

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 3416/Mum/2025
(Assessment Year: 2020-21)

Vijay Raaz Cottage No. B-13, Cosmos Hawaiian, Near Blue Roof Club, Ghodbunder Road, Thane, West 400 601.	Vs.	Ward 16(1)(5), Mumbai
PAN/GIR No. ADLPR8784L		
(Appellant)	:	(Respondent)

Assessee by	:	Shri Manish Trivedi
Respondent by	:	Shri Vivek Perampurna (CIT-DR)

Date of Hearing	:	07.11.2025
Date of Pronouncement	:	30.01.2026

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Principal Commissioner of Income Tax, PCIT, Mumbai – 8 (‘ld. PCIT’ for short), passed u/s.263 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2020-21.

- It is observed that the assessee has filed the present appeal with a delay of 5 days beyond the period of limitation for which the assessee has filed an application along with affidavit for condoning the said delay. On perusal of the same, we deem it fit to condone the delay for the reason that the assessee had ‘sufficient cause’ for the said delay. Delay condoned.

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

The conditions precedent for invoking section 263 not satisfied

1. The learned PCIT erred in invoking jurisdiction u/s 263 when the AO had already examined the issue in scrutiny proceedings and accepted the claim after due verification as he failed to bring on record any findings which proves that the order of learned assessing officer is Erroneous and Prejudicial to the interest of the Revenue.

2. The order passed u/s 143(3) is neither erroneous nor prejudicial to the interest of revenue.

Reliance on the general investigation data

3. The learned PCIT erred in invoking jurisdiction under section 263 and relied on general investigation data as was informed by the Investigation Wing Ahmedabad without any specific adverse material or findings against the appellants.

No opportunity of cross examination given to the assessee

4. The learned PCIT erred in law by not giving an opportunity to rebut any direct evidence or statement or findings to the assessee; hence, the revision order violates principles of natural justice.

Objection raised by the assessee was never refuted or no speaking order passed under section 263 against the same.

5. The learned PCIT erred in law by invoking provision of section 263 and passed the order under section 263. He completely ignored the objection raised by the assessee against the show cause notice proposing the reopening of the assessment and reassess the income under section 263 in violation of CBDT guidelines of issuing the speaking order.

No findings recorded how the donation paid by the assessee is non-genuine:

6. The learned PCIT failed to bring on record any findings or evidence as how the donation is not genuine and how the cash is paid back to the assessee against the genuine donation as alleged in the order under section 263. The deduction claimed u/s 80GGC was in compliance with law and based on valid documentary evidence.

Revision under section 263 is based on mere suspicion:

7. The revision is based on mere suspicion and constitutes a change of opinion, which is not a valid ground for exercise of revisional powers.

Impugned Revision order under section 263 is unlawful

8. The impugned order is arbitrary, unlawful and liable to be set aside.

No evidence is brought on record that Apana Desh Political Party is not registered under Section 29A of the Representation of the People Act, 1951

9. The learned PCIT failed to bring on record any proof or findings that Apana Desh Political Party is not registered under section 29A of the Representation of the People Act, 1951 against the proof submitted by the assessee of official gazette of Election Commission of India confirming that the party is registered unrecognised party

Judicial Precedents Ignored:

10. The Learned PCIT failed to consider judicial precedents wherein courts have held that Section 263 cannot be invoked merely because the PCIT has a different interpretation of the law. The appellant relies on:

- 1. Malabar Industrial Co. Ltd. v. CIT (2000) 243 ITR 83 (SC)*
- 2. CIT v. Max India Ltd. (2007) 295 ITR 282 (SC)*
- 3. CIT v. Gabriel India Ltd. (1993) 203 ITR 108 (Bombay HC)*

4. Brief facts of the case are that the assessee is an individual and had filed his return of income dated 29.12.2020, declaring total income at Rs. 1,44,30,450/-. The assessee's case was selected for scrutiny under CASS to verify (i) brought forward TDS credit claimed is substantially less than TDS credit carried forward in the return of preceding assessment years (ii) Deduction from total income (chapter- VIA). The learned Assessing Officer ('ld. A.O.' for short) then passed the assessment order u/s. 143(3) r.w.s. 144B of the Act dated 03.09.2022, thereby accepting the returned income filed by the assessee. The ld. PCIT invoked the revisionary jurisdiction u/s. 263 of the Act, for the reason that the assessee had claimed deduction u/s. 80GGC for contribution to

an alleged unrecognized party amounting to Rs.30,00,000/- which according to ld. PCIT was for the purpose of evading tax and the same has not been enquired by the ld. AO during the assessment proceeding, thereby making the assessment order erroneous in so far as it is prejudicial to the interest of the revenue. The ld. PCIT vide order dated 11.03.2025 passed u/s. 263 of the Act, set aside the assessment order as being erroneous in so far as it is prejudicial to the interest of the revenue pertaining to the issue of disallowance as to the deduction claimed u/s. 80GGC of the Act, thereby directing the ld.AO to pass a *de novo* assessment order after making necessary enquiries and providing the assessee with sufficient opportunity.

5. Aggrieved the assessee is in appeal before us, challenging the order of ld. PCIT on the grounds mentioned above.
6. The learned Authorised Representative ('ld. AR' for short) for the assessee contended that the original assessment order u/s. 143(3) was passed only after conducting adequate enquiries, where the assessee is said to have furnished the complete details before the ld. AO. The ld. AR further stated that the ld. AO had issued notice u/s. 143(2) of the Act and 142(1) of the Act for which the assessee had filed detailed submissions including documentary evidences such as bank statements, details of donation paid along with receipt, computation of income, source of payment of donation, invoice copy and TDS certificate and only after duly considering the same, the ld. AO had accepted the assessee's submission and had passed the assessment order accepting the returned income of the assessee. The ld. AR relied on the decisions of the Hon'ble Apex Court in the case of *Malabar Industrial Co. Ltd. v. CIT (2000) 243 ITR 83 (SC)* and *CIT v.*

Max India Ltd. (2007) 295 ITR 282 (SC), along with various other decisions for the proposition that when two views are possible and when the Id. AO has taken one of the plausible view then the assessment order is held not to be erroneous in so far as it is prejudicial to the interest of the revenue and further for invoking the revisionary powers the twin condition that the assessment order has to be erroneous and prejudicial to the interest of the revenue ought to be established. The Id. AR also argued on the merits that the assessee had paid donation to a political party viz. Apna Desh Party which source was duly explained and further stated that the said political party was registered with the Election Commission of India u/s. 29A of the Representation of People Act, 1951, thereby fulfilling all the conditions for claiming deduction u/s. 80GGC of the Act and further stated that the said political party does not fall under the deregistered-unrecognized political party, neither does it fall under the list of inactive, registered-unregistered political party, as per the Election Commission of India list. The Id. AR further stated that the assessee has no control over the activities of the parties and neither did the revenue establish the fact that the assessee was involved in the activities of receiving cash against the donation paid by him to the political party. The Id. AR relied on a catena of decisions in support of the assessee's contention.

7. The learned Departmental Representative ('Id. DR' for short) for the revenue on the other hand controverted the said fact and stated that the during the original assessment proceeding the issue of donation was not looked into by the Id. AO neither was there any finding in the assessment order pertaining to the same, thereby making the assessment order erroneous in so far as it is prejudicial to the interest of the revenue, as

per Section 263 of the Act. The Learned DR further stated that the present case clearly attracts the conditions prescribed u/s. 263 of the Act and even on the merits of the case, the assessee has failed to prove the credibility and genuineness of the donee, which onus lies upon the assessee, thereby claiming a bogus deduction u/s. 80GGC of the Act. The Id. DR further stated that the same was corroborated by the Investigation Wing, Ahmedabad and prayed that the Id. PCIT's order be upheld.

8. We have heard the rival submissions and perused the materials available on record. It is observed that the assessee has claimed deduction u/s. 80GGC towards donation amounting to Rs.30,00,000/- to a political party viz. Apna Desh Party with PAN AADAA0672J during the year under consideration. Based on the report of the Investigation Wing, Ahmedabad, which had conducted a search and seizure action u/s. 132 of the Act on 23 registered unrecognized political parties, where more than 35 bogus intermediary entities and three major exit providers were also covered in an action carried out in RUPP Group of Ahmedabad, where it was observed that the modus operandi of these political parties were that they receive donation through banking channels in the bank account of the political party and the same is routed through intermediaries controlled by these parties, where the donations are re-routed through various layers, who then return the donation given to the original donor, either in the form of cash for which they receive a commission ranging from 3.5% to 5% as these political parties are exempted from tax as per section 13A of the Act. It is further observed that these political parties do not secure adequate votes in the election to be categorised as recognised state or national parties as per section 29A of the

Representation of People's Act, 1951 and are merely set up for carrying out such bogus transactions. The Id. PCIT invoked the revisionary jurisdiction in assessee's case for the reason that the assessee is one of the beneficiaries of claiming bogus donation under Chapter VI-A amounting to Rs.30,00,000/-, for the reason that during the assessment proceeding, the Id. AO has not conducted any enquiry into the claim of the donation given to the unrecognised political party viz. Apna Desh Party. The Id. AR brought our attention to the notice issued by the Id. AO during the assessment proceeding u/s. 143(2) of the Act, where one of the issue was pertaining to deduction from total income under Chapter VI-A of the Act, for which the assessee has stated that he had contributed Rs.30,00,000/- to political party vide his submission dated 01.07.2021.

9. On perusal of the notice issued by the Ld. AO u/s 142(1) of the Act, it is observed that the Ld. AO has sought for details of deduction claimed under chapter VIA for which the assessee has replied that it had contributed Rs.30,00,000/- to political party and had furnished copies of two receipts amounting to Rs.15,00,000/- each on 04.03.2020 and 11.03.2020. Beyond this there is no iota of evidences to show that the Ld. AO has conducted any enquiry as to the genuineness of the donation made by the assessee to the alleged political party. It is also evident that on perusal of the assessment order as well there is no discussion on the issue of the donation made by the assessee, which can be inferred that the Ld. AO has not conducted any enquiry into the issue which was the subject matter of the limited scrutiny during the assessment proceeding. Further, whether the said party has complied with the conditions specified in section 13A of the Act for claiming exemption, whether or not it had filed contribution report, details of

the ITR, date of filing of report u/s 29C of the Representation of People's Act, 1951 etc. are all not examined by the Ld. AO during the assessment proceeding neither it has been filed by the assessee during the assessment proceeding to establish the fact that it is not a bogus transaction, thereby making the assessment order erroneous and prejudicial to the interest of revenue. The failure on the part of the Ld. AO to record his satisfaction to the genuineness of the transaction further corroborates to the fact that the assessment order is erroneous and prejudicial to the interest of the revenue. Mere furnishing of donation receipts, bank account statement etc. does not establish the genuineness of the donations made as the Ld. PCIT has clearly narrated the modus operandi of such bogus donations, which require further reliability by way of deeper introspection into the activities of the alleged political parties. The insertion of Explanation 2 to section 263(1) w.e.f. 01.06.2015 enlarges the scope of revisionary powers where the assessment order shall be 'deemed' to be erroneous in so far as it is prejudicial to the interest of the revenue if the Ld. PCIT opines that

- (a) *the order is passed without making inquiries or verification which should have been made;*
- (b) *the order is passed allowing any relief without inquiring into the claim;*
- (c) *the order has not been made in accordance with any order, direction or instruction issued by the Board under [section 119](#); or*
- (d) *the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.*

10. From the above, it is evident that the assessment order passed by the Ld. AO would squarely fall under Explanation 2 to section 263(1) of the Act making the assessment order erroneous and prejudicial to the interest of the revenue, thereby satisfying the

twin condition necessary for invoking the revisionary jurisdiction by the Ld. PCIT u/s 263 of the Act. We therefore find no infirmity in the order of the Ld. PCIT and therefore deem it fit to dismiss the grounds raised by the assessee.

11. In the result, the appeal filed by the assessee is hereby dismissed.

Order pronounced in the open court on 30.01.2026

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

**Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER**

Mumbai; Dated: 30.01.2026

**Kishore, Sr. PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai