

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT "DB" BENCH, SURAT**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
AND MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No.851/SRT/2025  
(Assessment Year : 2017-18)

M/s. Dayaram Brijbhukhandas Ward No.4, Mota Bazar, Tawer Road, Navsari, Gujarat-396445 PAN : <b>AACFD0707D</b>	Vs.	Income Tax Department, Officer of The Principal Commissioner of Income Tax, Valsad, Valsad- 396001
<b>(Appellant)</b>	..	<b>(Respondent)</b>

&

I.T.A. No.852/SRT/2025  
(Assessment Year : 2017-18)

Ranjitbhai Ambubhai Patel 1, Near Ganga Mata Temple, Soniwad, Bilimora, Gujarat- 396321 PAN : <b>AJDPP1770C</b>	Vs.	Income Tax Department, Officer of The Principal Commissioner of Income Tax, Valsad, Valsad- 396001
<b>(Appellant)</b>	..	<b>(Respondent)</b>

&

I.T.A. Nos.853/SRT/2025  
(Assessment Year : 2017-18)

Ranjanben Ajitendra Parikh Hanuman Street, Opp. Hanuman Temple, Bilimora, Tal. Gandevi, Dist.: Navsari, Gujarat-396445 PAN : <b>ABJPP2886P</b>	Vs.	Income Tax Department, Officer of The Principal Commissioner of Income Tax, Valsad, Valsad- 396001
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Sujesh C. Suratwala, A.R.
<b>Respondent by:</b>	Shri Mukesh Jain, CIT. D.R.
<b>Date of Hearing</b>	20.01.2026
<b>Date of Pronouncement</b>	06.04.2026

## **ORDER**

### **PER SUCHITRA KAMBLE, JUDICIAL MEMBER:-**

These three appeals filed by three different assesseees against the separate orders all dated 22-07-2025 passed under Section 263 of Income Tax Act, 1961 (in short 'the Act') by the Principal Commissioner of Income Tax, Valsad (in short 'the Pr.CIT') for assessment year 2017-18.

2. The grounds of appeal raised by all three assesseees are as under:

#### **Grounds of appeal in ITA No.851/SRT/2025 in case of Dayaram Brijbhukhandas**

- "1. On the facts and in the circumstances of the case as well as law on the subject, the learned PCIT, Valsad has erred in invoking provisions of Section 263 of the Act without satisfying the twin conditions of the order being both "Erroneous" and "Prejudicial to the interest of Revenue". The impugned order is bad in law, void ab initio, and liable to be quashed.*
- 2. The Learned PCIT, Valsad has erred in assuming jurisdiction under section 263 even though assessment order was passed after making detailed inquiries and examination by AO. In the present case, AO issued a detailed questionnaire on the issue of cash deposit made by the appellant firm during the year under consideration and proper submission was made by assessee including providing books of accounts, stock records, cash book, bank statements, sales data and VAT returns during*

*assessment proceedings. And the assessment order was passed after having examined the replies of the assessee with due application of mind so it is not a case of lack of enquiry and the assessment order cannot be treated as "erroneous".*

3. *On the facts and in the circumstances of the case as well as law on the subject, the learned PCIT, Valsad has erred in assuming that in the absence of detailed discussion, there was a lack of inquiry. There is no legal requirement for AO to mention each and every detail of the case in the body of Assessment Order. Once the record establishes that due inquiry was made, the revisionary powers u/s 263 of the Act cannot be exercised.*
4. *On the facts and in the circumstances of the case as well as law on the subject, in any event, in response to the notice under section 263, the appellant had made detailed submissions on the issue that had been taken up in the notice under section 263 and for the reason that the learned PCIT, Valsad has failed to carry out his statutory obligation to deal with and decide such issue, the order under section 263 stands wholly vitiated and the same deserves to be quashed.*
5. *The learned PCIT, Valsad has erred in stating that there was no proper inquiry on the issue of cash deposits during demonetization, despite the fact that the AO had called for, and was provided with, full details including names, addresses, PAN (where applicable), and justification in accordance with Rule 114B of the Income Tax Rules. The learned PCIT failed to appreciate that the assessee had no legal obligation to collect PAN or KYC for transactions below 2 lakhs as per Rule 114B, and therefore the non-availability of PAN for retail cash sales below the threshold cannot be construed as lack of enquiry or non-application of mind.*
6. *The learned PCIT, Valsad has erred in stating that AO did not verify the opening stock and purchases, despite the fact that the AO had specifically raised queries on these issues and the assessee had submitted audited financials, stock register, monthly stock statements, purchase details, and ledger accounts, which were on record and verified.*
7. *The learned PCIT, Valsad exceeded the scope of section 263 by introducing vague and generalized grounds like "Several Instances" and subsequently narrowing down the revision to only certain issues, thereby making the earlier "specific 8 issues" in the show cause notice redundant and infructuous.*

8. *On the facts and in the circumstances of the case as well as law on the subject, the Learned PCIT, Valsad has erred in invoking the provisions of section 263 of the Act by overlooking the fact that a mere difference of opinion between the AO and the Learned PCIT does not empower him to invoke section 263 of the Act. In the present case, the AO, citing the abnormality in cash sales and deposits during the demonetization period, estimated an additional profit at the rate of 10% on ₹1,32,15,000/-, amounting to ₹13,21,500/-, as income earned over and above the book profits. Accordingly, an addition of ₹13,21,500/- was made to the total income of the assessee on an estimated basis. Whereas the learned PCIT, Valsad is of the view that three types of outcome is possible in inquiry on cash deposits: Fully Explained, Partly Explained and Fully unexplained. And that any unexplained sales is required to be assessed under section 68 of the Act and taxed at higher rate under 115BBE of the Act, which resulted into loss of revenue. But the learned PCIT, Valsad has overlooked the fact that if the AO adopts one of the possible legal views after inquiry, the order cannot be termed as "Erroneous".*
9. *The Learned PCIT, Valsad has erred in placing reliance on non-compliance of CBDT Instructions No. 03/2017 and 04/2017 relating to demonetization scrutiny cases. As these instructions and SOPs are discretionary and internal in nature and do not override the discretion and statutory authority of the AO u/s 143(3) of the Act, it is misplaced and unsustainable in law.)*
10. *On the facts and in the circumstances of the case, the learned Assessing Officer erred in holding that the assessment proceedings were not conducted in accordance with CBDT Instructions No. 03/2017 and 04/2017 and the Standard Operating Procedures (SOPs) for cash deposit verification, despite the fact that the information sought in the questionnaire issued during assessment proceedings was in line with the specific directions contained in the said Instructions and SOPs, and the assessee had duly furnished the required information in accordance with Para 2.1, 2.2, 4, and 5.6 of the Annexure to CBDT Instruction No. 03/2017. The AO's reliance on CBDT Instructions to contend procedural irregularity is misplaced, as the actions taken and queries raised were entirely in consonance with the framework laid down by the CBDT for handling cases relating to cash deposits post-demonetisation. Therefore, the impugned observations/findings are bad in law and liable to be quashed.*

11. *The Learned PCIT, Valsad has erred in substituting his own opinion with that of the AO which is not permissible under the provisions of section 263 of the Act. Revisionary procedures under section 263 is not a tool to re-do or re-examine the assessment merely because the PCIT has a different view or opinion.*
12. *The learned PCIT, valsad has failed to consider recent judicial pronouncements of the Hon'ble Income Tax Appellate Tribunal (ITAT), Surat (Jurisdictional) on identical or similar issues, which clearly support the stand taken by the assessee and upheld by the AO. The revisionary order passed under section 263 is therefore bad in law as it disregards the settled judicial position and the principle that if two views are possible and the AO adopts one of them, the same cannot be termed as erroneous merely because the PCIT prefers another view.*
13. *The learned PCIT, valsad has erred in placing reliance on the decision of the Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. v. CIT [243 ITR 83 (SC)] without appreciating that the facts and issues involved in the present case, pertaining to a jeweller, are neither identical nor comparable to those in the cited decision, which related to a different industry and a distinct set of facts.*
14. *In light of various judicial precedents and facts of the case, the revisionary order u/s 263 of the Act is bad in law and liable to be quashed.*
15. *The above grounds of appeal are without prejudice to and are independent of each other.*
16. *The Appellant craved leave to add, alter, delete, amend or rescind any of the above grounds of appeal as and when necessary with the permission of Honorable ITAT, Surat.”*

Grounds of appeal in ITA No.852/SRT/2025 in case of  
Ranjitbhai Ambubhai Patel

- “1. *On the facts and in the circumstances of the case as well as law on the subject, the learned PCIT, Valsad has erred in invoking provisions of Section 263 of the Act without satisfying the twin conditions of the order being both "Erroneous" and "Prejudicial to the interest of Revenue". The impugned order is bad in law, void ab initio, and liable to be quashed.*

2. *The Learned PCIT, Valsad has erred in assuming jurisdiction under section 263 even though assessment order was passed after making detailed inquiries and examination by AO. In the present case, AO issued a detailed questionnaire on the issue of cash deposit made by the appellant firm during the year under consideration and proper submission was made by assessee including providing books of accounts, stock records, cash book, bank statements, sales data and VAT returns during assessment proceedings. And the assessment order was passed after having examined the replies of the assessee with due application of mind so it is not a case of lack of enquiry and the assessment order cannot be treated as "erroneous".*
3. *On the facts and in the circumstances of the case as well as law on the subject, the learned PCIT, Valsad has erred in assuming that in the absence of detailed discussion, there was a lack of inquiry. There is no legal requirement for AO to mention each and every detail of the case in the body of Assessment Order. Once the record establishes that due inquiry was made, the revisionary powers u/s 263 of the Act cannot be exercised.*
4. *On the facts and in the circumstances of the case as well as law on the subject, in any event, in response to the notice under section 263, the appellant had made detailed submissions on the issue that had been taken up in the notice under section 263 and for the reason that the learned PCIT has failed to carry out his statutory obligation to deal with and decide such issue, the order under section 263 stands wholly vitiated and the same deserves to be quashed.*
5. *The learned PCIT failed to appreciate that the assessee had no legal obligation to collect PAN or KYC for transactions below 2 lakhs as per Rule 114B of the Income Tax Rules, and therefore the non-availability of PAN for retail cash sales below the threshold cannot be construed as lack of enquiry or non-application of mind.*
6. *The learned PCIT has erred in stating that AO did not verify the opening stock and purchases, despite the fact that the AO had specifically raised queries on these issues and the assessee had submitted audited financials, stock register, monthly stock statements, purchase details, and ledger accounts, which were on record and verified.*
7. *The learned PCIT exceeded the scope of section 263 by introducing vague and generalized grounds like "Several*

*Instances" and subsequently narrowing down the revision to only certain issues, thereby making the earlier "specific 8 issues" in the show cause notice redundant and infructuous.*

8. *On the facts and in the circumstances of the case as well as law on the subject, the Learned PCIT, Valsad has erred in invoking the provisions of section 263 of the Act by overlooking the fact that a mere difference of opinion between the AO and the Learned PCIT does not empower him to invoke section 263 of the Act. In the present case, the AO, citing the abnormality in cash sales and deposits during the demonetization period, out of total cash deposit of Rs. 1,05,50,000/- made during the demonetization period, cash deposit of Rs. 59,72,471/- was treated as sales in regular course of business and remaining amount of Rs. 45,77,529/- was treated as inflated sales not in line with regular course of business of the assessee on which average rate of GP @ 9.25% was proposed and added of Rs. 4,23,421/- (45,77,529 @ 9.25%) to the total income of the assessee. Whereas the learned PCIT, Valsad is of the view that three types of outcome is possible in inquiry on cash deposits: Fully Explained, Partly Explained and Fully unexplained. And that any unexplained sales is required to be assessed under section 68 of the Act and taxed at higher rate under 115BBE of the Act, which resulted into loss of revenue. But the learned PCIT, Valsad has overlooked the fact that if the AO adopts one of the possible legal views after inquiry, the order cannot be termed as "Erroneous",*
9. *The Learned PCIT, Valsad has erred in placing reliance on non-compliance of CBDT Instructions No. 03/2017 and 04/2017 relating to demonetization scrutiny cases. As these instructions and SOPs are discretionary and internal in nature and do not override the discretion and statutory authority of the AO u/s 143(3) of the Act, it is misplaced and unsustainable in law.*
10. *On the facts and in the circumstances of the case, the learned Assessing Officer erred in holding that the assessment proceedings were not conducted in accordance with CBDT Instructions No. 03/2017 and 04/2017 and the Standard Operating Procedures (SOPs) for cash deposit verification, despite the fact that the information sought in the questionnaire issued during assessment proceedings was in line with the specific directions contained in the said Instructions and SOPs, and the assessee had duly furnished the required information. The learned AO's reliance on CBDT Instructions to contend procedural irregularity is misplaced, as the actions taken and queries raised were entirely in consonance with the framework*

*laid down by the CBDT for handling cases relating to cash deposits post-demonetisation. Therefore, the impugned observations/findings are bad in law and liable to be quashed.*

11. *The Learned PCIT, Valsad has erred in substituting his own opinion with that of the AO which is not permissible under the provisions of section 263 of the Act. Revisionary procedures under section 263 is not a tool to re-do or re-examine the assessment merely because the PCIT has a different view or opinion.*
12. *The learned PCIT has failed to consider recent judicial pronouncements of the Hon'ble Income Tax Appellate Tribunal (ITAT), Surat (Jurisdictional) on identical or similar issues, which clearly support the stand taken by the assessee and upheld by the AO. The revisionary order passed under section 263 is therefore bad in law as it disregards the settled judicial position and the principle that if two views are possible and the AO adopts one of them, the same cannot be termed as erroneous merely because the PCIT prefers another view.*
13. *The learned PCIT has erred in placing reliance on the decision of the Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. v. CIT [243 ITR 83 (SC)] without appreciating that the facts and issues involved in the present case, pertaining to a jeweller, are neither identical nor comparable to those in the cited decision, which related to a different industry and a distinct set of facts.*
14. *In light of various judicial precedents and facts of the case, the revisionary order u/s 263 of the Act is bad in law and liable to be quashed.*
15. *The above grounds of appeal are without prejudice to and are independent of each other.*
16. *The Appellant craved leave to add, alter, delete, amend or rescind any of the above grounds of appeal as and when necessary with the permission of Honorable ITAT, Surat.”*

Grounds of appeal in ITA No.853/SRT/2025 in case of Ranjanben Ajitendra Parikh

- “1. *On the facts and in the circumstances of the case as well as law on the subject, the learned PCIT, Valsad has erred in invoking*

*provisions of Section 263 of the Act without satisfying the twin conditions of the order being both "Erroneous" and "Prejudicial to the interest of Revenue". The impugned order is bad in law, void ab initio, and liable to be quashed.*

2. *The Learned PCIT, Valsad has erred in assuming jurisdiction under section 263 even though assessment order was passed after making detailed inquiries and examination by AO. In the present case, AO issued a detailed questionnaire on the issue of cash deposit made by the appellant firm during the year under consideration and proper submission was made by assessee including providing books of accounts, stock records, cash book, bank statements, sales data and VAT returns during assessment proceedings. And the assessment order was passed after having examined the replies of the assessee with due application of mind so it is not a case of lack of enquiry and the assessment order cannot be treated as "erroneous".*
3. *On the facts and in the circumstances of the case as well as law on the subject, the learned PCIT, Valsad has erred in assuming that in the absence of detailed discussion, there was a lack of inquiry. There is no legal requirement for AO to mention each and every detail of the case in the body of Assessment Order. Once the record establishes that due inquiry was made, the revisionary powers u/s 263 of the Act cannot be exercised.*
4. *On the facts and in the circumstances of the case as well as law on the subject, in any event, in response to the notice under section 263, the appellant had made detailed submissions on the issue that had been taken up in the notice under section 263 and for the reason that the learned PCIT has failed to carry out his statutory obligation to deal with and decide such issue, the order under section 263 stands wholly vitiated and the same deserves to be quashed.*
5. *The learned PCIT has erred in stating that there was no proper inquiry on the issue of cash deposits during demonetization, despite the fact that the AO had called for, and was provided with, full details including names, addresses, PAN (where applicable), and justification in accordance with Rule 114B of the Income Tax Rules. The learned PCIT failed to appreciate that the assessee had no legal obligation to collect PAN or KYC for transactions below Rs.2 lakhs as per Rule 114B, and therefore the non-availability of PAN for retail cash sales below the threshold cannot be construed as lack of enquiry or non-application of mind.*

6. *The learned PCIT has erred in stating that AO did not verify the opening stock and purchases, despite the fact that the AO had specifically raised queries on these issues and the assessee had submitted audited financials, stock register, monthly stock statements, purchase details, and ledger accounts, which were on record and verified.*
7. *The learned PCIT exceeded the scope of section 263 by introducing vague and generalized grounds like "Several Instances" and subsequently narrowing down the revision to only certain issues, thereby making the earlier "specific 8 issues" in the show cause notice redundant and infructuous.*
8. *The learned PCIT has failed to appreciate that the income of 225,00,000/- had already been voluntarily disclosed under the Pradhan Mantri Garib Kalyan Yojana, 2016 (PMGKY), and appropriate taxes and deposits had been made in full compliance with the scheme. And has erred in treating the cash deposit made during the demonetization period as an "eye-catching event" requiring revision, despite the fact that the source of such deposit had already been declared and immunized under a statutory compliance window provided by the Government.*
9. *On the facts and in the circumstances of the case as well as law on the subject, the Learned PCIT, Valsad has erred in invoking the provisions of section 263 of the Act by overlooking the fact that a mere difference of opinion between the AO and the Learned PCIT does not empower him to invoke section 263 of the Act. In the present case, the AO, citing the abnormality in cash sales and deposits during the demonetization period, estimated an additional profit at the rate of 10% on ₹4,53,08,617/-, amounting to 45,30,862/-, as income earned over and above the book profits. And assessee has disclosed Rs. 25,00,000/- in PMGKY as additional business income. Therefore, the additional business income is reduced from the additional gross profit computed as above Rs.45,30,862 /-. Accordingly, gross profit addition of ₹20,30,862 / was made to the total income of the assessee on an estimated basis. Whereas the learned PCIT, Valsad is of the view that three types of outcome is possible in inquiry on cash deposits: Fully Explained, Partly Explained and Fully unexplained. And that any unexplained sales is required to be assessed under section 68 of the Act and taxed at higher rate under 115BBE of the Act, which resulted into loss of revenue. But the learned PCIT, Valsad has overlooked the fact that if the AO adopts one of the possible legal views after inquiry, the order cannot be termed as "Erroneous"*

10. *The Learned PCIT, Valsad has erred in placing reliance on non-compliance of CBDT Instructions No. 03/2017 and 04/2017 relating to demonetization scrutiny cases. As these instructions and SOPs are discretionary and internal in nature and do not override the discretion and statutory authority of the AO u/s 143(3) of the Act, it is misplaced and unsustainable in law.*
11. *On the facts and in the circumstances of the case, the learned Assessing Officer erred in holding that the assessment proceedings were not conducted in accordance with CBDT Instructions No. 03/2017 and 04/2017 and the Standard Operating Procedures (SOPs) for cash deposit verification, despite the fact that the information sought in the questionnaire issued during assessment proceedings was in line with the specific directions contained in the said Instructions and SOPs, and the assessee had duly furnished the required information in accordance with Para 2.1, 2.2, 4, and 5.6 of the Annexure to CBDT Instruction No. 03/2017. The learned AO's reliance on CBDT Instructions to contend procedural irregularity is misplaced, as the actions taken and queries raised were entirely in consonance with the framework laid down by the CBDT for handling cases relating to cash deposits post-demonetisation. Therefore, the impugned observations/findings are bad in law and liable to be quashed.*
12. *The Learned PCIT, Valsad has erred in substituting his own opinion with that of the AO which is not permissible under the provisions of section 263 of the Act. Revisionary procedures under section 263 is not a tool to re-do or re-examine the assessment merely because the PCIT has a different view or opinion.*
13. *The learned PCIT has failed to consider recent judicial pronouncements of the Hon'ble Income Tax Appellate Tribunal (ITAT), Surat (Jurisdictional) on identical or similar issues, which clearly support the stand taken by the assessee and upheld by the AO. The revisionary order passed under section 263 is therefore bad in law as it disregards the settled judicial position and the principle that if two views are possible and the AO adopts one of them, the same cannot be termed as erroneous merely because the PCIT prefers another view.*
14. *The learned PCIT has erred in placing reliance on the decision of the Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. v. CIT [243 ITR 83 (SC)] without appreciating that the facts and issues involved in the present case, pertaining to a jeweller,*

*are neither identical nor comparable to those in the cited decision, which related to a different industry and a distinct set of facts.*

15. *In light of various judicial precedents and facts of the case, the revisionary order u/s 263 of the Act is bad in law and liable to be quashed,*
16. *The above grounds of appeal are without prejudice to and are independent of each other.*
17. *The Appellant craved leave to add, alter, delete, amend or rescind any of the above grounds of appeal as and when necessary with the permission of Honorable ITAT, Surat.”*

3. We take up first ITA No.851/SRT/2025. The assessee was engaged in the business of manufacturing and trading of gold & silver ornaments and gold bullion. The AO observed that there was no discrepancy with regard to the business of the assessee. However, the claim of assessee regarding cash sales was not found to be verifiable. The books of accounts of the assessee were rejected by the AO u/s.145 of the Act. The AO further observed that the inflated cash sales for the period 01.04.2016 to 08.11.2016 of Rs.1,32,15,000/- was not verifiable and hence, treated the same as inflated turnover of the assessee. The assessee filed return of income for A.Y. 2017-18 on 30.10.2017, thereby, declaring total income at Rs.20,42,090/-. On the estimate basis, the AO observed that such excess profit @ 10% of Rs.1,32,15,000/- i.e. Rs.13,21,500/- was treated as extra profit earned by the assessee on such abnormal sale and an addition of Rs.13,21,500/- was made to the total income. Scrutiny assessment in this case was finalized u/s.143(3) of the Act on 31.12.2019 by making addition of Rs.13,21,500/- to the

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returned income, thereby total income was assessed at Rs.33,63,520/-. The Pr.CIT noticed that the assessment order u/s.143(3) of the Act dated 31.12.2019 was completed without carrying proper verification and examination on various issues, more particularly, that on verification of cash sales/purchases as per the instructions mentioned in the CBDT Instruction No.3/2017 and 04/2017 dated 03.03.2017 and 04/2017 dated 03.03.2017. The cash deposits of Specified Bank Notes (SBN) made by the assessee remained unexplained which should have been brought to tax u/s.68 of the Act by applying tax rate u/s.115BBE of the Act. Accordingly, Pr.CIT invoked provision of Section 263 of the Act and issued show cause notice to the assessee on 19.03.2022. The assessee filed his objection dated 25.03.2022 and also filed Special Civil Application before the Hon'ble Gujarat High Court against the same show cause notice. The Hon'ble Gujarat High Court has given direction and disposed the petition/application of the assessee vide order dated 01.12.2017. In pursuance to the direction of the Hon'ble High Court, the Pr.CIT issued letter dated 24.06.2025 granting fresh opportunity of being heard to the assessee to submit objections, if any, against the show cause notice issued on 19.03.2022 for which the assessee filed objection 30.06.2025, which was an addition to the earlier objection. After taking cognizance of the same, the Pr.CIT held that in the present case, the AO failed to carry out relevant enquiry as per the Instruction issued by the CBDT and the single addition of estimated extra profit has been made is sufficient to establish the enquiry has

not been made in the present case. The AO concluded that in absence of identification of customers, the veracity and truthfulness of accounts cannot be verified to be complete, genuine and true books of accounts. Hence, books of accounts were rejected. The assessee's claim of Rs.1,32,15,000/- as cash sales was unverifiable treating it as inflated turnover @10% of this amount was estimated as extra profit. The Pr.CIT held that the AO failed to get the details of cash sales i.e. names and address of the purchasers, PAN etc. and only accepted the contention of the assessee. Besides this, the AO has also not verified opening stock and purchases which was critical to ascertain inflow and outflow of stocks as well as availability of cash. This non-verification and choosing the convenient way of rejecting books of account without application of mind defeated the purpose of 'Clean Money Operation' started by the Government. Thus, the Pr.CIT held that the assessment order passed by the AO on 31.12.2019 u/s.143(3) of the Act in the case of the assessee for the A.Y. 2017-18 is erroneous in so far as it is prejudicial to the interest of the Revenue. The Pr.CIT directed the AO to pass fresh assessment order after making detailed enquiry of cash deposits as per the provisions of Income Tax Act.

4. Being aggrieved by the order passed u/s.263 of the Act, the assessee filed the present appeal before the Tribunal.

5. The Ld. AR submitted that the learned PCIT has erred in invoking provisions of Section 263 of the Act without satisfying the twin conditions of the order being both "Erroneous" and "Prejudicial to the interest of Revenue". The impugned order is bad in law, void ab initio, and liable to be quashed. The Ld. AR submitted that the PCIT has erred in assuming jurisdiction under section 263 even though assessment order was passed after making detailed inquiries and examination by AO. In the present case, AO issued a detailed questionnaire on the issue of cash deposit made by the appellant firm during the year under consideration and proper submission was made by assessee including providing books of accounts, stock records, cash book, bank statements, sales data and VAT returns during assessment proceedings. And the assessment order was passed after having examined the replies of the assessee with due application of mind so it is not a case of lack of enquiry and the assessment order cannot be treated as "erroneous". The Ld. AR submitted that the PCIT has erred in assuming that in the absence of detailed discussion, there was a lack of inquiry. There is no legal requirement for AO to mention each and every detail of the case in the body of Assessment Order. Once the record establishes that due inquiry was made, the revisionary powers u/s 263 of the Act cannot be exercised. The Ld. AR further submitted that in response to the notice under section 263, the appellant had made detailed submissions on the issue that had been taken up in the notice under section 263 and for the reason that the Pr.CIT has failed to carry out his statutory obligation to deal

with and decide such issue, the order under section 263 stands wholly vitiated and the same deserves to be quashed. Ld. AR submitted that the PCIT has erred in stating that there was no proper inquiry on the issue of cash deposits during demonetization, despite the fact that the AO had called for, and was provided with, full details including names, addresses, PAN (where applicable), and justification in accordance with Rule 114B of the Income Tax Rules. The PCIT failed to appreciate that the assessee had no legal obligation to collect PAN or KYC for transactions below 2 lakhs as per Rule 114B, and therefore the non-availability of PAN for retail cash sales below the threshold cannot be construed as lack of enquiry or non-application of mind. The PCIT has erred in stating that AO did not verify the opening stock and purchases, despite the fact that the AO had specifically raised queries on these issues and the assessee had submitted audited financials, stock register, monthly stock statements, purchase details, and ledger accounts, which were on record and verified. The PCIT exceeded the scope of section 263 by introducing vague and generalized grounds like "Several Instances" and subsequently narrowing down the revision to only certain issues, thereby making the earlier "specific 8 issues" in the show cause notice redundant and infructuous. Ld. AR submitted that the PCIT has erred in invoking the provisions of section 263 of the Act by overlooking the fact that a mere difference of opinion between the AO and the PCIT does not empower him to invoke section 263 of the Act. In the present case, the AO, citing the abnormality in cash sales and deposits

during the demonetization period, estimated an additional profit at the rate of 10% on ₹1,32,15,000/-, amounting to ₹13,21,500/-, as income earned over and above the book profits. Accordingly, an addition of ₹13,21,500/- was made to the total income of the assessee on an estimated basis. Whereas the PCIT is of the view that three types of outcome is possible in inquiry on cash deposits: Fully Explained, Partly Explained and Fully unexplained. And that any unexplained sales is required to be assessed under section 68 of the Act and taxed at higher rate under 115BBE of the Act, which resulted into loss of revenue. But the PCIT has overlooked the fact that if the AO adopts one of the possible legal views after inquiry, the order cannot be termed as "Erroneous". Ld. AR submitted that the PCIT has erred in placing reliance on non-compliance of CBDT Instructions No. 03/2017 and 04/2017 relating to demonetization scrutiny cases. As these instructions and SOPs are discretionary and internal in nature and do not override the discretion and statutory authority of the AO u/s 143(3) of the Act, it is misplaced and unsustainable in law.). The Assessing Officer was incorrect in holding that the assessment proceedings were not conducted in accordance with CBDT Instructions No. 03/2017 and 04/2017 and the Standard Operating Procedures (SOPs) for cash deposit verification, despite the fact that the information sought in the questionnaire issued during assessment proceedings was in line with the specific directions contained in the said Instructions and SOPs, and the assessee had duly furnished the required information in accordance with

Para 2.1, 2.2, 4, and 5.6 of the Annexure to CBDT Instruction No. 03/2017. The AO's reliance on CBDT Instructions to contend procedural irregularity is misplaced, as the actions taken and queries raised were entirely in consonance with the framework laid down by the CBDT for handling cases relating to cash deposits post-demonetisation. Therefore, the impugned observations/findings are bad in law and liable to be quashed. Ld. AR submitted that the PCIT has erred in substituting his own opinion with that of the AO which is not permissible under the provisions of section 263 of the Act. Revisionary procedures under section 263 is not a tool to re-do or re-examine the assessment merely because the PCIT has a different view or opinion. The PCIT has failed to consider recent judicial pronouncements of the Income Tax Appellate Tribunal on identical or similar issues, which clearly support the stand taken by the assessee and upheld by the AO. The revisionary order passed under section 263 is therefore bad in law as it disregards the settled judicial position and the principle that if two views are possible and the AO adopts one of them, the same cannot be termed as erroneous merely because the PCIT prefers another view. The PCIT has erred in placing reliance on the decision of the Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. v. CIT [243 ITR 83 (SC)] without appreciating that the facts and issues involved in the present case, pertaining to a jeweller, are neither identical nor comparable to those in the cited decision, which related to a different industry and a distinct set of facts. The Ld. AR relied upon the decision of

Hon'ble Apex Court in case of CIT vs. Max India Ltd. 295 ITR 282 (SC).

6. Ld. DR relied upon the order of the Pr.CIT passed u/s.263 of the Act.

7. We have heard both the parties and perused the relevant materials available on record. It is pertinent to note that at the time of assessment proceedings, the assessee has replied all the queries related to the cash sales and cash deposits. In fact, the Pr.CIT has specifically reproduced para 5 of the assessment order. The observation of the Pr.CIT that the AO has not verified the opening stock and purchases appears to be not justifiable as all the relevant records was before the AO. Besides this, the AO has also verified the cash details and cash sales / purchases, on which basis, the AO has rejected the books of accounts of the assessee. Once, the AO has made a relevant enquiry in all the plausible manners, the Pr.CIT cannot take a different view which tantamount to second opinion which is not the criteria for invoking of Section 263 of the Act. Thus, the decision of the Hon'ble Supreme Court in the case of CIT v. Max India Ltd. [2007] 295 ITR 282 (SC) comes into picture which categorically states that when two views are inherently possible, then Section 263 of the Act cannot be invoked. Thus, the appeal of the assessee is allowed in respect of ITA No.851/SRT/2025 for A.Y. 2017-18.

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8. As regards ITA No.852/SRT/2025, the similar fact has been taken into account and the case of no enquiry does not come into picture as in the assessee's case also. The query was categorically answered by the assessee at the stage of assessment proceedings. Therefore, invocation of Section 263 of the Act was not justifiable. Thus, ITA No.852/SRT/2025 is also allowed.

9. As regards ITA No.853/SRT/2025, the facts are identical to that of ITA No.852/SRT/2025, hence, the appeal is allowed.

10. In the result, all three appeals are allowed.

**Order is pronounced in the open Court on 06.04.2026**

**Sd/-  
(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Surat; Dated 06/04/2026

SKSinha, Sr.PS

True Copy

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)-
5. विभागीयप्रतिनिधि,आयकरअपीलीयअधिकरण ,/DR,ITAT, Surat,
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायकपंजीकार (Asstt. Registrar)  
आयकरअपीलीय अधिकरण  
ITAT, Surat