

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

**BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER
AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER**

**ITA No. 347/Jodh/2025
(Assessment Year – 2020-21)**

Cuarzo G-1, G-1-90-93, Sukher Girwa Udaipur - 313004 PAN No. AAHFC 3351 P		Principal Commissioner of Income Tax Udaipur - 313001
Assessee by	Shri Amit Kothari, CA (Physical)	
Revenue by	Smt. Runi Pal, CIT-DR (Virtual)	
Date of Hearing	29.01.2026.	
Date of Pronouncement	26.02.2026.	

ORDER

DR. MITHA LAL MEENA, A.M.:

This appeal is filed by assessee against the order of Principal Commissioner of Income Tax, Udaipur [hereinafter referred to as PCIT] dated 04.03.2025 with respect to Assessment Year 2020-21 challenging therein initiation of proceedings u/s 263 after the assessment having achieved finality under Direct Taxes Vivad Se Vishwas Scheme, 2024 and that the order in Form 4 having already been issued for settlement of issues in the assessment.

2. Grounds of Appeal are as under:

1. The order passed by the Ld. AO is bad in law and against justice and is thus liable to be quashed.
2. On the facts and in the circumstances of the case Id. Assessing Officer has erred in disallowing claim of deduction under section 80GGC of Rs.

20000000/- without considering facts of the case and our submissions.
The disallowance made is bad in law and liable to be deleted.

3. The appellant crave leave to add, amend or vary on any ground of appeal at or before the time of hearing.

3. Having heard both the sides and perusal of record, we find that the appellant assessee had filed an appeal before the Ld. CIT(A) on 29.10.2022 against the original assessment order passed by the AO and thereafter the appellant opted for the benefit under the Direct Taxes Vivad Se Vishwas Scheme, 2024 (VSVS) under which a final order in Form 4 was issued on 19.02.2022 by the designated authority PCIT determining the tax arrears and granting immunity from further proceedings.

4. Consequently, the CIT(A) disposed of the pending appeal vide order dated 27.01.2025 by observing that the appellant had already been availed benefit under VSVS Scheme, 2024.

5. In our view, once the appeal is filed before the CIT(A), the assessment order stands merged with the appellate order to the extent of matters considered in appeal. The Ld. PCIT cannot revise an order which has merged with the appellate order, because the appellate authority has already exercised jurisdiction over it. Thus, the Ld. PCIT cannot invoke jurisdiction u/s 263 against such an order, which has merged into the appellate order. Our view gets

support from the judgment delivered by the Hon'ble Apex Court in the following cases:

- **CIT Vs. Shri Arbuda Mills Ltd. (1998) 231 ITR 50 (SC)**
- **CIT Vs. Alagendran Finance Ltd. (2007) 298 ITR 1 (SC)**
- **CIT Vs. Vam Resorts & Hotels Pvt. Ltd. (2019) 414 ITR 715 (Del.)**

6. In the present case, it is pertinent to mention that the PCIT had itself issued Form 4 on 19.02.2025 to the effect of finalization of declaration made by the assessee for the benefit under VSVS Scheme, 2024, and thus, the liability of the assessee gets crystallized and no further proceeding can be continued regarding the same assessment order on the issues. Meaning thereby that the PCIT cannot exercise revisional jurisdiction u/s 263 after the matter has been decided under the VSVS Scheme, 2024, since the assessment order no longer survives independently.

7. In the backdrop of the aforesaid discussion, we accept the grievances of the assessee as genuine and hold that that order passed by the Ld. PCIT u/s 263 is bad in law and, therefore, the impugned order passed by the Ld. PCIT is bad, illegal and void ab initio.

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

Order pronounced in the open court on 26/02/2026.

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Sd/-

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

Dated : 26/02/2026.

Nimisha Sr. PS

True Copy

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

BY ORDER,