depreciation on goodwill amounting to ₹7,47,78,417, whereas the actual depreciation claimed by the Appellant in the return of income was ₹5,17,56,152 without appreciating the nature and computation of the depreciation claimed in accordance with law.

## **3. Incorrect Disallowance of Security Deposit Forfeiture**

3.1 On the facts and in the circumstances of the case and in law the Ld. PCIT has erred in not appreciating that the forfeiture of security deposits of ₹5,63,000 received against C Forms was duly adjusted and applied towards the payment of Central Sales Tax, being the very purpose for which such deposits were collected from customers.

The Appellant craves leave to add, alter amend or withdraw any of the above grounds at or before the hearing of the appeal.

All the grounds of appeal stated above are without prejudice to each other.

5. Shri. Dhinal Shah, the Id. A.R of the assessee submitted that assessment order passed by the AO was neither erroneous nor prejudicial

to the interest of revenue. Therefore, the Ld. PCIT was not correct in passing the impugned order by wrongly assuming jurisdiction u/s 263 of the Act. He explained that the assessee was claiming depreciation on goodwill since A.Y. 2014-15 and the AO had rightly allowed the claim for depreciation on goodwill as per the WDV for this year. He explained that the goodwill was created on acquisition of Gujarat Apollo Industries Ltd. By the assessee in the F.Y. 2013-14. The Ld. AR submitted that the Ld. PCIT had referred to upward adjustment of Rs.116.32 crores in the A.Y. 2014-15 on account of depreciation of goodwill. However, the said upward adjustment by the TPO in A.Y. 2014-15 was deleted by the Co-ordinate Bench of this Tribunal in *ITA No. 2262/Ahd/2018 dated 03.01.2022* and considering this fact the order of the AO could not have been held as erroneous. The Ld. AR further submitted that the Department had initiated proceedings u/s 148 of the Act in A.Y. 2018-19 on the ground of escapement of income in respect of depreciation of goodwill. However, the reopening proceeding for that year was quashed by Hon'ble Gujarat High Court in Civil Application No. 7583 of 2024 dated 04.02.2025. On the issue of forfeited deposit of Rs. 5.63 lakhs, the Ld. AR submitted that the forfeited amount was deposited with sales tax authorities and, therefore, it could not have been considered as income of the assessee. He submitted that a detail explanation in this regard was filed before the Ld. PCIT but he did not consider the explanation of the assessee and passed the revision order in a mechanical manner. According to the Ld. AR the order of the AO was not pre judicial to the interest of revenue as the amount of Rs.5,63,032/- was forfeited for non-submission of Form C by certain customers and the forfeited amount was deposited with the sales tax authorities. The Ld. AR contended that the assessment order

was neither erroneous nor pre judicial to the interest of revenue in respect of both the issues.

6. Per contra, Shri. Sher Singh, Ld. CIT-DR supported the order of the Ld. PCIT.

7. We have considered the rival submissions. The Ld. PCIT has given a finding that the creation of goodwill was a mere book entry in the scheme of amalgamation which cannot override the explicit provisions of the Act. According to the Ld. PCIT the goodwill, if any, as recorded in the books of Gujarat Apollo Industries Ltd. At the time of acquisition should have been considered for allowing the depreciation. It is found that the assessee had created goodwill at the time of acquisition of Gujarat Apollo Industries Ltd. in the financial year 2013-14. Therefore, the exact quantum of goodwill was required to be quantified in the A.Y.2014-15. The exercise of quantification of goodwill could not have been carried out by the AO in the current assessment year. Once the depreciation on goodwill is allowed in the first year, the depreciation on goodwill for the subsequent years is required to be allowed as per the opening WDV for the respective years. It is not the case of the Ld. PCIT that the AO had allowed the depreciation on goodwill in this year on incorrect WDV. There is a reference of upward adjustment of Rs.116.32 crores in A.Y 2014-15 on account of depreciation on goodwill by the DRP. However, the said adjustment made by the DRP was deleted by the Co-ordinate Bench of this tribunal in *ITA No. 2262/Ahd/2018 dated 03.01.2022*, a copy of which has been brought on record. Since the adjustment made on account of depreciation on goodwill in A.Y. 2014-15 was deleted by the Tribunal, the Ld. PCIT could not have relied upon the order of DRP to treat the assessment order for A.Y. 2020-

21 as erroneous on this issue. As pointed out by the assessee the reopening proceeding for A.Y 2018-19 in respect of depreciation on goodwill was also quashed by the Hon'ble Gujarat High Court. In view of these facts and judicial decisions, the order of the AO could not have been held as erroneous and pre-judicial to the interest of revenue on the issue of depreciation on goodwill.

8. The second issue for which the Ld. PCIT had held the order of the AO as erroneous and pre-judicial to the interest of revenue was forfeiture of deposit of Rs.5.63 lakhs which was not offered for taxation. It is found that the Auditor had made following remark in this regard:

During the year, the company has forfeited deposits amounting to Rs.5.63 lakhs for the year ended March 31<sup>st</sup> 2020; (Rs.10.53 lakhs for year ended March 31, 2019) and deposited the same with sales tax authorities.

In response to the show cause notice, the assessee had furnished a detail explanation in this regard before the Ld. PCIT. It was explained that certain customers were required to submit Form C in order to avail concessional rate of sales tax. In case the C Form is not issued then the purchaser has to pay full amount of sales tax applicable in the state of the seller. It was explained that the forfeiture of Rs. 5,63,032/- was on account of non-submission of Form C by two parties and the forfeited amount was deposited with the sales tax department towards their additional sales tax liability. The fact that forfeited amount of Rs.5.63 lakhs was deposited with sales tax department was also duly disclosed in the note to the audited accounts. Considering this fact, the forfeited amount of Rs.5,63,032/- could not have been considered as income of the assessee. Otherwise also it was a tax neutral exercise, as the forfeited amount if considered as income, was liable to be allowed as deduction under the provision of

Section 43B of the Act. Therefore, the order of the AO could not have been considered as pre-judicial to the interest of the revenue on the issue of forfeited amount of Rs.5.63 lakhs, which was paid towards sales tax liability.

9. In view of above facts we are of the considered opinion that the order of the AO was neither erroneous nor pre-judicial to the interest of revenue on both the issues, in respect of which the Ld. PCIT had exercised his revisional jurisdiction. Therefore, the order u/s 263 dated 31.03.2025 passed by the Ld. PCIT, is quashed.

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

**Order pronounced in the Court on 05/02/2026 at Ahmedabad.**

**Sd/-**  
**(TR SENTHIL KUMAR)**  
Judicial Member

**Dated - 05<sup>th</sup> February, 2026**

*Nk*

**Sd/-**  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

*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