IN THE INCOME TAXAPPELLATE TRIBUNAL
DELHI BENCH "F", NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No.3794/DEL/2026
(Assessment Year : 2022-23)

Sachin Kumar, C/o B-50, LGF, South Extension II, New Delhi - 110 049.	vs.	ITO, Ward 4 (1), Gurgaon.

(**PAN: AQBPK5373M)**

(APPELLANT) (RESPONDENT)

ASSESSEE BY : Shri Shantanu Jain, Advocate
Ms. Jahanvi Khanna, Advocate
REVENUE BY : Shri K. Hauthang, CIT DR

Date of Hearing : 15.10.2026
Date of Pronouncement : 20.11.2026

O R D E R

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. This appeal is filed by the assessee against the order of ld. Pr.Commissioner of Income-tax, Faridabad["Ld. PCIT", for short] dated 23.03.2026 for the Assessment Year 2022-23.

2. Brief facts of the case are, assessment was completed under section 143(3) r.w.s. section 144B of the Income Tax Act, 1961 (for short 'the Act') vide order dated 23.03.2026 at an assessed income of Rs.82,14,530/-. Upon

perusal of the assessment record, ld. PCIT, Faridabad observed that assessee had filed his return of income for the impugned assessment year on 26.12.2022 declaring total income of Rs.82,14,530/-, comprising income from house property and other sources. The case was selected for scrutiny on the following grounds :

(i) Large deductions/exemptions claimed under section 54, 54B, 54EC, 54F, 54GB, etc. (non-business ITR);

(ii) sales consideration of property declared in the ITR is less than the consideration reported in Form 26QB.

3. Based on the above, a notice was issued under section 143(2) and 142(1) of the Act and in response, assessee has submitted the details as asked for by the AO. As per the record verified by the ld. PCIT, he observed that assessee had sold ancestral agricultural land for a consideration of Rs.25.80 crores and during the year under consideration, purchased agricultural land at nine locations aggregating to Rs.24.05 crores. The assessee claimed a deduction under section 54B amounting to Rs.24.05 crores and additionally submitted that he has spent Rs.41.50 lakhs on house construction claiming a deduction under section 54F.

4. He observed that AO was required to verify the deductions claimed by the

assessee by obtaining the relevant records/documents. He noticed that AO referred the matter to the Physical Verification Unit to ascertain whether land was agricultural, the details of crops grown, and photographic evidence showing its use solely for agricultural purposes. However, the verification unit did not provide the requisite details. However, the AO proceeded to pass the assessment order relying solely on the submissions of the assessee. It was also noted that assessment was completed at the returned income of the assessee and Physical Verification Unit report was not received till completion of the assessment order and the order was passed without conducting independent verification or inquiry. Ld. PCIT observed that the AO did not conduct a proper inquiry regarding the deductions claimed under section 54B and 54F of the Act. Ld. PCIT was of the view that since the AO has not conducted the inquiry and accepted the assessee's version without verification, resulted in a substantial portion of taxable income not being brought to tax. Accordingly, he issued show cause notice under section 263 of the Act, providing an opportunity to the assessee to explain why the assessment order under section 143(3) r.w.s. 144B passed by the NFAC Delhi should not be set aside. In response, assessee filed a detailed submission submitting that various details were

submitted before the AO and contesting the fact that power under section 263 can be exercised if twin conditions are satisfied, namely, order is erroneous as well as it is prejudicial to the interest of the Revenue. By relying on various decisions, assessee contested that the proceedings under section 263 is bad in law and should be dropped. After considering the submissions of the assessee, ld. PCIT rejected the same and came to the conclusion as under :-

> "In the present case, it is evident from the record that the Assessing Officer has allowed the claim of deduction under sections 54B and 54F without carrying out requisite inquiries and verifications. The AO referred the matter to the Physical Verification Unit to ascertain whether the land was agricultural, the details of crops grown, and photographic evidence showing its use solely for agricultural purposes. However, the verification unit did not provide the requisite details, and the AO proceeded to pass the assessment order relying solely on the submissions of the assessee. It is noted that the assessment was completed at the returned income of Rs.82,14,530/-. Further, the report from the Physical Verification Unit was not received, and the order was passed without conducting independent verification or inquiry. From the above, it is evident that the Assessing Officer did not conduct a proper inquiry regarding the deductions/exemptions claimed under sections 54B and 54F of the Income Tax Act, 1961.
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> 17.1 The failure to conduct necessary inquiries and to verify material facts amounts to lack of due application of mind, rendering the assessment order erroneous and prejudicial to the interests of the Revenue.
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> 18. In view of the foregoing facts and the legal position, it is held that the assessment order passed under section 143(3) read with

section 144B, dated 23.03.2024, for Assessment Year 2022-23, is erroneous insofar as it is prejudicial to the interests of the Revenue within the meaning of section 263 of the Act. Accordingly, the said assessment order is set aside to the limited extent as discussed in this order, with a direction to the Assessing Officer to frame the assessment afresh after conducting necessary inquiries and verifications, in accordance with law, and after affording reasonable opportunity of being heard to the assessee.

18. The Assessing Officer may examine the above transaction and ascertain the / below facts before reaching on any conclusion :-

1. Date of acquisition of ancestral property.
2. Details of sale of ancestral property.
3. Copy of Girdawari of previous 2 years from the date of sale of ancestral property may be obtained from concerned authority.
4. Details of agriculture land purchased by the assessee and activity being carried out on the said land.
5. Computation of deduction u/s 54B of the Income Tax, 1961 and its eligibility. 6. Computation of deduction u/s 54F of the Income Tax, 1961 & eligibility.

19. In view of above, the Assessing Officer is directed to pass a fresh assessment order and re-compute the assessee's income after making further enquiries as directed in the foregoing paragraphs and after giving due opportunity to the assessee & perusing the necessary evidence."

5. Aggrieved with the above order, assessee preferred an appeal before us

raising following grounds of appeal :-

1. That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in assuming jurisdiction u/s 263 of Income Tax Act, I961 and has erred in holding the assessment order dated 23,03.2024 as erroneous in so far as it is prejudicial to the interest of revenue and that too by recording incorrect facts and findings and in violation of principles of natural justice.

2. That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in setting aside the order passed by the assessing officer u/s 143(3) r.w.s. 144B of the Act dated 23.03.2024 with the direction to pass a fresh assessment order after making further enquiries and verifications as directed and that too by recording incorrect facts and findings and without observing the principles of natural justice.

3. That having regard to facts & circumstances of the case, Ld. PCIT has erred in law and on facts in holding as under:

(i) That the failure of the Ld. AO to conduct necessary enquiries and to verify the material facts amounts to lack of due application of mind.

(ii) That no enquiry was made by the Ld. AO to examine all the conditions for claiming exemptions u/s 54B and 54Fof the Act by the Assessee.

3.1 In any view of the matter and in any case, order passed under section 263 is bad in law, barred by limitation and against the facts and circumstances of the case as the Ld. AO has made detailed enquiry and d verification during the assessment proceedings regarding the issue involved."

6. At the time of hearing, ld. AR of the assessee brought to our notice page 1 of the assessment order and submitted that case was selected for limited

scrutiny and further brought to our notice page 172 of the paper book which is the notice issued under section 263 of the Act and at para 4 of the notice, ld. PCIT observed that it is seen that assessee is not showing any agricultural income and it is established that assessee is not doing agricultural activities on the said land. Hence, assessee is not eligible for deduction under section 54B of the Act as deduction under section 54B is only allowed in certain cases when land used for agricultural purposes at least for a period of two years immediately preceding the date of transfer. He further brought to our notice, Ld PCIT observed that capital gain exemption under section 54B on sale of agricultural land can only be claimed when capital gain received from sale of agricultural land invested in purchasing of another agricultural land but as per the report received from verification unit, it is not clear that the land purchased is agricultural. Therefore, assessee is not eligible for deduction under section 54B. Further he brought to our notice page 2 of the impugned order passed u/s 263 in which ld. PCIT referenced to the verification unit report to deny the benefit to the assessee but while holding the assessment order erroneous, he himself referred to the fact that report from verification unit was not received and the assessment order was passed without conducting

independent verification or inquiry. He submitted that ld. PCIT has brought on record incorrect facts and findings by indulged in violation of principles of natural justice. Further he submitted that ld. PCIT has given directions to pass a fresh assessment order after making further inquiries and verification as per his direction without actually bringing on record how the assessment order is erroneous as well as how it is prejudicial to the interest of Revenue. He further submitted that assessee has given all the relevant materials/documents before the AO which was duly verified by him. Therefore, the order passed by the AO is not erroneous as well as not prejudicial to the interest of the Revenue. He relied on the decision of Hon'ble Supreme Court in the case of Malabar Industrial Co. Limited vs. CIT (243 ITR 83).

7. On the other hand, ld. DR for the Revenue submitted that AO had not verified the information as he should have. It is fact on record that AO has not received any report from verification unit and has not made independent inquiries before accepting the submissions of the assessee. Therefore, he relied on the detailed findings of the ld. PCIT.

8. Considered the rival submissions and material placed on record. We observed that the assessment order for the impugned assessment year was

completed on the basis of information submitted by the assessee before the AO. During assessment proceedings the AO referred the matter to the verification unit to ascertain whether land was agricultural, the details of crops grown, and photographic evidence showing its use solely for agricultural purposes. However, the verification unit has not submitted any report before completion of the assessment proceedings. Since the assessment was completed without the assistance of verification unit, Ld PCIT was of the view that the AO had accepted the submissions of the assessee without due verification, accordingly, he formed the opinion that the assessment order is erroneous as well as prejudicial to the interest of revenue. After careful consideration of facts on record, what are the impact after introduction of faceless regime to initiate the proceedings u/s 263 of the Act. Is the situation and judicial precedents will remain same from the old regime to faceless regime.

9. On analysis of the provisions of section 144B of the Act, we noticed that it is digital tax assessment mechanism and it completely eliminates the traditional physical interaction between the taxpayers and the AOs, in order to promote transparency and accountability. Accordingly, the system was devised to decentralize the assessment process in the network of

specialized functional units, they are:

a. National Faceless Assessment centre (NaFAC), which acts sole gateway between tax payers and department.
b. Assessment Units (AU), it performs the primary core functions of identifying key issues, seeks details and frames draft assessment orders.
c. Verification Units (VU), it conducts cross-examination, physical/digital verification and record third party inquiries. It assists the assessment units.
d. Technical Units (TU), it offers specialized services like transfer pricing, forensic analysis and assets valuations etc.,
e. Review unit (RU), it re-examines the draft order to verify legal compliance, facts and clerical accuracies before the order is finalized.

10. Because of the above process, the scheme achieved the following benefits like, a) jurisdiction less allocation of cases dynamically via an automated system, it eliminates bias and localized influences b) complete anonymity, it ensures objective, unbiased and merit based evaluation c) end to end electronic interface, it eradicates the necessity of multiple in person meetings d) team based assessment, it minimizes subjective interpretation and individual discretions and e) finally removes arbitrary and manual selection of tax payer accounts.

11. As per the procedure laid down u/s 144B of the Act, the NaFAC is the

central hub for communication between the taxpayers and other assessment units. Once the AU compiles the data/order with the assistance of other units like VU/ TU, the order compiled by AU is sent to RU, it is another matter that as per clause xix of section 144B(1) of the Act, AU can reject or accept the review report but whatever the AU has finalized the same is forwarded to the taxpayers through the NaFAC. When all the above safeguards are placed in order to achieve the intended object of completing the faceless assessment, in our view, merely because a verification unit report was not received on time to complete the assessment, it cannot be held that the assessment itself is erroneous. We also note that there is no check and balance in the act, like what happens when a particular unit failed to comply, the consequence/impact on the assessment proceedings. As per the timelines, the NaFAC had to complete the assessment within such time frame. Therefore, the AU completes the assessment with or without the compliance of other units.

12. In our considered view, the assessment completed without any of the internal unit's report within the faceless assessment, the assessment was completed based on the available record/information. The nonexistence of report of any unit, which amounts to non-availability of relevant record, the

same cannot be the base for treating the whole assessment erroneous. We observed that Ld PCIT came to the above conclusion. In the new faceless regime, the purpose of initiation of proceedings u/s 263 also undergone huge change particularly when the interface with the taxpayers is eliminated, it is only the process of assessment within the tax department. The process of assessment is designed for merit based analysis and transparent basis, that being the case, in our view, the Ld PCIT had to prove how the order passed without the verification unit report is erroneous. We noticed that Ld PCIT himself agreed with the fact that there is no verification report and he must bring on record how erroneous it is. Without establishing the same, he cannot once again take the issue back to the AO to verify on his direction and complete the assessment. This itself clearly demonstrate that the order is not erroneous and in the new regime of faceless, the interface with the taxpayer is eliminated, the whole assessments are carried on by the department itself, in absence of report of internal unit, the assessee cannot be asked to prove how the assessment is not erroneous and, in our view, the taxpayers need not be thrusted upon another fresh proceedings. Therefore, in our considered view, the order passed by the AO is not erroneous. As held in the case of Malabar Industrial Co. Limited (supra), wherein the Hon'ble

Court held that an incorrect assumption of facts or an incorrect application of law may render an order erroneous. Equally, an order passed without application of mind or without following the principles of natural justice may also fall within the ambit of an erroneous order. However, every loss of revenue cannot be treated as prejudicial to the interests of the Revenue. Where the Assessing Officer adopts one of the courses permissible in law or takes a view with which the Commissioner does not agree, the order cannot be revised merely on that account unless the statutory requirements are otherwise fulfilled. Therefore, Ld. PCIT had to prove how the assessment order is erroneous as well as prejudicial to interest of the revenue. In this case, the Ld PCIT had to prove how it is erroneous particularly in the faceless regime. After considering the facts on record, the order passed u/s 263 is bad in law and deserves to be quashed.

13. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on this 20th day of November, 2026

Sd/-	sd/-
(RAJ KUMAR CHAUHAN)	**(S. RIFAUR RAHMAN)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated : 20.11.2026
TS

Copy forwarded to:

1. assessee
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI

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