

**THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "D" BENCH**

**Before Dr. BRR Kumar, Vice President
And Ms. Suchitra Kamble, Judicial Member**

**ITA No. 209/Ahd/2025
Assessment Year 2016-17**

The Deputy CIT, Circle 3(1)(1), Ahmedabad (Appellant)	V s	Power Palazzo Pvt. Ltd. R/o B-51 Rivera Elegance, Corporate Road, Prahalad Nagar, Ahmedabd-380015 (Respondent)
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**Assessee by: Shri Biren Shah, A.R.
Revenue by: Shri Prateek Sharma, Sr. D.R.**

Date of hearing : 16-12-2025
Date of pronouncement : 27-02-2026

आदेश/ORDER

Per Suchitra Kamble, Judicial Member:

This is an appeal filed against the order dated 22-11-2024 passed by National Faceless Appeal Centre(NFAC), Delhi for assessment year 2016-17.

2. The grounds of appeal are as under:-

“ (a) The Ld.CIT(A) has erred in law and on facts in deleting the addition of Rs. 2,00,00,000/- made by AO on account of disallowance of Commission Expenses paid to Shri Vipul Shah, MD of the Company without appreciating that:

(i) The assessee has submitted inconsistent justification that the director was paid commission as incentive for increase in turnover, which contradicts the resolution for payment of commission as a percentage of total turnover (not increase in turnover) and the same has been decided within first quarter of the year without any consideration to the business performance of the company during the year.

(ii) The assessee has failed to establish specific efforts made by the director to justify the payment of commission.

(b) The appellant craves leave to add, alter and/or to amend all or any the ground before the final hearing of the appeal.”

3. The assessee filed return of income for assessment year 2016-17 on 12-10-2016 declaring total income at Rs. 91,49,800/-. The assessee revised its return of income on 09-08-2017 revising total income at Rs. 91,49,800/-. After issuing statutory notices and the details given by the assessee, the Assessing Officer observed that the assessee is engaged in the business of wholesale trading in electronic capacitors and batteries. During the assessment year, the assessee claimed bad debts expenses of Rs. 3,96,13,924/- as per schedule 23, other expenses attached to the profit and loss account. The Assessing Officer held that the assessee has claimed commission expenses of Rs. 2 crore as per note 23 other expenses i.e. sales commission and the said commission was paid to director of the company. The said director was also paid remuneration of Rs. 1,26,00,000/- by the assessee during the year. The turnover of the company was increased from 9054.11 lakhs to 11242.21 lakhs. The Assessing Officer held that since the assessee has not given the details, the same is disallowed. The assessee has not provided the supporting documents and as well as disallowed bad debts to the extent of Rs. 3,95,66,564/-.

4. Being Aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The ld. D.R. submitted that the CIT(A) erred in deleting the addition of Rs. 2 crore on account of disallowance of commission

expenses paid through Vipul J. Shah without appreciating the fact that the assessee submitted inconsistent justification that the director was paid as incentive for increase in turnover, which contradicts resolution for payment on commission as a percentage of total turnover and not for the increase in turnover. The Ld. DR further submitted that the commission to the Shri Vipul J. Shah was given without any basis for his performance to increase the business for the company during the year. In fact, he is doing the same work for which he is getting remuneration as well. Thus, the assessee before the Assessing Officer as well as before the CIT(A) did not give any evidence that his performance for earning commission was beyond the scope of his duty which were already defined in the company as a Promoter working as full time Director. The CIT(A) overlooked this aspect and therefore, the deletion of the addition is not justified.

6. The ld. A.R. relied upon the order of the CIT(A).

7. We have heard both the parties and perused all the material available on record. It is pertinent to note that Shri Vipul J. Shah as a promoter full working director actively involved in day to day affairs of the assessee company particularly in marketing and business development scheme. The turnover of the assessee company increase by Rs. 21.88 crores during the year under consideration in respect of the performance linked with the said Promoter and full time working director, but whether the same is beyond the scope of his responsibility of Promoter and full time working Director was never established by the Assessee. It is pertinent to note that the performance linked

commission which was fixed at 2% of turnover subject to CAP of Rs. 2 crore was not justified by the assessee at any point as the assessee as Promotor and Full Time Working Director is require to do the same as per his portfolio as Director. The Revenue has therefore validly disputed the approval given by the board and shareholders related to the commission which is exorbitant compared to the service rendered by the promoter and full working director as his original work requires him to do so for which he is already been paid the remuneration/salary by the company. Thus, the CIT(A) was not right in deleting the said addition and the reasons given are not justified when there is no direct nexus established by the assessee that his original responsibility does not include increase the turnover of the assessee company. The case laws relied by the Ld. AR that of DCIT vs. AMI Life Science Pvt. Ltd. will not be applicable in present case as in the said case the said assessee was only one of the six directors, but in the present case the assessee is Promotor and full time working Director who is require to increase the turnover of the assessee company. When Shri Vipul J Shah was Full Time Working Director and was already paid salary to that extent, it will not suffice that the said Director be paid separate commission of the same work conducted at a company in which his portfolio as Director comprises the same work. Thus, the CIT(A) has totally ignored these aspect. There was no extraordinary profits earned by the company in this year due to the business deals made by Shri Vipul J Shah who was already paid

remuneration/salary for the same work. Thus, the addition is sustained.

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

Order pronounced in the open court on 27-02-2026

Sd/-
(Dr. BRR Kumar)
Vice President

Ahmedabad : Dated 27/02/2026

a.k.

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-
(Suchitra Kamble)
Judicial Member

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद