

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

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

I.T.A. No. 579/SRT/2025
(Assessment Year: 2021-22)

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| Sunil Kumar Baheti, 1009-10, New Textile Market, Ring Road, Surat-395002 [PAN : AIYPB 2308 J] | Vs. | Principal Commissioner of Income-tax (Central), Surat |
| (Appellant) | .. | (Respondent) |
| Appellant represented by : | Shri Ramesh Malpani, CA | |
| Respondent represented by: | Shri Mukesh Jain, CIT (DR) | |
| Date of Hearing | 22.01.2026 | |
| Date of Pronouncement | 17.02.2026 | |

ORDER

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

This appeal filed by the assessee is directed against the order passed by the learned Principal Commissioner of Income-Tax (Central), Surat [herein-after referred to as "PCIT"] dated 31.03.2025, in exercise of revisionary powers under Section 263 of the Income-tax Act, 1961 [hereinafter referred to as "the Act"], for the Assessment Year (AY) 2021-22.

2. The assessee has raised the following grounds of appeal:

"1. That on the facts and in the circumstances of the case as well as in law, the order passed by Id. Principal Commissioner of Income Tax (Central), Surat (PCIT) u/s. 263 of the I. T. Act, 1961 ("the Act") is wrong and unjustified because there has been no error so as to be prejudicial to the interest of revenue in the assessment order passed u/s 143(3) of the Act and Id. PCIT has passed the said order u/s 263 just by taking a different possible view and incorrect view. Appellant prays for quashing the order so passed by Id. PCIT, which is contrary to the settled law.

And other grounds...."

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3. The brief facts of the case are that the assessee filed his return of income for AY 2021-22 on 17.02.2022 declaring total income of Rs.57,46,649/-. The case was selected for scrutiny and assessment was completed under section 143(3) of the Act on 30.03.2023 accepting the returned income. Subsequently, the Ld. PCIT examined the assessment records and issued show-cause notices dated 07.03.2025 and 28.03.2025 proposing revision u/s 263 of the Act on two issues:

- (i) Alleged unexplained cash investment of Rs.27,87,450/- for purchase of shop No. 547 based on seized documents found during search.
- (ii) Non-taxation of deemed rental income from four immovable properties shown in the balance sheet, i.e. Avadh Markey Shop, Flat, Shop Raj Textile Tower and Shop at Raj Tower.

4. After considering the assessee's replies, the Ld. PCIT passed the impugned order setting aside the assessment and directing the Assessing Officer to pass a fresh assessment after proper verification.

5. Aggrieved by the order of the Ld. PCIT, the assessee is in appeal before the Tribunal.

6. Before us, the Ld. AR submitted that, during the assessment proceedings, the Assessing Officer issued a specific notice under section 142(1) dated 21.09.2022 calling upon the assessee to explain the alleged cash payment of Rs.27,87,450/- for purchase of shop No. 547. The assessee categorically denied having purchased any such shop or having made any payment and this reply was duly filed and acknowledged. The Ld. AR further submitted that the Assessing Officer, after examining the explanation and in absence of any corroborative evidence linking the assessee with the alleged purchase, accepted the explanation and completed the assessment. The Ld. AR, therefore, contended that the issue was subject to due enquiry and application of mind by the Assessing Officer, and revision u/s 263 amounts to mere change of opinion. As regards house property income, the Ld. AR submitted that the properties were either used for business

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purposes, self-occupation, or the possession had not been received during the relevant year. These facts were verifiable from records already available with the Assessing Officer. The Ld. AR relied on the decision of the Hon'ble Supreme Court in the case of PCIT vs. Shreeji Prints (P.) Ltd., [2021] 130 taxmann.com 294, affirming the Gujarat High Court decision, wherein it was held that section 263 cannot be invoked merely because the PCIT holds a different opinion.

7. The Ld. DR, on the other hand, supported the order of the Ld. PCIT.

8. We have carefully considered the rival submissions and perused the material available on record. It is an undisputed fact that during assessment proceedings, the Assessing Officer issued a specific notice under section 142(1) calling upon the assessee to explain the alleged cash investment of Rs.27,87,450/-. The assessee categorically denied having purchased any shop or having made any such cash payment. The Assessing Officer, after considering the explanation furnished and in the absence of any corroborative material such as a registered sale deed, allotment or possession letter, or any evidence of payment in the assessee's books of account or bank statements, accepted the explanation offered by the assessee. In these circumstances, it cannot be said that the assessment order was passed without enquiry. The Hon'ble Supreme Court in the case of PCIT vs. Shreeji Prints (P.) Ltd. (supra) has held that where the Assessing Officer has made enquiries and taken a plausible view, the provisions of section 263 cannot be invoked merely because the ld. PCIT does not agree with such view. Mere presence of the PAN of the assessee in third-party seized documents, in the absence of any independent corroborative evidence establishing a nexus between the assessee and the alleged transaction, cannot by itself justify revision under section 263 of the Act.

8.1 As regards the issue of income from house property, the assessee had explained that one shop was used for business purposes, one flat was self-

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occupied, one shop was not in possession during the relevant previous year, and one property was only booked. These explanations formed part of the assessment record. The Ld. PCIT has failed to demonstrate that the view taken by the Assessing Officer was unsustainable in law. On the contrary, the revisionary order reflects nothing but a substitution of the ld. PCIT's opinion for that of the Assessing Officer, which is impermissible under Section 263 of the Act. We, therefore, hold that the assumption of jurisdiction by the ld. PCIT u/s 263 of the Act is invalid in law and the impugned order is accordingly quashed. We make it clear that this order has been passed with regard to the revisionary powers of Ld. PCIT in the specific facts of the case.

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

The order is pronounced in the open Court on 17.02.2026

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Ahmedabad ; Dated 17/02/2026

btk

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 ,/DR,ITAT, Surat,
6. गार्ड फाईल /Guard file.

Sd/-

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

आदेशानुसार/ **BY ORDER,**

TRUE COPY

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