IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER

ITA No. 534/NAG/2026
(Assessment Year : 2022-23)

The Akola Urban Cooperative Bank Ltd., 58-59, Toshniwal Layout, Murtijapur Road, Akola PAN : AAAAT 4082 A	vs	ACIT, Akola Circle, Akola
Assessee		Revenue

Assessee by	:	Shri S.G. Gandhi, CA
Revenue by	:	Shri Pankaj Kumar, CIT-DR
Date of hearing	:	10.06.2026
Date of pronouncement	:	10.08.2026

O R D E R

PER KHETTRA MOHAN ROY, AM:

This appeal filed by the assessee is directed against the order of Learned Principal Commissioner of Income Tax-1, Nagpur (for short, “**PCIT**”), dated 30/03/2026 passed under section 263 of the Income Tax Act, 1961 (for short, “**Act**”) which is emanating from the assessment order dated 27.02.2024 passed u/s. 143(3) r.w.s. 144B of the Act, for the Assessment Year (**AY**) 2022-23.

2. The effective issue involved in the present appeal is whether the Ld. PCIT was justified in invoking the revisionary jurisdiction u/s. 263 of the Act without satisfying the mandatory twin conditions that the assessment order was erroneous insofar as it was prejudicial to the interests of the Revenue, and in holding that the loss arising on sale of Non-Performing Assets (NPAs) constituted a capital loss not allowable as a business loss.

3. Brief facts of the case are that assessee, a co-operative bank, filed its return of income for the A.Y. 2022-23 on 06.11.2022 declaring 'Nil' income. The case was selected for compulsory scrutiny under CASS on the following issues:

i) Assessee has shown high liabilities in balance sheet as compared to low income/receipt declared in ITR

ii) High value cash deposits during the year reported SFT-003 and SFT-004 in the case of the assessee and a low profit before interest and tax (PBIT) or business income shown by the assessee.

iii) The assessee has shown substantial expenses relating to entities not registered under GST.

iv) Assessee has claimed substantial any other amount allowable as deduction in ITR.

3.1 Statutory notices u/s. 143(2) & 142(1) of the Act were issued and duly served upon the assessee. In response, assessee furnished written submissions dated 07.06.2023 along with, *inter alia*, the computation of income, audited financial statements, tax audit report, details of bank accounts and expenses, purchase and sale agreement of property, details of deductions claimed, additions to fixed assets, purchase and sale of securities, RBI licence, cash flow statement, details of interest received and paid, and particulars of advances along with interest thereon. After examining the material placed on record and considering the explanation furnished by the assessee, the Ld. AO completed the assessment u/s. section 143(3) r.w.s. 144B of the Act, accepting the returned income at 'Nil'.

3.2 Subsequently, Ld. PCIT, in exercise of powers conferred u/s. 263 of the Act, examined the assessment records and noticed that assessee had claimed a deduction of Rs. 14,71,09,400/- on account of loss arising from the sale of NPAs to M/s. Onkara Asset Reconstruction Pvt. Ltd. According to the Ld. PCIT, no specific enquiry had been conducted by the Ld. AO regarding the allowability of the said claim. Accordingly, a show-cause notice u/s. 263 of the Act was issued calling upon the assessee to explain why the assessment order should not be revised. After considering the assessee's reply, Ld. PCIT held that the assessment order dated 27.02.2023 passed u/s. 143(3) r.w.s. 144B of the Act was erroneous insofar as it was prejudicial to the interests of the Revenue. Consequently, he set aside the assessment order with a direction to the Ld. AO to frame a fresh assessment after conducting proper verification and examination of the assessee's claim of loss on sale of NPAs to M/s.Onkara Asset Reconstruction Pvt. Ltd.

4. Aggrieved by the revisionary order passed u/s. 263 of the Act, assessee is in appeal before this Tribunal. Learned counsel for the assessee submitted that Ld. PCIT has erroneously assumed jurisdiction u/s. 263 of the Act without satisfying the mandatory twin conditions prescribed therein. He contended that assessment was completed after due scrutiny u/s. 143(3), wherein Ld. AO had called for various details including the computation of income, audited financial statements, tax audit report, details of deductions claimed, purchase and sale of securities, cash flow statement, bank accounts and other relevant records. The assessee had furnished all the information called for, which was duly examined by the Ld.AO before accepting the returned income. Learned counsel further submitted that merely because the assessment order does not contain elaborate reasons regarding the allowability of the loss on sale of NPAs, it

cannot be presumed that no enquiry was conducted. Therefore, the revisionary jurisdiction u/s. 263 cannot be invoked merely because Ld. PCIT is of a different opinion or considers that further enquiry ought to have been made. It was further submitted that Ld.PCIT has neither recorded any finding demonstrating that the claim of deduction was legally inadmissible nor established any loss to the Revenue. The impugned order has merely directed the Ld. AO to conduct a fresh enquiry, which amounts to initiation of fishing and roving enquiry and this exercise is not permissible u/s. 263 of the Act. He further submitted that Ld. PCIT, in paragraph 5.1.1 of the impugned order dated 30.03.2026, has accepted that loans and advances made by the assessee-bank do not constitute capital assets and that any gain or loss arising on their transfer would not be on capital account. Referring to the decision of this coordinate bench in assessee's own case for the A.Y. 2015-16 in ITA No. 119/NAG/2020, learned counsel submitted that a similar deduction was allowed by the Ld. CIT(A), which was confirmed by the ITAT by dismissing the department's appeal vide order dated 30.10.2024. He also placed reliance on the following decisions:-

i) M/s. Stance Consumer Electronics Pvt. Ltd. vs DCIT in ITA Nos. 2791 & 2792/Del/2025, dated 13.02.2026 (Delhi – Trib.)

ii) Neelam Janardhan Rachalwar vs. ITO in ITA No. 276/NAG/2025, dated 25.06.2025 (Nag. – Trib.)

iii) Annakodiraj vs. ITO in ITA No. 4121/CHNY/2025 dated 27.02.2026 (Chennai – Trib.)

iv) Ichchaben Kantilal Desai vs. ITO in ITA No. 30/SRT/2026, dt. 04.06.2026

v) CIT vs. Mohmed Juned Dadani [2013] 30 taxmann.com 1 (Guj. HC)

vi) Anand Agarwal vs. DCIT in ITA No. 6395/Del/2025, dt. 24.04.2026 (Del. – Trib.)

5. *Per contra*, Ld. Departmental Representative supported the impugned order passed by the Ld. PCIT. He submitted that assessment records clearly reveal that no specific enquiry was conducted by the Ld. AO regarding the assessee's claim of deduction of Rs. 14,71,09,400/- arising from the sale of NPAs to M/s. Onkara Asset Reconstruction Pvt. Ltd. Considering the substantial amount involved, it was incumbent upon the Ld. AO to examine the nature, genuineness and allowability of the claim in accordance with law. Ld. DR contended that assessment order is completely silent on this issue and there is nothing on record to indicate that the Ld. AO had applied his mind to the claim. Non-examination of such an issue renders the assessment order both erroneous and prejudicial to the interests of the Revenue within the

meaning of section 263 of the Act. He submitted that Explanation 2(a) to section 263 specifically provides that an order passed without making enquiries or verification which should have been made shall be deemed to be erroneous insofar as it is prejudicial to the interests of the Revenue. Ld. DR further argued that Ld. PCIT has not decided the issue on merits but has merely restored the matter to the Ld. AO for proper verification and fresh adjudication after granting adequate opportunity to the assessee. Therefore, the order passed u/s. 263 is fully justified and deserves to be upheld.

6. We have heard rival contentions of both the parties and perused the material available on record. The short issue arising for our consideration is whether Ld. PCIT was justified in invoking the revisionary jurisdiction u/s. 263 of the Act by holding that the assessment order passed u/s. 143(3) r.w.s. 144B of the Act was erroneous insofar as it was prejudicial to the interests of the Revenue on the premise that the loans and advances of the assessee-bank constituted capital assets within the meaning of section 2(14) of the Act and, consequently the loss arising on the sale of Non-Performing Assets (NPAs) was a capital loss and not a business loss. It is a settled proposition that before assuming jurisdiction u/s. 263 of the Act, Ld. PCIT is required to satisfy the twin conditions, namely,

assessment order is erroneous and that it is prejudicial to the interests of the Revenue. Both these conditions must coexist and the absence of either would render the assumption of jurisdiction invalid. It is equally well settled that where the Ld. AO has conducted enquiries, examined the material placed on record and adopted one of the possible views, the order cannot be revised merely because Ld. PCIT holds a different opinion or considers that further enquiry ought to have been made.

6.1 In the present case, it is manifestly clear from the assessment records that the assessee had furnished all the requisite details before the Assessment Unit (AU) during the course of scrutiny proceedings. The Ld. AO had issued notices u/s. 143(2) and 142(1) of the Act calling for various details, to which the assessee responded by filing the computation of income, audited financial statements, tax audit report, details of deductions claimed, purchase and sale of securities, RBI licence, cash flow statement, details of interest received and paid, bank accounts and other relevant documents. After considering the material so furnished, the Ld. AO completed the assessment u/s. 143(3) r.w.s. 144B of the Act accepting the returned income. Merely because the assessment order does not discuss the issue in detail cannot lead to the conclusion that no enquiry was conducted.

6.2 It is further manifestly clear that the assessee had placed all the relevant facts not only before the Assessment Unit but also before the Ld. PCIT during the revision proceedings. The assessment itself has been carried out in a faceless manner. The assessee filed a detailed reply before the Ld. PCIT on 23.02.2026 and was also represented in-person through its Authorised Representative Shri S.G. Gandhi, FCA. Learned counsel has emphatically contended before us that the Ld. AO had conducted an assiduous and meticulous enquiry into the issues arising from the return of income and the documents furnished by the assessee.We find considerable force in the said submission. More importantly, the claim of loss arising on sale of Non-Performing Assets (NPAs) as a business loss has already been examined and allowed by the Coordinate Bench of this Tribunal in assessee's own case in ITA No.119/NAG/ 2020 for A.Y. 2015-16. Once the Tribunal has held such loss to be allowable as a business loss in the assessee's own case, we fail to comprehend as to how the Ld. PCIT could, while exercising jurisdiction under section 263 of the Act, proceed on the premise that the same constituted a capital loss not eligible for set-off against business income. The show-cause notice dated 17.02.2026 itself proceeds on an erroneous legal premise which runs contrary to the binding decision of the Coordinate Bench in the assessee's own case.

6.3 We are constrained to observe that Ld. PCIT, instead of following the binding precedent of the Tribunal, has virtually sought to substitute his own interpretation for that adopted by the Coordinate Bench. Such an approach is contrary to the well-established principles of judicial discipline, *stare decisis* and judicial consistency. The authorities subordinate to the Tribunal are duty-bound to follow the decisions of the Tribunal unless the same are reversed or stayed by a superior judicial forum. The revisionary jurisdiction u/s. 263 cannot be invoked to indirectly unsettle or circumvent a binding decision of the Tribunal. We further note that Ld. PCIT has not recorded any categorical finding demonstrating that the claim of loss was legally inadmissible. Instead, he has merely directed the Ld. AO to conduct a fresh enquiry. It is well settled law that section 263 does not permit the Commissioner to set aside a completed assessment merely for making a fishing or roving enquiry in the absence of a finding that assessment order is erroneous and prejudicial to the interests of the Revenue. The impugned revision order, therefore, rests merely on suspicion and not on any demonstrable error in the assessment order.

6.4 In view of the foregoing discussion, we hold that the initiation of proceedings u/s. 263 of the Act is vitiated in law and rests on a fundamentally erroneous premise. The assumption of jurisdiction by the Ld. PCIT is founded on a shaky legal foundation and is contrary to the binding decision of the Tribunal in the assessee's own case. The purported action of the Ld. CIT(A) to ignore the judgment of this Coordinate Bench is fallible and unconscionable. Consequently, the impugned order passed u/s. 263 of the Act cannot be sustained. Therefore, we quash the order passed by the Ld. PCIT u/s. 263 of the Act. The grounds of appeal raised by the assessee are allowed.

7. In the result, appeal filed by the assessee stands allowed.

Order pronounced on 10.08.2026 under Rule 34 of Income Tax (Appellate Tribunal) Rules, 1963

sd/-	sd/-
ANUBHAV SHARMA	KHETTRA MOHAN ROY
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Nagpur: Dated: 10/08/2026

vr/-

Copy to:

1. The Assessee
2. The Revenue
3. The Pr.CIT concerned.
4. The DR, ITAT, Nagpur
5. Guard file.

By order

Vukkem Rambabu
Digitally signed by Vukkem Rambabu
Date: 2026.08.10 16:14:49 +05'30'

Senior Private Secretary
ITAT, Nagpur