



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

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

**AND**

**DR. DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No. 495/RJT/2025**

**Assessment Year: (2015-16)**

Mahmadhusen Salmanji Gandhi C/O, Kadarbhai Hasanbhai Gandhi, KV Road, Bedi Gate, Jamnagar Gujarat 361001	Vs.	Principle Commissioner of Income Tax Office of the Principle Commissioner of Income Tax, Jamnagar, Gujarat 361008
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAQPG8128H		
(Appellant)		(Respondent)

Appellant by

: Ms. Amoli Gusani, Ld. A.R.

Respondent by

: Shri Shramdeep Sinha, Ld. CIT. DR

Date of Hearing

: 19/11/2025

Date of Pronouncement

: 09/02/2026

**आदेश / ORDER**

**Per Dr. Dinesh Mohan Sinha, JM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY)-2015-16, is directed against the order passed by the Ld. PCIT Income Tax vide order (u/s 263 of the Act) dated 04.06.2025.

2. Grounds of appeal raised by the assessee are as follows:

*“1. The learned PCIT has erred in law and in facts by contending and Directing the Assessing Officer to conduct a fresh assessment regarding the Brokerage Expenses to the tune of Rs. 1,66,121/-*

*2. The learned PCIT has erred in law and in facts by contending and Directing the Assessing Officer to conduct a fresh assessment regarding the claim of Indexed Cost of Improvement to the tune of Rs. 35,02,298/-*

*3. The learned PCIT has erred in law by invoking the revision of the assessment order under Section 263. The assessment order is not erroneous as per Section 263 of the Income Tax Act and therefore the*



*grounds taken by the learned PCIT for invoking Section 263 may please be deleted.”*

3. Brief facts in this case, the assessee has e-filed return of income on 25/03/2016 declaring total income of Rs. 22,41,290/-. The case of the assessee was re-opened u/s 147 of the Income-tax Act, 1961 (for short 'the Act') and the assessment u/s 147 r.w.s 144B of the Act was finalized vide order dated 29/03/2022 accepting the returned income. Subsequently, the said order was set aside vide PCIT's order passed u/s 263 of the Act dated 05/01/2024 to the file of the AO for verification. Aggrieved with the order u/s 263 of the Act, the assessee filed an appeal before the Hon'ble ITAT, Rajkot vide ITA No. 150/RJT/2024. The Hon. ITAT remitted back the matter to the file of the Pr. CIT for AY 2015-16 and directed to pass revision order u/s 263 of the Act. The relevant Para 9 of the Hon. ITAT's order dated 28/02/2025 are as under:

*“After hearing both the parties, we find merit in the submissions of learned DR for the revenue. Hence, we are of the view that the matter should be remitted back to the file of the Ld.Pr.CIT with the direction to the legal heirs of the deceased assessee to register himself on the portal of the Income Tax Department and also communicate the Ld.Pr.CIT in writing about the death of the assessee and participate in the revisionary proceedings, afresh, before the Ld.Pr.CIT. We direct the Ld. PCIT to pass revision order under section 263 of the Act, after giving sufficient opportunity of being heard, to the legal heirs of the deceased assessee.”*

In view of the direction issued by the Hon. ITAT, Rajkot, the revision proceedings are initiated afresh.



4. The Ld. Pr. CIT has issued notice u/s. 263 of the Act, on dated: 08.05.2025 On perusal of the case records for the AY 2015-16, it is observed that assessee has sold a property for sale consideration of Rs. 1,63,42,000/- in cash. During the year under consideration, assessee's share on the sale consideration of the said property @33.33% which is worked out to Rs. 54,46,788/-. Accordingly, the assessment in assessee's case has been finalized on dated 29/03/2022 by accepting the returned income. On perusal of the case records, it is found that assessee has shown sale consideration of Rs.52,80,667/- instead of Rs. 54,46,788/-. The AO has accepted assessee's contention that difference amount of Rs. 1,66,121/- was paid as Brokerage no documents has been submitted.

In view of the above facts, it was held that the AO has failed to verify the above issues amounting to Rs 36,68,419/- (35,02,298 + 1,66,121). Such failure on the part of the AO has rendered the assessment order erroneous and prejudicial to the interest of the revenue within the meaning of the provisions of section 263 of the Act. Therefore, Ld. PCIT issued a notice to revise the order passed by the AO u/s 147 r.w.s 144B of the Act dated 29/03/2022 for the AY 2015-16.

In response to the above SCN, the assessee has submitted online reply vide letter dated 15/05/2025 (attached as Annex. -I), wherein it is primarily contended that the original 263 proceedings were initiated post demise of the assessee and the AO had conducted adequate inquiries and hence the original assessment order was not erroneous or prejudicial to the Revenue. However, it is seen that LH of the assessee has not made any submissions on merits of the case. Therefore, vide PCIT's SCN dated 20/05/2025, the assessee was granted one more opportunity of being heard and requested to submit the reply latest by 27/05/2025



5. In view of the above, in exercise of the powers vested to the Pr. Commissioner of Income-tax under Section 263 of the Act, and in compliance with the directions of the Hon'ble ITAT, Rajkot, Ld. PCIT set aside the assessment order dated 29/03/2022 passed by the Assessing Officer u/s 147 r.w.s. 144B of the Act for the AY 2015-16 to the extent of the issues mentioned and discussed in the foregoing paras above. The matter is restored to the file of the Assessing Officer with a direction to conduct a fresh assessment after making thorough inquiries and verifications regarding the brokerage expenses of Rs. 1,66,121/- and the Indexed Cost of Improvement of Rs. 35,02,298/- claimed by the assessee. The Assessing Officer shall provide adequate opportunity of being heard to the legal heir of the deceased assessee and shall pass a fresh assessment order in accordance with the law, taking into consideration any documentary evidence that may now be submitted and after due verification of the same.

(i) The Ld. AR submitted that by notice dated 20.12.2021 the assessee was asked to file sale deed documents and purchase and sale along with detail cost of property. The same was submitted by the assessee on 24.05.2025. The Ld. AR further submitted that assessee was expired on 20.04.2021.

(ii) On the contrary the Ld. DR submitted that the earlier proceedings u/s. 263 were considered by ITAT and the matter was remitted back to the PCIT with any specific direction to pass an order giving notice to legal heir so the legal objection raised regarding the validity of the original proceedings should not be considered.

6. We have heard the rival contention of both the parties and perused material available on record. We have perused the assessment records and the submissions



made by the assessee reason for initiating the revisionary proceedings was lack of adequate inquiry by the AO regarding the brokerage expenses of Rs. 1,66,121/- and the Indexed Cost of Improvement of Rs. 35,02,298/- claimed by the assessee. The claim of the assessee that all the documentary evidences were submitted during the assessment proceedings, i.e., regarding work orders, copies of bills, property layout, and prior-year working sheets, is not correct. The assessment records clearly indicate that the assessee did not submit any documentary evidence in support of the brokerage expenses of Rs. 1,66,121/-. Furthermore, despite specific requests from the AO in the notice dated 20/12/2021 for details and supporting documents for the cost of improvement, the assessee failed to submit any documentary evidence during the course of the assessment proceedings. Notably, the legal heir also failed to submit any such documentary evidence during the present revision proceedings. That the assessee has submitted reply to the notice dated 26.03.2022, not documentary evidences.

In view of the above, in exercise of the powers vested to the Pr. Commissioner of Income-tax under Section 263 of the Act, and in compliance with the directions of the Hon'ble ITAT, Rajkot, the Ld. PCIT set aside the assessment order dated 29/03/2022 passed by the Assessing Officer u/s 147 r.w.s. 144B of the Act for the AY 2015-16 to the extent of the issues mentioned and discussed in the foregoing paras above. The matter is restored to the file of the Assessing Officer with a direction to conduct a fresh assessment after making thorough inquiries and verifications regarding the brokerage expenses of Rs. 1,66, 121/- and the Indexed Cost of Improvement of Rs. 35,02,298/- claimed by the assessee.

7. Considering the above facts and circumstance of the case. We are of the view the Ld. PCIT has correctly exercise. The jurisdiction u/s. 263 of the Act, and



directed to AO to frame fresh assessment after inquiry and verification. Since, the assessee to submitted is documentary evidence before the PCIT.

8. In the result, the appeal of the assessee is dismissed.

**Order is pronounced in the open court on 09/02/2026.**

Sd/-  
**(Dr. Arjun Lal Saini)**  
**Accountant Member**

Sd/-  
**(Dr. Dinesh Mohan Sinha)**  
**Judicial Member**

Rajkot  
दिनांक/ Date: 09/02/2026

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. DR/AR, ITAT, Rajkot
5. Guard File

By order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot