

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

ITA No.1242/Ahd/2025
(Assessment Year: 2020-21)

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| Kamuthi Solar Power Limited (Merged with Adani Green Energy Twenty Three Ltd.), Adani House, Nr. Mithakhali Six Roads, Ahmedabad-380009 [PAN :AAFCK 8399 E] | Vs. | Principal Commissioner of Income-tax, Ahmedabad-1 |
| (Appellant) | .. | (Respondent) |
| Appellant by : | Shri Biren Shah, AR | |
| Respondent by: | Shri R.P. Rastogi, CIT-DR | |
| Date of Hearing | 10.12.2025 | |
| Date of Pronouncement | 13.02.2026 | |

ORDER

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

This appeal has been filed by the assessee against the order passed by the Ld. Principal Commissioner of Income-tax, Ahmedabad (hereinafter referred to as "PCIT" for short), dated 08.03.2025, in exercise of his revisionary powers under Section 263 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"], for the Assessment Year (AY) 2020-21.

2. The assessee has raised the following grounds of 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 order u/s 263 of the Act passed by Ld. PCIT in the name of non-existing entity is bad in law and deserves to be quashed.

3. In law and in the facts and the circumstances of the case of the appellant, the Ld. PCIT has erred in concluding that the appellant has claimed bad

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debts of Rs. 35,14,277/- under the nomenclature of land advances written off, when appellant has duly disallowed the same in computation of income.

3.1 In law and in the facts and the circumstances of the case of the appellant, the Ld. PCIT has failed to appreciate that the appellant has submitted all relevant details during assessment proceeding which are on record of Ld. Assessing Officer and he duly applied his mind and not made addition. Thus, the assessment order was not erroneous and prejudicial to interest of revenue.

4. In law and in the facts and the circumstances of the case of the appellant, the Ld. PCIT has erred in concluding that the carbon credits of Rs. 1,11,03,363/- cannot be set off as per Section 115BBG of the Act when the section itself does not provide any such restriction.

4.1 Without prejudice to above, in law and in the facts and the circumstances of the case of the appellant, the Ld. PCIT has erred in concluding that the transfer of carbon credits of Rs. 1,11,03,363/- should be taxed as per section 115BBG of Act, when the carbon credit of appellant does not fall within the provision of Section 115BBG of the Act.

4.2 In law and in the facts and the circumstances of the case of the appellant, the Ld. PCIT has failed to appreciate that the appellant has submitted all relevant details during assessment proceeding which are on record of Ld. Assessing Officer and he duly applied his mind and not made addition. Thus, the assessment order was not erroneous and prejudicial to interest of revenue.

5. In law and in the facts and the circumstances of the case of the appellant, the Ld. PCIT has grossly erred in ignoring the reply of appellant submitted during the course of revisionary proceeding and passed present order with prejudiced mindset.”

3. The facts of the case are that the assessee is a company engaged in the activity of solar power generation and its ancillary activities. The assessee filed its original return of income on 27.01.2021 declaring income of Rs.1,11,03,363/- u/s 115BBG, resulting in a tax demand of Rs. 12,70,225/-. Subsequently, the

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assessee revised its return on 28.05.2021, wherein the income from transfer of carbon credits was offered under the head "Income from Other Sources" and set off against business losses, resulting in Nil total income. The assessment was completed under section 143(3) read with section 144B of the Act, assessing the total income at Nil, after considering the revised return and explanations furnished by the assessee during the assessment proceedings.

3.1 Thereafter, the Ld. PCIT issued a notice under section 263 of the Act proposing to revise the assessment order on the ground that the Assessing Officer had failed to make proper enquiries in respect of (i) alleged cessation of liability / bad debts amounting to Rs. 35,14,277/- and (ii) taxability of income from transfer of carbon credits amounting to Rs. 1,11,03,363/- u/s 115BBG of the Act. After considering the assessee's replies, the Ld. PCIT passed the impugned order dated 08.03.2025 setting aside the assessment order and directing the Assessing Officer to pass a fresh assessment order after proper verification.

4. Aggrieved by the said order, the assessee is now in appeal before the Tribunal.

5. Before us, the Ld. AR submitted that the impugned order has been passed by the Ld. PCIT in the name of **Kamuthi Solar Power Limited, which had already ceased to exist pursuant to its amalgamation with Adani Green Energy Twenty Three Ltd. by virtue of an order of the Hon'ble NCLT dated 19.03.2024, effective from the appointed date 01.10.2022.** The Ld. AR further submitted that **this fact was duly intimated to the Jurisdictional Assessing Officer as well as to the Ld. PCIT during the revisionary proceedings, along with copies of the NCLT order and intimation letters.**

Despite being fully aware of the amalgamation, the Ld. PCIT proceeded to pass the impugned order in the name of a non-existent entity, rendering the order void *ab initio*. Reliance was placed on the judgment of the Hon'ble Supreme Court in the case of PCIT v. Maruti Suzuki India Ltd. (107 taxmann.com 375) and several decisions of High Courts and coordinate benches, including a recent decision of this Tribunal in the case of Adani Power Ltd. (ITA No. 453/Ahd/2023 dated 23.01.2025), wherein revision orders passed in the name of amalgamated entities were quashed.

6. We have carefully considered the rival submissions, perused the material available on record and examined the impugned order. It is undisputed that Kamuthi Solar Power Limited stood amalgamated with Adani Green Energy Twenty Three Ltd. pursuant to an order of the Hon'ble NCLT dated 19.03.2024, with effect from 01.10.2022. Upon such amalgamation, the amalgamating company ceased to exist in the eyes of law.

The pertinent facts for adjudication of the issue are as under:-

- Date of merger – 19.03.2024
- Date of effect – 01.10.2022
- Notice of the PCIT – 04.11.2024
- Date of intimation to the PCIT – 14.12.2024
- Order of the PCIT - 08.03.2025

6.1 The record (PB-124) clearly shows that this fact was duly brought to the notice of the Ld. PCIT during the revisionary proceedings. Despite being aware of the amalgamation, the Ld. PCIT passed the impugned order under section 263 in the name of Kamuthi Solar Power Limited, a non-existent entity.

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6.2 The Hon'ble Supreme Court in PCIT v. Maruti Suzuki India Ltd. (supra) has categorically held that an assessment or revision order passed in the name of a non-existent entity is a substantive illegality and not a mere procedural irregularity, and therefore such an order is *void ab initio*. This principle has been consistently followed by various High Courts and coordinate benches of the Tribunal. Respectfully following the binding precedent of the Hon'ble Supreme Court, we hold that the impugned order passed u/s 263 in the name of a non-existent entity is *void ab initio* and liable to be quashed on this ground alone.

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

The order is pronounced in the open Court on 13.02.2026

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

Ahmedabad; Dated 13.02.2026

*btk

Sd/-

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

आदेश की प्रतिलिपि □ ग्रेषित/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, अहमदाबाद / DR, ITAT, Ahmedabad
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