आयकर अपीलीय अधिकरण
पटना 'डीबी' बेंच कोलकाता मे

IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'DB' BENCH AT KOLKATA

[Virtual Court]

Before

SHRI YOGESH KUMAR US, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER

ITA No(s). 338/PAT/2026
Assessment Year(s) 2022-23

Sharad Keshri Boring Road, Patna, Bihar, 800001	Vs.	**PCIT(Central)** Income Tax Office, Patna, Bihar, 800001
(अपीलार्थी/Appellant)		***(प्रत्यर्थी/Respondent)***
***स्थायी खाता संख्या*/PAN: ABXPK3738R**		

उपस्थिति/Appearance:

अपीलार्थी के ओर से/

Assessee represented by (AR) : M. K. Mashi, CA.

प्रत्यर्थी के ओर से/

Department represented by (DR) : Bharat Bhusan Garg, CIT, DR.

सुनवाई की तिथि/
Date of concluding the hearing : 07.10.2026

आदेश उद्घोषणा की तिथि/
Date of pronouncing the order : 22.10.2026

आदेश/ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Pr. Commissioner of Income Tax (Central), Patna [hereinafter referred to as Ld. 'PCIT'] passed u/s 263 of the Act for AY 2022-23 dated 31.03.2026.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. The impugned order u/s 263 dated 31.03.2026 is bad in law, without jurisdiction and liable to be quashed, having been passed without proper application of mind and on factually incorrect premises.

2. The impugned order u/s 263 initiated with duplicate proceedings: two SCNs for the same assessee, same AY, same issues - procedural invalidity

3. The learned PCIT erred in invoking Section 263 without satisfying the mandatory twin conditions that the assessment order is both erroneous and prejudicial to the interests of the Revenue.

4. The learned PCIT has wrongly invoked Explanation 2(a) to Section 263, as the assessment was completed after due enquiry and application of mind and is not a case of lack of enquiry.

5. The impugned order is based on a mere change of opinion on the adequacy of enquiry conducted by the Assessing Officer, which is impermissible under law.

6. The order passed u/s 263 is non-speaking, arbitrary and passed without considering the submissions and evidences filed by the Appellant.

7.The learned PCIT erred in directing re-examination of property investment in the hands of the Appellant, despite the same belonging to a separate legal entity, rendering the assumption of jurisdiction unsustainable.

8. The finding regarding alleged unaccounted income from repairing activities is without any material basis or quantification, and hence no prejudice to Revenue arises.

9. The learned PCIT has misappreciated the seized documents, treating reconciliation/business entries as unrecorded transactions without any supporting evidence.

10. The Appellant craves leave to add, alter, amend or withdraw any ground at the time of hearing."

3. Brief facts of the case are that the assessee had filed the return of income for AY 2022-23 on 16.11.2022 declaring total income at ₹99,51,030/-. A search and seizure action u/s 132 of the Act was conducted on 19.11.2022. The return filed was selected for scrutiny and the Assessing Officer [Ld. 'AO'] made the assessment order u/s 143(3) of the Act on 31.03.2024 assessing the total income at ₹99,51,030/-. Subsequently, the Ld. PCIT initiated revision proceeding u/s 263 of the

Act as he had noted that the assessment order was passed without proper verification of investment in immovable property, repairing register, and unrecorded cash transactions. After observing that the assessment order was erroneous in so far as it was prejudicial to the interests of the Revenue, the Ld. PCIT set aside the assessment order and directed the Ld. AO to pass a fresh assessment order after detailed enquiries. The findings of the Ld. PCIT are as extracted as under:

> *"9. Conclusion and Order*
>
> *Upon a comprehensive review of the assessment records for AY 2022-23 and the submissions made by the assessee, it is evident that the Assessment Order dated 31.03.2024 was passed in a perfunctory manner. The AO failed to probe the substantive evidence recovered during the search, particularly regarding unexplained investments and unrecorded cash transactions. The failure of the Assessing Officer to verify the source of funds for the immovable property; Conduct third-party enquiries regarding the Repairing Register; and reconcile the seized transactions in SKLLP-02 with the audited books. The assessment order is not only erroneous but also prejudicial to the interests of the Revenue, as it resulted in the non-taxation of potentially undisclosed income.*
>
> *10. Accordingly, in exercise of the powers conferred under Section 263 of the Income Tax Act, 1961, the assessment order passed u/s 143(3) on 31.03.2024 is hereby set aside. The Assessing Officer is directed to:*
>
> - *Pass a fresh assessment order after conducting detailed enquiries on the points mentioned above.*
> - *Carry out third-party verifications and summon relevant parties if necessary.*
> - *Provide the assessee with a fair and reasonable opportunity to be heard.*
>
> *The proceedings u/s 263 are hereby concluded with the above directions."*

4. Aggrieved with the order of the Ld. PCIT, the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined.

6. During the course of the hearing before us, it was submitted by the Ld. AR that there was a search and seizure action under section 132 of the Act on 19.11.2022, in which 3 documents were found and seized as per the panchnama- (i) HPB-06 being loose sheets from the business of Hira Panaa, Boring Road, Patna, containing information about the property deeds, (ii) HPB-14, being a repairing register from M/s Hira Panna (Sharad Keshri), Boring Road Chauraha, Patna, containing 01 to 121 written pages for financial year 2021-22, recording the details of 1348 customers who gave jewellery for repair and (iii) SKLLP-02 being documents seized during the search and containing pages 100 to 107, which are emails/correspondence between business entities. It was submitted that subsequent to the search and seizure action, the return of income was filed and after conducting multistage inquiries, the Ld. AO passed the assessment order under section 143(3) of the Act dated 31/03/2024 after the approval of the Jt. CIT and no addition was made. Subsequently, the case was taken up for the proceeding under section 263 of the Act and the Ld. PCIT issued two show cause notices on the same issue, both dated 06/03/2025. The assessee has filed a paper book before us running into 475 pages, which was claimed to be also filed before the Ld. PCIT, as well as before the Ld. Assessing Officer. Our attention was drawn to page 11 para 8 of the order of the Ld. PCIT and it was submitted that a wrong section was quoted as the assessment order was passed under section 143(3) of the Act and not under section 147 r.w.s. 143(3) of the Act as is mentioned. However, the bench noted that the first page of the impugned order refers to the assessment order u/s 143(3) of the Act and, therefore, the mention of section 147 in para 8 was only a typographical error. In the same para, the Ld. PCIT had referred to the assessee's transactions with Turner Business Venture

Pvt. Ltd. and the Ld. AR contended that this transaction was not related to the assessee. However, we note that the conclusion drawn in para 9 are related to the assessee; hence in view of section 292B of the Act, these objections are not sustainable. It was further submitted that the rebuttal made by the Ld. PCIT are not correct and our attention was drawn to para 7 of the order, which is extracted as under:

> *7. In the light of the discussions in pre-paragraphs, a rebuttal to specific points raised by the Ld. AR is recorded below:-*
>
> *7.1 Investment in Immovable Property: The assessee's claim that the property worth Rs 3.38 crore pertains to M/s Hira Panna Infraprojects LLP and was examined in that firm's assessment is not supported by a categorical finding in the subject assessment order. The Assessing Officer (AO) merely raised a query but failed to perform a "look-through" approach to verify the actual flow of funds, the creditworthiness of the entity, and whether the investment was sourced from undisclosed income of the individual assessee. A mere claim of assessment in another entity's name does not absolve the AO from verifying the nexus of the seized document (HPB-06) with the assessee's own financial profile.*
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> *7.2 Repairing Register: The assessee's reliance on a "lifetime free repair" policy remains a self-serving statement. While advertisements were submitted, the AO failed to verify the genuineness of the 1,348 entries. In a search-and-seizure context, the absence of value or making charges in a seized register is a strong indicator of "off-the-book" transactions. The AO's failure to conduct even a sample third-party verification of these customers or to analyze the cost-benefit of such a policy (labor costs vs. zero revenue) constitutes a gross lack of enquiry.*
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> *7.3 Unrecorded Transactions (SKLLP-02): The assessee contends that these documents relate to M/s Hira Panna Jewellers. However, the seized documents (Pages 100 & 104) totaling Rs 1,10,89,600 for the relevant year were never reconciled with the books of account of any entity during the assessment. The nature of these transactions-whether settled in cash or otherwise-remains opaque. The AO accepted the explanation without examining the entries' character, which is a classic case of non-application of mind.*
>
> *7.4 Legal Precedents: The assessee cited Malabar Industrial Co. Ltd. and Gabriel India Ltd. to argue that "inadequate enquiry" is not "lack of enquiry." However, as per Explanation 2 to Section 263, an order is deemed erroneous and prejudicial if it is passed without making inquiries or verification which should have been made. In this case, the AO acted as a mere passive recipient*

of information rather than an investigator, falling squarely within the ambit of Section 263.

8. The issues raised above clearly indicate that the AO did not do even the most basic and fundamental work that was expected of him. By ignoring these vital aspects of inquiry and collection of facts, the AO has not applied the law correctly. This makes his order u/s 147 r.w.s. 143(3) 'erroneous'. Further, by not conducting the required inquiry, the AO has not only not unveiled the true nature of the assessee's transactions with Turnip Business Venture Pvt. Ltd. but, as a result, by accepting the assessee's explanation has caused grievous injury to the Revenue by losing the lawfully required taxes. This makes his order 'prejudicial to the interest of Revenue'. The scheme of the Act is to levy and collect tax in accordance with the provisions of the Act and this task is entrusted to the Revenue. If due to an erroneous order of the Assessing Officer, the Revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the Revenue.

9. Conclusion and Order

Upon a comprehensive review of the assessment records for AY 2022-23 and the submissions made by the assessee, it is evident that the Assessment Order dated 31.03.2024 was passed in a perfunctory manner. The AO failed to probe the substantive evidence recovered during the search, particularly regarding unexplained investments and unrecorded cash transactions. The failure of the Assessing Officer to verify the source of funds for the immovable property; Conduct third-party enquiries regarding the Repairing Register; and reconcile the seized transactions in SKLLP-02 with the audited books. The assessment order is not only erroneous but also prejudicial to the interests of the Revenue, as it resulted in the non-taxation of potentially undisclosed income.

10. Accordingly, in exercise of the powers conferred under Section 263 of the Income Tax Act, 1961, the assessment order passed u/s 143(3) on 31.03.2024 is hereby set aside. The Assessing Officer is directed to:

- *Pass a fresh assessment order after conducting detailed enquiries on the points mentioned above.*
- *Carry out third-party verifications and summon relevant parties if necessary.*
- *Provide the assessee with a fair and reasonable opportunity to be heard.*

The proceedings u/s 263 are hereby concluded with the above directions.

7. The Ld. AR also submitted a written submission which has been considered. In the written submissions filed, it is stated that the

assessee Sh. Sharad Keshri, is an individual resident of Patna, Bihar. He carries on business in jewellery and real estate and also lets certain property on rent. His principal commercial activity is as the proprietor of M/s Hira Panna Jewellers, a retail jewellery firm at Boring Road, Patna. In addition to his individual business, he is also the Managing Partner of M/s Hira Panna Infraprojects LLP (PAN: AALFH2727C), a real estate development firm registered under the Limited Liability Partnership Act, 2008. The two entities - the proprietorship and the LLP - are legally distinct, maintain separate books of accounts, file separate returns of income, and are assessed independently. This distinction between the entities is of fundamental importance to the present appeal. On 19.11.2022, the Income Tax Department conducted a Search and Seizure Operation under Section 132 of the Income Tax Act, 1961 (hereinafter 'the Act') at various premises of the Hira Panna Group, Patna. During the search, the following documents were seized and marked as shown hereunder:

- HPB-06: Loose sheets found from the business premises of M/s Hira Panna, Boring Road, Patna containing information of purchases of property worth Rs 3,38,04,550 on 21.01.2022 (Deed No. 823. Sikanderpur, Biscuit Factory Road, Danapur, Patna)
- Repairing Register (HPB-14): A register seized from the premises of M/s Hira Panna (Sharad Keshri), Boring Road Chauraha, Patna-containing the names of 1,348 customers who gave jewellery for repair during FY 2021-22 (Pages 01 to 121).
- SKLLP-02: Documents found during the search containing, inter alia, Pages 100 to 107, which are emails from Shri Samyak Chordia (partner of M/s Anil Kumar Jain & Company, a supplier

to M/s Hira Panna Boring Road) addressed to the Appellant, containing purchase rate reconciliations between M/s Hira Panna Boring Road and the said supplier.

7.1 It is further submitted the assessment proceedings were initiated in the assessee's case for AY 2022-23 pursuant to the search and the assessee had already filed his return of income for AY 2022-23 on 16.11.2022 under Section 139(1) of the Act, declaring total income of Rs. 99,51,030/-, which was filed three days before the search. It is submitted that following the search, the Appellant's case for AY 2022-23 was taken up for scrutiny assessment before the DCIT/ACIT, Central Circle-2, Patna. The post-search assessment was conducted through a comprehensive, multi-stage process spanning nearly sixteen months from the date of search to the date of the Assessment Order:

7.2 It is further submitted the Ld. AO raised specific queries and received detailed responses on all three issues now raised by the PCIT in the 263 Order, as detailed below:

(a) ISSUE 1-INVESTMENT IN IMMOVABLE PROPERTY (HPB-06, DEED NO.823): Assessment Notice No. ITBA/AST/F/142(1)/2023-24/1060608133(1) dated 07.02.2024 (addressed to M/s Hira Panna Infraprojects LLP) contained Question No. 13 specifically addressing the property at Sikanderpur, Biscuit Factory Road, Danapur (Deed No. 823). The LLP filed a complete reply demonstrating that the property is registered in the LLP's name and the source of investment is duly explained from Partners' Capital and M/s Hira Panna Jewellers' loan. [Paper Book: Annexure-I, Pages 1-22 (Deed No.823)]

(b) ISSUE II REPAIRING REGISTER (HPB-14, 1,348 CUSTOMERS): Assessment Notice No. ITBA/AST/F/142(1)/2024-25/10663856726(1) dated 03.07.2024 (AY 2023-24 assessment) contained Question No. 7 specifically addressing HPB-14 and requiring details of all 1,348 customers. Reply was filed confirming the firm's free repair policy supported by published commercial advertisement. [Paper Book: Annexure-II, Pages 101 (324 pages of inquiry and reply)]

(c) ISSUE III - SKLLP-02 (PAGES 100-107): Assessment Notice No. ITBA/AST/F/142(1)/2023-24/1060606632(1) dated 07.02.2024 (addressed to Sh. Satish Kumar Keshri, partner of M/s Hira Panna Jewellers) contained Question No. 2 (SKLLP-02 Pages 100-103) and Question No. 3 (SKLLP-02 Pages 104-107). Reply was filed by Sh. Satish Kumar Keshri demonstrating that these pages are emails from supplier Sh. Samyak Chordia containing purchase rate reconciliations ('Bhav Cut' and 'Fine Jama' reconciliation balance, not cash receipts). All underlying purchase payments duly in books. [Paper Book: Annexure-IV, Pages 426-435 (Assessment reconciliation reply)].

7.3 It was argued that after examining the seized material, considering the submissions filed, and satisfying himself on all three issues, the Assessing Officer passed the Assessment Order under Section 143(3) of the Act on 31.03.2024 assessing the Appellant's total income at Rs. 99,51,030/-, i.e. same as the returned income. NO ADDITION was made under any head. The Assessment Order was passed with prior approval of the jurisdictional authorities. The assessee has further submitted in the written submission that two show cause notices were issued, which were similarly worded and both contain factual errors relating to the date of filing of the return of income

and the date of passing of the assessment order. However, these errors were found to be mere typographical errors as the substance of the order of the Ld. PCIT relates to the assessment order dated 31.03.2024. It is mentioned in the written submission that 2 comprehensive replies were filed on 10/12/2025, in response to the 2 show cause notices issued and legal objections were also raised as under:

- Issue I (Property Investment): The property (Deed No. 823) belongs to M/s Hira Panna Infraprojects LLP and was examined in that entity's assessment. No individual liability arises.
- Issue II (Repairing Register): Firm policy of free repairs supported by published commercial advertisement (Annexure-I of replies). Issue was examined during assessment of M/s Hira Panna Jewellers.
- Issue III (SKLLP-02): Documents relate to M/s Hira Panna Jewellers' purchase reconciliations with supplier M/s Anil Kumar Jain & Co. and were answered with evidence during assessment (Annexure-II of replies).
- Legal Objections: Twin conditions of Section 263 not met; Explanation 2(a) not attracted (inquiry was conducted, not absent); proceedings amount to mere change of opinion. Reliance placed on Malabar Industrial Co. Ltd. v. CIT (SC, 2000) 243 ITR 83, Gabriel India Ltd. (Bom HC, 1993) 203 ITR 108, and DG Housing Projects Ltd. (Del HC, 2012) 343 ITR 329.

7.4 It is also mentioned in the written submission filed that on 24/03/2026, the assessee filed a final comprehensive reply before the Ld. PCIT with a paper book of 358 pages which contained:

- Annexure-1 (Pages 1-22): Registered Deed No. 823 dated 21.01.2022 categorically proving the property at Sikanderpur, Danapur is registered in the name of M/s Hira Panna Infraprojects LLP (NOT in the Appellant's individual name).
- Annexure-II (Page 24): Published commercial advertisement by M/s Hira Panna offering 'No repair charges during lifetime' objective evidence of the free repair policy.
- Annexure-III (Pages 25-348): Assessment Notice ITBA/AST/F/142(1)/2024-25/10663856726(1) dated 03.07.2024 (Q.7 on HPB-14) + 324-page reply proving the AO specifically examined all 1,348 repairing register entries.
- Annexure-IV (Pages 349-358): Assessment reply by Sh. Satish Kumar Keshri proving SKLLP-02 Pages 100-107 are purchase reconciliation emails with all underlying payments in books.

7.5 It is further submitted that the impugned order of the Ld. PCIT contains factual errors relating to own section, mention of a concern which has no business transaction with the assessee and identical para 8 also appears as para 6.4 of the order under section 263 passed in the case of M/s Hira Panna Infraprojects LLP on the same date 31/03/2026 by the same PCIT. The Ld. AR argued before us that the Ld. AO had carried out necessary inquiries through notices issued and the assessment order is not erroneous for the following reasons:

- The AO conducted specific inquiry through assessment Notice Q.13 (07.02.2024 issued on M/s Hira panna Infraprojects LLP) on the property investment of the same property of Rs. 3,38,04,550, which has been accepted therein and source of investment already explained [PB Annexure V of Section C (PB No 436-450)].

- Further Notice Q.2 and Q.3 vide Sh. Satish Kumar Keshri (partner, M/s Hira Panna Jewellers), Notice No. ITBA/AST/F/142(1)/2023-24/1060606632(1) dated 07.02.2024 on SKLLP-02 [PB - Annexure IV of Section C(PB No 426-435)].
- And Further Notice Q.7 (03.07.2024) ITBA/AST/F/142(1)/2024-25/10663856726(1) dated 03.07.2024 (AY 2023-24) AND REPLY FILED THERETO on the repairing register (HPB-14). [PB Annexure III of Section C (PB 102-425)].

7.6 It was also submitted that the Ld. PCIT was not correct in stating in para 7.1 of the impugned order that the claim that the property worth Rs 3.38 crore pertains to M/s Hira Panna Infraprojects LLP and was examined in that firm's assessment is not supported by a categorical finding in the subject assessment order and a mere claim of assessment in another entity's name does not absolve the AO from verifying the nexus of the seized document (HPB-06) with the assessee's own financial profile. However, he failed to appreciate that a registered sale deed was filed in the case of the firm and, therefore, no further inquiry was required to be conducted. As regards para 7.2 relating to Repairing Register, it was submitted that the same belonged to the proprietorship concern of Hira Panna Jewellers and the assessee had advertised that it does not charge repairing charges nor any document relating to such charges was found or seized. Therefore, the Ld. PCIT's assertion that the assessee's reliance on a "lifetime free repair" policy remains a self-serving statement and while advertisements were submitted, the AO failed to verify the genuineness of the 1,348 entries was not correct. The Ld. AR also disputed the findings of para 7.3 of the impugned order and submitted that the same related to Hira Panna Jewellers and our

attention was drawn to page 105 of the paper book being the notice, specifically Q. No. 7 and the reply filed, a copy of which was enclosed at page 112 of the paper book. However, the bench noted that as per pages 426 and page 427 of the paper book, the query was raised in the case of Shri Satish Kumar Keshri. Thus, it cannot be said that the issue in para 7.3 relating to Unrecorded Transactions (SKLLP-02) were examined and the findings of the Ld. PCIT that the assessee contends that these documents relate to M/s Hira Panna Jewellers, however, the seized documents (Pages 100 & 104) totaling Rs 1,10,89,600 for the relevant year were never reconciled with the books of account of any entity during the assessment and the nature of these transactions-whether settled in cash or otherwise-remained opaque as the Ld. AO accepted the explanation without examining the entries character, which is a classic case of non-application of mind are apparently correct and to this extent the order of the Ld. AO was erroneous in so far as it was prejudicial to the interest of the revenue. We also agree with the findings in para 7.4 that the assessee cited cases of Malabar Industrial Co. Ltd. and Gabriel India Ltd. to argue that "inadequate enquiry" is not "lack of enquiry." However, as per Explanation 2 to Section 263, an order is deemed erroneous and prejudicial if it is passed without making inquiries or verification which should have been made. In this case, the AO acted as a mere passive recipient of information rather than an investigator, falling squarely within the ambit of Section 263 as regards the third issue.

7.7 The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

8. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). As regards the issues relating to investment in immovable property and the repairing register, the Ld. AO had raised the query and the assessee had responded, which response is also supported by the facts of the case. However, as regards the 3rd issue relating to unrecorded transactions in SKLLP-02, no proper inquiry was conducted by the Ld. AO as the assessee had failed to explain the document's entries satisfactorily and prove that the transactions were recorded in his books of account. Thus, there was a failure to conduct the inquiries in respect of Annexure SKLP-02 and to this extent, the findings of the Ld. PCIT are upheld that the assessment order was erroneous in so far as it was prejudicial to the interest of the revenue. As regards the issue of 2 show cause notices, it has been held in the case of **Commissioner of Income-tax, Mumbai v. Amitabh Bachchan [2016] 69 taxmann.com 170 (SC)** as under:

> *"The power of appeal and revision is contained in Chapter XX of the Act which includes section 263 that confers suo motu power of revision in the Commissioner. The different shades of power conferred on different authorities under the Act has to be exercised within the areas specifically delineated by the Act and the exercise of power under one provision cannot trench upon the powers available under another provision of the Act. In this regard, it must be specifically noticed that against an order of assessment, so far as the revenue is concerned, the power conferred under the Act is to reopen the concluded assessment under section 147 and/or to revise the assessment order under section 263. The scope of the power/jurisdiction under the different provisions of the Act would naturally be different. The power and jurisdiction of the revenue to deal with a concluded assessment, therefore, must be understood in the context of the provisions of the relevant sections. While doing so, it must also be borne in mind that the legislature had not vested in the revenue any specific power to question an order of assessment by means of an appeal. [Para 9]*
>
> *Reverting to the specific provisions of section 263 what has to be seen is that a satisfaction that an order passed by the Authority under the Act is erroneous and prejudicial to the interest of the revenue is the basic pre-condition for*

exercise of jurisdiction under section 263. Both are twin conditions that have to be conjointly present. Once such satisfaction is reached, jurisdiction to exercise the power would be available subject to observance of the principles of natural justice which is implicit in the requirement cast by the section to give the assessee an opportunity of being heard. ***It is in the context of the above position that this Court has repeatedly held that unlike the power of reopening an assessment under section 147, the power of revision under section 263 is not contingent on the giving of a notice to show cause. In fact, section 263 has been understood not to require any specific show-cause notice to be served on the assessee. Rather, what is required under the said provision is an opportunity of hearing to the assessee. The two requirements are different; the first would comprehend a prior notice detailing the specific grounds on which revision of the assessment order is tentatively being proposed. Such a notice is not required. What is contemplated by section 263, is an opportunity of hearing to be afforded to the assessee.*** *Failure to give such an opportunity would render the revisional order legally fragile not on the ground of lack of jurisdiction but on the ground of violation of principles of natural justice. [Para 10]* {***emphasis supplied***}

It may be that in a given case and in most cases it is so done that a notice proposing the revisional exercise is given to the assessee indicating therein broadly or even specifically the grounds on which the exercise is felt necessary. ***But there is nothing in the section to raise the said notice to the status of a mandatory show-cause notice affecting the initiation of the exercise in the absence thereof or to require the Commissioner to confine himself to the terms of the notice and foreclosing consideration of any other issue or question of fact.*** *This is not the purport of section 263. Of course, there can be no dispute that while the Commissioner is free to exercise his jurisdiction on consideration of all relevant facts, a full opportunity to controvert the same and to explain the circumstances surrounding such facts, as may be considered relevant by the assessee, must be afforded to him by the Commissioner prior to the finalization of the decision. [Para 11]* {***emphasis supplied***}

In the instant case, there is no dispute that in the order passed by the Commissioner under section 263 findings have been recorded on issues that are not specifically mentioned in the show-cause notice though there are three issues mentioned in the show-cause notice which had specifically been dealt with in the order passed under section 263. [Para 12]

Insofar as findings contained in the order of the Commissioner beyond the issues mentioned in the show-cause notice is concerned, the Tribunal taking note of the aforesaid admitted position held that the order under section 263 was violative of principles of natural justice as far as the reasons, which formed

the basis for the revision but were not part of the show-cause notice issued under section 263 were concerned. [Para 12]

The above ground which had led the Tribunal to interfere with the order of the Commissioner seems to be contrary to the settled position in law, as indicated above and the two decisions of this Court in Gita Devi Aggarwal v. CIT [1970] 76 ITR 496 and CIT v. Electro House [1971] 82 ITR 824. The Tribunal in its order had not recorded any finding that in course of the suo motu revisional proceedings, hearing of which was spread over many days and attended to by the authorized representative of the assessee, opportunity of hearing was not afforded to the assessee and that the assessee was denied an opportunity to contest the facts on the basis of which the Commissioner had come to his conclusions as recorded in the order passed under section 263. Despite the absence of any such finding in the order of the Tribunal, before holding the same to be legally unsustainable, the Court will have to be satisfied that in the course of the revisional proceeding the assessee, actually and really, did not have the opportunity to contest the facts on the basis of which the Commissioner had concluded that the order of the Assessing Officer is erroneous and prejudicial to the interests of the revenue. The above is the question to which the Court, therefore, will have to turn to. [Para 13]

On consideration of the order of the Assessing Officer as well as the order of the Commissioner it appears that the Commissioner, in the course of the revisional proceedings, had scrutinized the record of the proceedings before the Assessing Officer and noted the various dates on which opportunities to produce the books of account and other relevant documents were afforded to the assessee which requirement was not complied with by the assessee. In these circumstances, the revisional authority took the view that the Assessing Officer, after being compelled to adjourn the matter from time to time, had to hurriedly complete the assessment proceedings to avoid the same from becoming time barred. In the course of the revisional exercise, relevant facts, documents, and books of account which were overlooked in the assessment proceedings were considered. On such re-scrutiny it was revealed that the original assessment order on several heads was erroneous and had the potential of causing loss of revenue to the State. It is on the aforesaid basis that the necessary satisfaction that the assessment order was erroneous and prejudicial to the interests of the revenue was recorded by the Commissioner. At each stage of the revisional proceeding the authorized representative of the assessee had appeared and had full opportunity to contest the basis on which the revisional authority was proceeding/had proceeded in the matter. If the revisional authority had come to its conclusions in the matter on the basis of the record of the assessment proceedings which was open for scrutiny by the assessee and available to his authorized representative at all times, it is difficult to see as to how the requirement of giving of a reasonable opportunity of being heard as

contemplated by section 263 had been breached in the present case. The order of the Tribunal insofar as the first issue, i.e., the revisional order going beyond the show-cause notice is concerned, therefore, cannot have acceptance. The High Court having failed to fully deal with the matter in its cryptic order, the said order is not tenable and is liable to be interfered with. [Para 14]"

9. Further, it has been held in the case of **CIT v. Leisure Wear Exports Ltd. [2011] 11 taxmann.com 54/202 Taxman 130 (Mag.) (Delhi)** that *if an order is based on incorrect assumption of facts or on incorrect application of law or without applying the principle of natural justice and without application of mind, it would be treated as 'erroneous'* Further, revisional powers conferred on the CIT u/s 263 are of wide amplitude enabling the Commissioner to call for and examine the records under any proceeding of the 1961 Act and empowering him to make or cause to make such enquiry as he deems necessary in order to find out whether any order passed by the AO was erroneous and prejudicial to the interests of the Revenue. Therefore, when the powers conferred upon him are of wide amplitude enabling him to pass any order, it is not necessary for him to record his final conclusion regarding the allowability of the claim of the assessee on the merits of the case. It would be sufficient if he comes to the conclusion on materials that the order of the AO was erroneous and prejudicial to the interests of the Revenue and if such a conclusion is arrived at on materials on record, it is not necessary for him to record his final conclusion on the merits of the case and it is open to record his *prima facie* opinion in that matter and set aside the order of assessment and direct the AO to pass a fresh assessment order in accordance with law and so has been held in the case of **CIT v. Shree Manjunathesware Packing Products & Camphor Works [1998] 231 ITR 53 (SC).** It is also held in the case of **Indian Textiles v. CIT [1986] 26 Taxman 677 (Mad.)** that if at least in respect

of one item the ITO's order is found to be prejudicial to the Revenue, the initiation of proceedings u/s 263 cannot be questioned. Thus, though on 2 issues, the contention of the assessee appears to be correct but since on the third issue the findings of the Ld. PCIT are upheld, therefore, the initiation of proceeding under section 263 cannot be questioned. Hence, while Ground Nos. 7 and 8 are allowed, rest of the grounds raised are dismissed and in view of the findings of **Indian Textiles v. CIT** (supra) all other grounds of appeal are dismissed and we are inclined to uphold the order of the Ld. Pr. CIT.

10. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 22nd October, 2026.

Sd/-	*Sd/-*
[**Yogesh Kumar US**]	[**Rakesh Mishra**]
Judicial Member	Accountant Member

Dated: 22.10.2026

Bidhan (Sr. P.S.)

Copy of the order forwarded to:

1. ***Sharad Keshri.***
2. ***PCIT(central).***
3. CIT(A)-
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.