



**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G': NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.2278/Del/2024  
(ASSESSMENT YEAR 2013-14)

SSG Infratech Private Limited, D-835, Zakir Nagar SO, South East Delhi, New Friends Colony, New Delhi-110025. PAN-AAJCS7616J	Vs.	PCIT, Delhi-7.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Pranshu Goel, CA & Shri Aditya Gupta, Adv.
Department by	Ms. Jaya Choudhary, CIT-DR
Date of Hearing	13/02/2025
Date of Pronouncement	12/03/2025

**ORDER**

**PER MANISH AGARWAL, AM:**

This appeal by the assessee is directed against the order of the Principal Commissioner of Income Tax-7, Delhi (hereinafter referred as "the PCIT") having DIN No. ITBA/REV/F/REV5/2023-24/1062624071(1), dt. 14.03.2024 for Assessment Year 2013-14, passed under section 263 of the Income Tax Act, 1961 (hereinafter referred as 'the Act').

2. Brief facts of the case are that the assessee is a private limited company and filed its return of income for impugned year u/s 139(1) of the Act on 30.11.2013 declaring income at Rs.6,67,65,750/-. Subsequently, the case was assessed u/s 143(3) of the Act at Returned Income. Thereafter, as a result of search & seizure operation u/s 132 of the Act, assessment u/s 143(3)/153A was completed on 28.12.2018 at a total income of Rs. 27,59,19,580/-. The said income was reduced to Rs.11,24,19,211/- in terms of the order of Id. CIT(A)-IV, Kanpur dt. 14.07.2021. Thereafter, on the basis of information received from DCIT, Central Circle-1(3), Mumbai that during the year, the assessee had entered into bogus accommodation entries/transactions to the tune of Rs 4,54,23,000/- with M/s Pandhe Group, reassessment proceedings were initiated by issue of notice u/s 148 on 12.03.2021. During the course of reassessment proceedings, AO vide query letter dated 11.11.2021 issued alongwith notice u/s 142(1) of the Act, asked the assessee to explain the nature of all transactions made during the year under consideration with entities comprising M/s Pandhe group alongwith ledger account & other supporting documents like ITR, duly signed confirmation, bank statements etc., said notice is available in paper book pages 18-23. In reply, the assessee vide letter dated 17.11.2021 stated that it had made no transactions with any entity of M/s Pandhey Group, reply is placed in paper book page 27. Then the AO vide show cause notice dt. 27.03.2022 observed that transactions as per information available with him matches with the transaction with M/s Patel Engineering Ltd. who is appearing as Sundry Creditors in assessee's

books and to whom total payment of Rs. 12,81,77,735/- was made during the year. Therefore, the assessee was show caused as to why this transaction of Rs. 12,81,77,735/- with M/s Patel Engineering Ltd. be not treated as bogus and unexplained. The assessee in reply vide 29.03.2022 had stated that M/s Patel Engineering Ltd. is doing job work at various work sites and in order to establish the genuineness of the transaction with the said party, assessee had filed copies of work order, Form-16, copy of ledger account with bank statement and submit that no adverse inference is called for as all the transactions were genuine transactions. All these correspondences are available in the paper book pages 93-116. After considering the submissions made by the assessee, the Assessing Officer vide order dt. 30.03.2022 passed u/s 143(3)/147 of the Act has accepted the contention of the assessee and assessed at the income at Rs.11,24,19,211/- as remained after the order of ld. CIT(A), Kanpur dt. 14.07.2021. Thereafter, the ld. PCIT, Delhi -7, after considering the replies of the assessee, vide impugned order dated 14.03.2024, held the order passed u/s 143(3)/147 of the Act as erroneous and prejudicial to the interest of the Revenue and direct the Assessing Officer to pass a fresh order modifying the assessment order after making proper enquiry and verification.

3. Against the said order of the Ld. PCIT, the assessee is in appeal before the Tribunal.

4. The assessee challenged the order of the Ld. PCIT passed u/s 263 of the Act on the strength of following grounds of appeal:

*“1. That on the facts and circumstances of the case and in law, the order passed by Ld. PCIT under Section 263 of the Act, is without jurisdiction, bad in law, illegal, and void ab-initio;*

*2. That on the facts and circumstances of the case and in law, impugned order passed by the Ld. PCIT revising an order which is invalid and is deemed to have never been issued, is illegal, bad in law and void ab initio.*

*3. That on the facts and circumstances of the case and in law, the Ld. Pr. CIT grossly erred in invoking jurisdiction under Section 263 of the Act;*

*4. That on the facts and circumstance of the case and in law, the order passed by the Ld. AO proposed to be revised is not erroneous and is not prejudicial to the interest of the revenue.*

*4.1. That on the facts and circumstances of the case and in law the Ld. PCIT grossly erred in not considering that just because the Ld. AO has passed an order without making any addition and without mentioning any details elaborately, that by all cannot be said an order to be erroneous or prejudicial to the interest of the revenue.*

*5. That on the facts and circumstance of the case and in law, the Ld. PCIT grossly erred in not considering that the Revenue Authorities after concluding proceedings for a period, cannot, subsequently initiate proceedings for the very same period again and again.*

*6. That on the facts and circumstances of the case and in law the Ld. PCIT grossly erred in rejecting the submission and analyzing the evidence(s) furnished on record and passing the orders in summary manner on preconceived notion.*

*7. That on the facts and circumstances of the case and in law, the order passed by the Ld. PCIT is against the principles of natural justice, equity and fair play.*

*8. That on the facts and circumstances of the case and in law, the order passed by the Ld. PCIT is non speaking and laconic;*

*All of the above grounds of appeal are without prejudice and notwithstanding each other.*

*The Appellant craves leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.*

*Any consequential relief, to which the Appellant may be entitled under the law in pursuance of the aforesaid grounds of appeal, or otherwise, thus may be granted.”*

5. Before us, Ld. AR submits that in the instant case the assessment proceedings were concluded on earlier two occasion, first u/s 143(3) and thereafter u/s 143(3)/153A of the Act. According to ld.AR, in the order passed u/s 143(3)/153A, out of other additions, an addition of Rs. 18,09,33,825/- was made towards alleged inflation of purchases which was reduced to Rs. 4,52,33,456/- by ld. CIT(A), Kanpur thus the issue of purchases has already been examined and decided by the CIT(A). Now again doubting the same is against the doctrine of merger and thus should not be permitted to be tinkered-with vide order us/ 263 of the Act. He further argued that during the course of reassessment proceedings, the AO has specifically asked the assessee to explain the nature of transaction with M/s Pandhe Group entities and in reply, the assessee had categorically submitted that no transactions whatsoever was carried out by it with any of the entity of M/s Pandhe Group. Thereafter, the vide show cause notice dt. 27.03.2022, the AO further doubted the transactions with one M/s Patel Engineering Ltd. as bogus and proposed to disallow the entire payment of Rs. 12,81,77,735/- made to the said party during the year by observing that these are matches with the information available with the AO. In reply, the assessee vide letter dt. 29.03.2022 had filed all the necessary details to establish that the transactions

with M/s Patel Engineering Ltd. were genuine and normal business transaction who happened to be the sub-contractor working at various work sites of the assessee and executed the works awarded to the assessee by UP Jal Nigam etc. The AO after examining the details vis-à-vis the reasons recorded has taken a possible view that the transactions with M/s Patel Engineering Ltd. are genuine transactions and also found no other transaction with any entity of the M/s Pandhe group and made no addition. According to ld.AR, the Ld. PCIT solely on assumptions and presumptions held the order passed u/s 143(3) /147 as erroneous and prejudicial to the interest of revenue without referring to any material which was not considered by the AO or the issue on which no enquiry or verification was made by him. He thus prayed that when this issue has already been examined and found that the information available with the Department was not correct and the assessee is having no transaction with any entity of the Pandhe Group, the AO has taken a possible view, thus the order of the Ld. PCIT u/s 263 is nothing but mere change of opinion.

5.1 Ld. AR further submitted that just because the AO passed an order without making any addition and without mentioning the enquires conducted elaborately in the order, such order cannot be erroneous and prejudicial to the interest of revenue. It is not a case where no enquiry or verification was carried out by the AO rather all the necessary enquiries were made and based on which, best possible view was taken by the AO, therefore, the order passed u/s 263 of the

Act deserves to be quashed. He further placed reliance on the following judicial pronouncements:

- **Pr. CIT Vs. Shreeji Prints (P) Ltd. [2021] 130 Taxmann.com 294 (SC)**
- **CIT Vs. Gabriel India Ltd. [1993] 71 Taxmann 585 (Bombay)**
- **Ashok Arora Vs. CIT. Central-III, New Delhi [2017] 88 Taxmann.com 678 (Delhi- Trib.)**
- **PCIT Vs. Clix Finance India (P) Ltd. [2024] 160 Taxmann.com 357 (Delhi)**
- **CIT Vs. Dhaneshwar Rath Institute of Engineering & Medical Sciences [2023] 147 Taxmann.com 469 (Orissa)**

6. On the other hand, the ld. CIT-DR vehemently supported the orders of the lower authorities and submits that the AO has not made any inquiries u/s 131 or 133(6) of the Act and the AO has merely accepted the submissions made by the assessee without undertaking any independent inquiry or verification of the facts. This lack of independent inquiry renders the assessment proceedings erroneous and prejudicial to the interest of Revenue and, therefore, the order passed u/s 263 deserves to be uphold.

7. We have heard the rival submissions and perused the materials available on record. The case of the assessee was reopened u/s 148 of the Act and reassessment proceedings were completed wherein after examining the details filed by the assessee, the AO was of the view that the assessee has not carried out any transaction with any entity of Pandhe Group and also the transactions with M/s Patel Engineering Limited were regular and genuine business transactions

and no addition was made. The Ld. PCIT vide impugned order passed u/s 263 of the Act alleged that the AO has not made proper inquiries and verification with respect to the bogus accommodation entries of Rs. 4,54,23,000/- but nowhere in the revisionary order it was observed by the ld. PCIT that which transaction and with whom entity of Pandhe group such transaction was carried by the assessee. Merely stating than as per information available, a transaction of Rs. 4,54,23,00/- is bogus, it cannot be said that no inquiry or verification was carried out by the AO, more particularly when the assessee had categorically stated that it had not entered into any transaction with any entity of Pandhe group. Further in the instant case, the AO went to such extent that when during the verification of the detailed filed by the assessee, he found a remotest link with the information available with him such as date and amounts are matching, he immediately made further inquiry to verify the genuineness of such transaction. This fact is verifiable from the show cause notice dt. 27.03.2022, placed in the paper book pages 93-94 wherein when the AO found that dates and amounts of transactions with M/s Patel Engineering Ltd. are matching with the information available, he asked the assessee to explain all such transactions and also further proposed to make the additions in the hands of the assessee of entire payment of Rs. 12,81,77,735/- as bogus and unexplained. This clearly shows that adequate and sufficient inquiries and verification was done by the AO taking the plausible view that no such alleged transaction was carried by the assessee with any entity of Pandhe group. All these documents and relevant replies filed by the assessee



find place in the paper book filed by the assessee. Now, ld. PCIT alleged that the assessment order is erroneous and prejudicial to the interest of revenue as the AO has not made proper inquiries and verification which in our opinion is not correct nor there is any lack of inquiries on the part of the AO who has taken the plausible view on the material available on record and submissions made by the assessee.

7.1. The Hon'ble supreme Court in the case of Pr. CIT vs Shreeji Prints (P.) Ltd. reported in [2021] 130 taxmann.com 294(SC) has held as under:-

*“Section 69, read with section 263, of the Income-tax Act, 1961 - Unexplained investments (Unsecured loans) - Assessment year 2013-14 - Assessee-company had received unsecured loans from two different companies - Commissioner noting that said loans were shown as investment in assessee's name in balance sheet of respective companies exercised revisionary powers and passed an order without giving an opportunity to assessee of being heard, invoking Explanation 2 to section 263 - High court by impugned order held that since Assessing Officer has made inquires in details and accepted genuineness of loans receive by assessee, such view of Assessing Officer was a plausible view and same cannot to be considered erroneous or prejudicial to interest of revenue - Whether SLP against said impugned order was to be dismissed - Held, Yes”*

7.2 Further recently Hon'ble Supreme Court in the case of PCIT vs NYA International, while dismissing the SLP filed by the Revenue in Special Leave Petition (civil) Diary No.1845/2025 the hon'ble court vide order dated 17.02.2025 has observed as under:-

*“Delay condoned.*

*This special leave petition is misconceived and is completely contrary to the law pertaining to Section 263 of the Income Tax Act, 1961.*

*The notice under Section 148 of the 1961 Act referred to two reasons. The first reason was with regard to non-declaration of the account in ING*

*Vysya Bank with a credit of Rs.70,13,43,319/- (Rupees seventy crores thirteen lakhs forty three thousand three hundred and nineteen only). The second reason was with regard to the claim of deduction under Section 10AA of the 1961 Act.*

*It is accepted that a reassessment order under Section 148 read with Section 143(3) of the 1961 Act was passed. Addition was not made for the first reason.*

*In the given facts, the assertion by the Revenue that inquiry and verification in re the bank account was not made is ex-facie incorrect. This being the position, this is not a case of failure to investigate, but as no addition was made, the Revenue can argue that it is a case of wrong conclusion and decision in the re-assessment proceedings. Therefore, to exercise jurisdiction under Section 263 of the 1961 Act, the Commissioner of Income Tax should have examined the merits and only on reaching a finding that the re-assessment order was erroneous and prejudicial to the interest of the Revenue made an addition.*

*This is not a case of 'no inquiry and verification', but as made out by the Revenue, a case of wrong conclusion. The difference between the two situations is clear and has different consequences.*

*This being the position, the High Court was right in dismissing the appeal preferred by the Revenue.*

*The special leave petition is dismissed in the above terms.*

*Pending application(s), if any, shall stand disposed of.”*

7.3 The hon'ble Delhi High court in the case of PCIT Vs. Clix Finance India Ltd. while concurring to the findings of the Tribunal has observed as under:

**27.** *Considering the aforesaid judicial pronouncements, it can be safely concluded that inadequacy of enquiry by the AO with respect to certain claims would not in itself be a reason to invoke the powers enshrined in Section 263 of the Act. The Revenue in the instant case has not been able to make out a sufficient case that the CIT has exercised the power in accordance with law. Rather, in our considered opinion, the facts of the case do not indicate that the twin conditions contained in Section 263 of the Act are fulfilled in its letter and spirit.*

**28.** *Notably, the ITAT, while making a categorical finding that the CIT had failed to point out any definite or specific error in the assessment order, has satisfactorily explained both the claims in question in Paragraph 8.2 of its order, which reads as under:-*

"8.2 In the Impugned Order, the Ld. Commissioner of Income Tax-IV, Delhi held that the AO had not examined the aforesaid two issues properly and, therefore, set aside the issues for further inquiries to be conducted by the AO. As regards the first issue is concerned, we note that out of total provision of Rs. 1114.68 lacs, a sum of Rs. 7,60,76,105/- was suo moto added back in the computation of income and a further sum of Rs. 73,46,160- was disallowed by the AO in the original assessment order dated 30.3.2005. Therefore, out of Rs. 1114.68 lacs, Rs. 834.22 lacs already stood disallowed in the original assessment order. The balance amount represented actual write off which was palpably clear from page 2 of the impugned order itself. No deduction on account of any such provision was, therefore, allowed to the assessee. Hence, there is no error or prejudice to the interest of revenue. As regards second issue it was noted that interest rate swap was an actual loss and only the net loss of Rs. 114.05 lacs after setting of gain of interest rate swap was claimed as deduction. However, we find that both these issues were duly examined by the AO vide Questionnaire dated 2.11.2004 (Page 1-2 of the Paper Book) to which replies dated 9.12.2004, 20.12.2004 and 6.1.2005 (Page No. 3-39 of Paper Book-1) were furnished and, therefore, the finding of the Ld. CIT that the issues were not examined properly was not correct. Even the Ld. CIT has not pointed out the definite and specific error in the original assessment order and observed that the inquiry made by the AO was inadequate or improper without first pointing out the error in the original assessment order passed by the AO, particularly because both the aforesaid issues were duly examined at the stage of the original assessment proceedings, hence, the impugned order is beyond jurisdiction, bad in law and void-ab-initio."

**29.** It is discernible from the aforenoted findings of the ITAT that both the claims were duly examined during the original assessment proceedings itself and neither there was any error nor the same was prejudicial to the interests of the Revenue. Thus, the findings of fact arrived at by the ITAT do not warrant any interference of this Court.

**30.** So far as the reliance placed by the CIT on Umashankar Rice Mill is concerned, the same is misplaced, particularly in light of the insertion of Explanation 2 to Section 263 of the Act, brought in place by the Finance Act, 2015. The said amendment markedly specifies various conditions to exercise the authority vested in the Commissioner under Section 263 of the Act, leaving no ambiguity in the interpretation of the said provision.

**31.** *In view of the aforesaid, the appeal preferred by the Revenue is dismissed alongwith the pending application(s), if any.*

7.5. In view of the above discussion and by respectfully following the judgments of Hon'ble Supreme Court in the case of Shreeji Prints (supra) and also in the case of NYA International (supra) and of the jurisdictional high court in the case of Clix Finance (supra), we are of the considered view that in the instant case, AO had made proper and adequate inquiry and it is not a case of no inquiry or lack of inquiry. The PCIT had failed to point out any specific and definite error in the reassessment order and on the other hand the AO had taken a plausible view as a result concrete and definite inquiry, which was in the exclusive domain of the AO and it is not open for revisional authority to arrive at a conclusion merely on the basis of subjective exercise. This being so, we quashed the order passed u/s 263 of the Act. As a result, all the grounds taken by the assessee are allowed.

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

Order pronounced in the open court on 12<sup>th</sup> March, 2025.

Sd/-  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

Dated: 12/03/2025

PK/Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)

5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI