



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 14978 of 2025  
FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE A.S. SUPEHIA  
and  
HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

Approved for Reporting	Yes	No

PIYUSH MAFATLAL SHAH

Versus

INCOME TAX OFFICER, WARD 3(2)(1), SURAT & ANR.

Appearance:

MR DHINAL A SHAH(12077) for the Petitioner(s) No. 1

KARAN G SANGHANI(7945) for the Respondent(s) No. 1,2

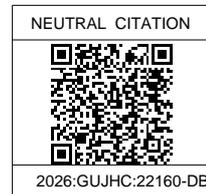
**CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA  
and  
HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

Date : 23/03/2026

**ORAL JUDGMENT**

**(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

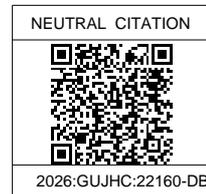
1. **RULE** returnable forthwith. Learned Senior Standing Counsel Mr.Karan Sanghani waives service of notice of rule on behalf of respondents. Since the issue involved in the present writ petition is in narrow compass, the same is taken up for final hearing and final disposal today.
2. By the order dated 10.11.2025 passed by this Court, the Court had granted ad-interim relief restraining the respondents from passing any final Assessment Order without permission of this Court.
3. The brief facts leading to filing of the writ petition are as under:
  - 3.1 The petitioner is engaged in the business of trading in gold, silver, diamond, and bullion under the proprietary concern M/s.Pristine Jewels,



identified by Permanent Account Number (PAN) – AATPJ3439K. It is the case of the petitioner that for the Assessment Year 2021-22, the petitioner filed Return of Income under Section 139 of the Income Tax Act, 1961 (for short “the Act”) declaring a total income of Rs.16,08,060/-.

3.2 On 26.03.2025, the respondent No.1 issued a Show Cause Notice under Section 148A(1) of the Act, alleging that income chargeable to tax had escaped assessment for Assessment Year 2021-22 to the extent of Rs.1,48,96,68,573/-. The said notice stated that the information is received from the insight portal under “High Risk CRIU / VRU” flag and certain data from the GST Department. The said notice alleged that the petitioner had availed ineligible Input Tax Credit (ITC) on the strength of invoices issued without actual supply of goods from alleged non-genuine parties. It was claimed that the petitioner had entered into suspicious financial transactions and that a GST Show Cause Notice had been issued proposing cancellation of registration.

3.3 It is pertinent to note that the foundation of the said allegation was a Show Cause Notice dated 26.06.2023 issued in Form REG-17 by the State Tax Officer under Rule 22(1) of the Central Goods and Service Tax Rules, 2017 (for short “the CGST Rules”), proposing cancellation of petitioner’s GST registration under Section 29(2)(e) of the Central Goods and Services Tax Act (for short “the CGST”) Act, 2017. The Notice alleged that the petitioner had availed ITC from non-genuine suppliers and issued or received invoices without actual supply of goods. The petitioner promptly filed a reply on the GST portal on 05.07.2023 along with documentary evidence to demonstrate that the purchases were



genuine and supported by proper records.

3.4 Despite the reply by petitioner, the authority passed an order dated 12.07.2023 cancelling the GST registration against which the petitioner preferred an appeal under Section 107 of the CGST Act before the Deputy Commissioner of State Tax (Appeals), Ahmedabad (Appellate Authority).

3.5 The Appellate Authority, vide its order dated 29.03.2025 allowed the appeal and restored the petitioner's GST registration holding that the cancellation was done without granting an opportunity of hearing as required under Rule 22(3) of the CGST Rules and without properly verifying the petitioner's reply and supporting documents. It further noted that there was no adjudication under Section 73 or 74 of the CGST Act to establish fraudulent ITC and that the petitioner's business activity was duly supported by relevant records, including tax returns and banking transactions. The order concluded that cancellation based on unverified suspicion or procedural lapses was unwarranted and arbitrary.

3.6 Pursuant to the notice under Section 148A(1) of the Act, the petitioner submitted a detailed primary reply dated 14.04.2025 and a supplementary reply dated 23.04.2025, enclosing copies of the purchase and sales registers, stock register, sample invoices, GSTR filings, and bank statements evidencing the genuineness of transactions. The petitioner, in its aforesaid reply also specifically pointed out the fact that the Appellate Authority has passed an order dated 29.03.2025 which conclusively restored the GST registration number of petitioner and disproved the allegations of bogus ITC.



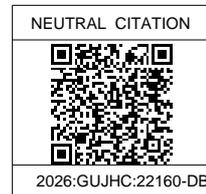
3.7 It is further the case of the petitioner that upon change in incumbent, a further notice dated 27.05.2025 was issued to the petitioner, to which the petitioner submitted its replies dated 16.04.2025 and 23.04.2025 before respondent No.1, reiterating the contentions and documentary evidence already placed on record.

3.8 The respondent No.1 passed an order under Section 148A(3) of the Act dated 29.06.2025 rejecting the reply filed by the petitioner, and thereafter, the respondent No.1 issued a notice under Section 148 of the Act dated 29.06.2025 for the Assessment Year 2021-22 seeking to reopen the petitioner's assessment. The said Notice has been issued with the approval of the specified authority i.e. the Joint Commissioner of Income Tax under Section 151 of the Act.

4 Learned advocate Mr. Dhinal Shah appearing for the petitioner, at the outset, has submitted that reopening of the assessment by resorting to the provisions under Section 148A and 148 of the Act are premised entirely on GST collection which stand conclusively adjudicated in favour of the petitioner and hence the same are required to be quashed and set aside.

4.1 It is submitted that the entire foundation of the reassessment proceedings the GST cancellation order dated 12.07.2023, which has been reversed by the competent Appellate Authority vide order dated 29.03.2025 and the same having attained finality, the respondent No.1 cannot thereafter invoke the powers under Section 148A of the Act and reopen the assessment proceedings.

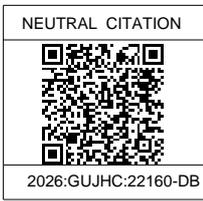
4.2 It is submitted that this vital aspects are not considered while passing the impugned order under Section 148A(3) of the Act and the same is non speaking order. Thus, it is urged that the petition may be



allowed by quashing and setting aside the impugned order as well as notice.

5. Per Contra, learned Senior Standing Counsel Mr.Karan Sanghani, while placing reliance on the contents of the affidavit-in-reply has submitted that, at this stage, the re-assessment proceedings may not be scuttled since the petitioner has an opportunity to explain the transactions in questions during the assessment proceedings. It is submitted that on an investigation made by the Investigating Wing of the Department, since it was noticed that there were unexplained transactions of Rs.1,48,96,68,573/- carried out by the assessee in the year under consideration and the assessment was reopened, it is submitted that merely the transactions which are routed through banking channel and recorded in books do not make it genuine unless proof of transportation, details of goods, delivery of goods are established with concrete evidence and since the assessee has failed to discharge such obligation, the present proceedings may not be set aside.

6. We have heard the learned advocates appearing for the respective parties at length. From the pleadings as well as the documents which are produced on record, it is evident that the reopening of the assessment by resorting to the provisions of Section 148A and 148 of the Act emanates from the cancellation of order passed by the GST Authorities dated 12.07.2023 which has been set aside by the Appellate Authority vide order dated 29.03.2025 in petitioners favour. The petitioner was subjected to scrutiny by GST department by alleging that it had availed ITC from non-genuine suppliers and issued or received invoices without actual supply of goods. Accordingly, the same resulted into cancellation of registration.



6.1 The Appellate Order dated 29.03.2025, specifically holds that there was no fraudulent ITC claimed by the petitioner and neither there was any violation of GST Law under Section 73 or Section 74 of the CGST Act. Thus, this is a very vital aspect which was required to be considered while passing the impugned order under Section 148A(3) of the Act by the respondent authority. Apart from this, there is no other material which is in possession of the respondent No.1, which could prove that there has been an escapement of income and hence the reopening was necessitated.

6.2 The petitioner had supplied the Appellate Order passed under Section 107 of the CGST Act. However, the respondent authority has failed to consider the same while passing the notice dated 29.06.2025 under Section 148 of the Act. Thus, in view of the categorical findings by the GST Appellate Authority in the order dated 29.03.2025, the reopening of the assessment was uncalled for.

7. The writ petition accordingly **succeeds**. The impugned order dated 29.06.2025 passed under Section 148A(3) of the Act and the notice dated 29.06.2025 passed under Section 148 of the Act for the Assessment Year 2021-22, are hereby quashed and set aside. Rule is made absolute accordingly. No order as to costs.

**(A. S. SUPEHIA, J)**

**(PRANAV TRIVEDI, J)**

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