

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.900/Ahd/2024  
Assessment Year: 2013-14**

Sunil Poonamchand Saraf, 201, Swayam Complex, 9-B, Shreyas Colony, Stadium Circle, Navrangpura, Ahmedabad – 380 009. <b>[PAN – ALKPS 7125 F]</b> (Appellant)	Vs.	The Principal Commissioner of Income Tax, Ahmedabad. (Respondent)
Assessee by	Shri Mehul K. Patel, Advocate	
Revenue by	Shri V. Nandakumar, CIT-DR	
Date of Hearing	27.01.2025	
Date of Pronouncement	12.02.2025	

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER:**

This appeal is filed by the Assessee against order dated 29.03.2024, passed by the PCIT, Ahmedabad-1 for the Assessment Year 2013-14.

2. The assessee has raised the following grounds of appeal :-

- “1. That on facts, and in law, the Learned PCIT has grievously erred in exercising jurisdiction u/s.263 of the Act.
2. That on facts, and in law, the learned PCIT has grievously erred in revising and re-visiting the same issue for which reasons were recorded for re-opening of assessment, and after due verification, no addition was made in the assessment order passed u/s.147 of the Act.
3. That the learned PCIT has grievously erred in law, and on facts, in setting aside the assessment order passed u/s.147 of the Act, and in directing the AO to make addition of Rs.4,07,97,829/- on account of alleged accommodation entries obtained by appellant.”

3. The assessee filed return of income for the Assessment Year (A.Y.) 2013-14 on 27.07.2013 declaring total income of Rs.1,99,610/-. The Assessment Order under Section 147 read with Section 144B of the Income Tax Act, 1961 was passed on 26.03.2022 thereby accepting return of income. The PCIT observed that the assessee was identified as end beneficiary of accommodation entry amounting to Rs.4,07,97,829/- from the entry operator Dishman Group. The case of the assessee was reopened after specific reasons recorded for reopening. Since the Assessing Officer has not made any addition, the PCIT found that the Assessment Order is erroneous and prejudicial to the interest of the Revenue and, therefore, issued notice under Section 263 of the Act dated 15.03.2024. The assessee filed reply which was taken into account. The PCIT held that since the Assessing Officer has not verified the issue of accommodation entries obtained from Dishman Group especially that of assessee's transaction with Dishman Group for accommodation entries totalling to Rs.4,07,97,829/- as a beneficiary for five Financial Years i.e. F.Ys. 2011-12 to 2015-16. The PCIT, therefore, set aside the order of the Assessing Officer and directed the Assessing Officer to pass a fresh Assessment Order and make addition on account of accommodation entries obtained from entry operator Dishman Group.

4. Being aggrieved by the Order passed under Section 263 of the Act, the assessee filed appeal before us.

5. The Ld. AR submitted that the initiation of proceedings by the PCIT is without jurisdiction as the PCIT has given direction to the Assessing Officer to make the addition which is beyond the scope of Section 263 of the Act. The Ld. AR further submitted that there was several defects in opening reassessment proceedings of the assessee and after going through assessee's submission along with assessee's details, which clearly set out that the assessee did not have transactions with M/s. Sandeep Kumar & Brothers and Vegda Brothers which had final transactions with Dishman Pharmaceuticals & Chemicals Limited. The Ld. AR further submitted that the reopening was in respect of information available on Portal and not that of independent enquiry. In fact, the assessee has given the response to the Assessing Officer thereby objecting the reasons for reopening. The Assessing Officer dropped the reopening proceedings under Section 147 of the Act after taking cognisance of the assessee's objection. Therefore, the Assessing Officer has rightly taken a view and

the PCIT cannot invoke Section 263 of the Act as it is only revisionary power and not expressing second opinion. The Ld. AR relied upon the decision of the Tribunal in the case of Balasinor Vikas Co-op. Credit Society Limited vs. PCIT (ITA No.908/Ahd/2024 order dated 01.10.2024) and Jayantilal Panachand Shah vs. PCIT (ITA No.627/Ahd/2024, order dated 16.12.2024). In alternate, the Ld. AR submitted that the PCIT cannot direct the Assessing Officer to make addition compulsorily while passing the order under Section 263 of the Act and to that extent the order passed under Section 263 of the Act be modified.

6. The Ld. DR submitted that the Assessing Officer has not at all taken an independent view and there was no enquiry at all in respect of the own benefit of the accommodation entry from the entry operator Dishman Group and the assessee's connection for the A.Y. 2013-14. The Ld. DR relied upon the order under Section 263 of the Act passed by the PCIT.

7. We have heard both the parties and perused all the reverent material available on record. After going through the Assessment Order which was passed under Section 147 read with Section 144B of the Act, it clearly set out that reopening was more particularly for the reason set out in reasons for reopening as annexed by the assessee at page nos.7 to 10 of the Paper Book. The reasons for reopening have categorically mentioned in para 5 that the assessee had made transactions (fictitious loan) of Rs.4,07,97,829/- with M/s. Dishman Pharmaceuticals & Chemicals Limited for A.Y. 2013-14 and there was clear evidences found during the course of search and seizure action. This aspect was not at all discussed by the Assessing Officer as well as there is no clarity in the notices whether these aspects were verified and enquired by the Assessing Officer. Thus, merely dropping reopening is not an opinion which is independent opinion. The contention of the Id. DR, therefore, is sustained. The Ld. AR submitted that every information was available on portal and the assessee has given his objections to the reopening on 15.02.2022, but after going through the same the assessee has taken all the technical and legal points along with merits which was not at all considered and commented upon by the Assessing Officer while passing the Assessment Order dated 26.03.2022 under Section 147 of the Act read with Section 144B of the Act. Thus, whether these objections were disposed of or not is also not clear from the Assessment Order. Therefore, the PCIT has rightly invoked Section

263 of the Act, but the observation and assertions of the PCIT directing to make addition of Rs.4,07,97,829/- on account of accommodation entries obtained from the entry operator Dishman Group is not justifiable as under Section 263 of the Act the PCIT has only powers of revision of Assessment Order and has to direct the Assessing Officer to pass a fresh Assessment Order after verifying the evidences and the details and not to compulsorily direct to make addition in the cases where the same is not called for as per the provisions of Income Tax Statute. Thus, this particular observation of the PCIT is quashed and only direction given to the Assessing Officer to pass a fresh Assessment Order sustains and the said fresh Assessment Order should be passed after verifying the details by the Assessing Officer as per Income Tax Act.

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

Order pronounced in the open Court on this 12<sup>th</sup> February, 2025.

*Sd/-*  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 12<sup>th</sup> February, 2025**

**PBN/\***

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*