

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN “DB” BENCH: DEHRADUN**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.17/DDN/2026
[Assessment Year : 2019-20]**

Davinder Kumar Mago 12/1, Punjabi Bagh, External Punjabi Bagh, New Delhi-110026 PAN-AJHPM9802A	vs	DCIT/ACIT Central Circle, Dehradun Uttarakhand
APPELLANT		RESPONDENT
Appellant by	Shri Ajay Wadhwa, Adv. (VC)	
Respondent by	Ms. Poonam Sharma, CIT DR	
Date of Hearing	10.03.2026	
Date of Pronouncement	12.03.2026	

ORDER

PER MANISH AGARWAL, AM :

This appeal filed by the assessee against the order by Pr.CIT (Central), Kanpur at Meerut passed u/s 263 of the Income Tax Act, 1861 (“the Act”) dated 08.01.2026 arising out of the order passed u/s 143(3) r.w.s. 147 of the Act.

2. Brief facts of the case are that the assessee is an individual, a search action was carried out in the case of the assessee on 24.11.2022. Thereafter, the case of the assessee was re-opened by issue of notice u/s 147 of the Act. The reassessment order was passed wherein income declared by the assessee is accepted by AO. Thereafter, based on the information provided by the AO himself, Ld.

PCIT initiated revision proceedings u/s 263 of the Act and the Id. PCIT hold the assessment order as erroneous and pre-judicial to the interest of the Revenue and by invoking the provision of Explanation 2(a) of section 263 of the Act, has directed the AO to pass the assessment order afresh after making necessary inquiries and verification with respect to the unsecured loans taken during the year under appeal.

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

4. Before us, Ld.AR for the assessee has taken as many as 13 grounds of appeal out of which, **Ground of appeal No.7** is with respect to the action of Id. PCIT in invoking the provision of Explanation 2(a) of section 263 without appreciating the fact that the AO has made all the inquiries mandatorily required under the Act therefore, the same is taken first for consideration.

5. Before us, Ld.AR submits that the AO vide notice issued u/s 142(1) dated 23.08.2023, asked the assessee to file the details of the loans taken during the year. In response, the Ld.AR for the assessee filed detailed reply wherein the assessee has filed complete addresses alongwith other relevant particulars of the persons from whom loans were taken during the year under appeal. Thereafter, in response to notice issued u/s 142(1) dated 10.02.2024, the assessee vide reply dated 15.03.2024 had filed relevant details of loans taken during the

year under appeal such as ledger accounts, bank statements, confirmations, ITR's and other particulars of the lenders. Ld.AR also submits that some of the loans were repaid also during the year itself. As per Ld. AR, AO after considering these details, has accepted the genuineness of the loans taken by the assessee and has not taken any adverse inference with respect to any of the lender. Ld. AR submits that even before Ld. PCIT, vide reply dated 07.10.2025, assessee again furnished all these details however, Ld. PCIT without pointing out any error in the said details filed nor any material brought on record, has hold the assessment order as erroneous and pre-judicial to the interest of the Revenue and invoked the provisions of Explanation 2() of section 263 which cannot be applied in the given facts of the case. He therefore, prayed for the cancellation of the revision order so passed u/s 263 of the Act.

6. Per contra, Ld. CIT DR vehemently supported the orders of the Ld. PCIT and submits that AO has passed the assessment order without even mentioning or utter a single word in the assessment order about the loans taken during the year under appeal by the assessee. As per, Ld. CIT DR, no proper inquiries/investigations were done by AO and nor the source in the hands of the lenders were examined therefore, Ld. PCIT has correctly observed that assessee has failed to prove the source of source of the loan creditors and thus the action of Ld. PCIT in holding the assessment order as erroneous and pre-judicial to the interest of the Revenue, is correct and she prayed accordingly.

7. Heard the contentions of both the parties at length and perused the material available on record. In the instant case, during the course of re-assessment proceedings, AO vide notice dated 23.08.2023, asked the assessee to file details of the loans taken and the relationship with the persons from whom such loans were taken. The assessee in terms of reply dated 20.01.2024 had filed all party-wise details of loan taken alongwith documentary evidences in support of their identity, creditworthiness and genuineness of the transactions. The said reply is available at pages 38 to 42 of the Paper Book placed before us. Thereafter, on specific queries with respect to each individual loan in terms of query letter dated 10.02.2024 u/s 142(1) wherein AO has asked the assessee to file complete details of 16 parties tabulated in the said notice as available at pages 46 & 47 of the Paper Book. The AO further asked the assessee to establish genuineness and creditworthiness of all the 16 lenders. In reply thereof, the assessee vide letter dated 15.03.2024 had filed details of all the 16 lender parties comprising of confirmation, their bank statements, financial statements etc. in support of establish their identity, creditworthiness and genuineness of the transactions. All these documents are placed at pages 49 onwards of the Paper Book.

8. It is further observed that assessee during the course of assessment proceedings before Ld. PCIT, again filed all these details vide reply dated 07.10.2025, placed at pages 5 to 11 of the Paper Book. Ld. PCIT in its order, reproduced the reply filed by the assessee, however, observed that AO has made “Inadequate inquiries” or “Lack of inquiries” with respect to loan creditors without

appreciating the fact that assessee has filed all the relevant details including their complete addresses alongwith assessment particulars etc. Once the AO has examined the details filed and framed an opinion where he found all the lender parties as genuine and having creditworthiness, again revisit of the same is mere change of opinion. No further verification is thus required in the light of the fact that AO has made sufficient enquiries and verification to satisfy himself about the genuineness of the loans taken by the assessee. It is further observed that in some cases, there were opening balances brought forward from preceding years and the loans were repaid during the year under appeal. Ld. PCIT has not pointed out any defect in the details filed by the assessee. There is a difference between “lack of inquiry” and “inadequate inquiry”. Once the AO has made the inquiry and reached to the satisfaction about the genuineness and creditworthiness of the creditors, it cannot be said that no inquiry was made by the AO. The Hon’ble Delhi High Court in the case of **CIT vs Sunbeam Auto Ltd.** reported in **332 ITR 16 (Delhi)** held as under:-

6. *“We do not think that any substantial question of law on this aspect/issue arises from the decision of the Tribunal. It has been factually found and that too concurrently by the CIT (Appeals) and the Tribunal that the purchase of dies and moulds did not bring into existence any permanent or enduring advantage to the assessee. It has been found that due to continuous use they wear out fast and further any minor defect in the mould on account of continuous use such as chipping or cracking would render them useless. In any case the longevity of the moulds and dies is not substantial as held by the Tribunal and they have to be replaced frequently to ensure quality of the product. Moreover, the moulds have to be produced to suit the requirements of the particular customer and after the order is met, they become useless and ultimately have to be destroyed to prevent misuse or manufacture of*

fakes. It has also been found by the appellate authorities that the expenditure on replacement of dies and moulds was earlier allowed by the income tax authorities as revenue expenditure. These are factual findings recorded by the Tribunal which are not disputed before us by the revenue on the basis of any evidence or material. It is well settled that any expenditure on replacement or repairs to plant and machinery which does not bring into existence any enduring or permanent advantage in the capital field is allowable as revenue expenditure. The Tribunal has only applied this settled legal position to the undisputed facts found. Therefore no substantial question of law arises for our consideration. The appeals on this point are accordingly dismissed.”

9. Recently, the Co-ordinate Bench of ITAT, Delhi in the case of ***Mukul Rohatgi vs PCIT in ITA No.2427/Del/2025*** vide order dt. **16.02.2026**, has held that once the AO has made the inquiries and investigations, in revision order ld. PCIT must bring the material on record to point out what was the error based on which the revisionary powers are exercised by Ld. PCIT. The relevant observations as contained in para 43 of the order are reproduced as under:-

43. *“On each of the issues discussed above i.e., investment made by the assessee in various funds whether these are equity-oriented funds or not and liable to capital gain tax under the head 'long term capital gain' to be taxed under Section 112A of the Act or normal provisions under the head 'short term capital gain', secondly, the nil ALV or lower ALV as discussed in regard to above stated properties, in the above part of this order vide Paragraph No. 07 to 40, and non-initiation of penalty proceedings under Section 271C of the Act, whether these attract the revision provisions under Section 263 of the Act or not. We note that the learned PCIT was of the view that the investment made by the assessee in funds was not equity-oriented funds and once these are not equity-oriented funds, these are not to be taxed under the special rate of taxation under Section 112A of the Act. We note that the assessee could explain before us that the funds are equity-oriented funds and we have given a clear finding in paragraph 6 of this order. We also find that the PCIT has not given a finding or has not observed that how these funds are not equity-oriented funds and without that, the PCIT cannot invoke the revisionary power. We are of the view that consideration of the PCIT as to whether*

an order is erroneous insofar as it is prejudicial to the interest of the Revenue must be based on materials on record of the proceedings called for by him. If there is no such material on record on the basis of which it can be said that the PCIT acting in a reasonable manner could have come to such a conclusion, the very initiation of proceedings by him will be illegal and without justification. In similar circumstances, Hon'ble Bombay High Court in the case of CIT Vs. Gabriel India Ltd. (199) 203 ITR 108 (Bom) held the similar views. We are of the view, though, it is not expected of the PCIT to record his final conclusion in the order passed in revision proceedings under Section 263 of the Act, but, he must, at least indicate in his order how the order of the Assessing Officer is erroneous and prejudicial to the interest of the Revenue. The revisional power under Section 263 of the Act is not meant to be exercised to correct every error of fact, but the error must be of such a nature that it is erroneous and prejudicial to the interest of the Revenue. The PCIT, in revisional proceedings under Section 263 of the Act, has no jurisdiction to set aside the order of assessment merely to conduct another Investigation without finding the basis or without any material that the order is erroneous one and also prejudicial to the interest of the Revenue. We noted from the findings of the PCIT, in the present case before us, on various issues that the PCIT has not recorded reason for his conclusion, which is necessary for any quasi-judicial order required to be made by a quasi-judicial authority. The necessary consequence of revision order is that while passing the order revising an order passed by a subordinate authority, the PCIT must record reasons in support of his conclusion that the order is revised being erroneous and that it would be prejudicial to the interest of the Revenue due to such errors. In case the PCIT does not indicate the reasons for invoking the provisions of Section 263, his order cannot be held to be valid. In the present case, the entire material in regard to all the funds and the properties where ALV was questioned by the PCIT, the assessee has produced relevant material and offered explanations in pursuance to the notices issued under Section 142(1) and 143(2) of the Act and, after considering the materials and explanations, the Assessing Officer passed the assessment order and came to a conclusion and accepted the explanation. The mere fact that a different view can be taken, should not be the basis for an action or invocation of Section 263 of the Act. Such action, if taken, cannot be held to be justified because the material was there in the assessment record and the said material was considered by the Assessing Officer and a particular view was taken. This view of ours is supported by the decision of Hon'ble Supreme Court in the case

*of The Malabar Industrial Co.Ltd. Vs. CIT (2000) 243 ITR 83
(Supreme Court).”*

10. In the light of the above discussion and overall facts and circumstances of the case, we find that AO has made proper and adequate inquiries and verification in order to examine the genuineness of loan transactions and creditworthiness of the lenders and Ld. PCIT has failed to point out any error/omission in the details filed by the assessee which were also filed before AO. Thus, the order of Ld. PCIT holding that the assessment order as erroneous and prejudicial to the interest of the Revenue, is not sustainable and the same is hereby, quashed. Ground of appeal No.7 raised by the assessee is accordingly, allowed.

11. As we have already allowed Ground of appeal No.7 of the assessee, the other Grounds of appeal became academic in nature thus, not adjudicated.

12. In the result appeal of the assessee is allowed.

Order pronounced in the open Court on 12.03.2026.

Sd/-

**(MAHAVIR SINGH)
VICE PRESIDENT**

Date- 12.03.2026

Amit Kumar, Sr.P.S

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

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Sr.P.S/ASSISTANT REGISTRAR
ITAT, NEW DELHI
(Dehradun Circuit Bench, Dehradun)