



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/SPECIAL CIVIL APPLICATION NO. 780 of 2026
With R/SPECIAL CIVIL APPLICATION NO. 1953 of 2026
With R/SPECIAL CIVIL APPLICATION NO. 2313 of 2026
With R/SPECIAL CIVIL APPLICATION NO. 2432 of 2026
With R/SPECIAL CIVIL APPLICATION NO. 2442 of 2026**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

Approved for Reporting	Yes	No

BHAVNABEN DARSHANBHAI PATEL

Versus

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

Appearance:

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

AADITYA D BHATT(8580) for the Respondent(s) No. 1,2

CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 08/04/2026

COMMON ORAL JUDGMENT

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

1. By way of present writ petition the petitioners seeks to quash and set aside the Notice issued under Section 148 of the Income-tax Act, 1961 (for short "the Act") for the Assessment Year 2020-21 along with all consequential proceedings.

2. **RULE** returnable forthwith. Learned Senior Standing Counsel waives service of notice of rule on behalf of the respondent. Since common issue is involved in all the captioned writ petitions, the same were heard and analogously decided by this common judgment. Special Civil Application No.780 of 2026 is taken as a lead matter. The facts are borrowed from the said writ petition.

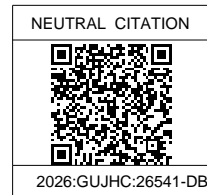


FACTS OF THE CASE

3. The Petitioner filed its return of income for Assessment Year (AY) 2020-21 on 09.01.2021, declaring total income of Rs. 5,86,28,060/-, which was duly processed under the provisions of the Income-Tax Act, 1961 (for short 'the Act'). Thereafter on 28.09.2021, a search and seizure action under Section 132 of the Act was conducted by the Income-tax Department in the case of B Safal Real Estate Group and City Estate Management India, a real estate brokerage firm. That during the search proceedings conducted in the case of third parties enquiry registers were seized from the premises of M/s City Estate Management India. These documents allegedly contained details of various properties and land parcels in and around Ahmedabad. That the Assessing Officer recorded a "satisfaction note" alleging that the seized enquiry register purportedly indicates alleged unaccounted consideration of Rs. 2,73,08,624/- towards purchase of land bearing Survey No. 302, Village: Nandoli, Taluka Kalol, District Gandhinagar ("the said land"). The said satisfaction note was approved by the Principal Commissioner of Income Tax-3, Ahmedabad and thereafter sanctioned by the Chief Commissioner of Income Tax, Ahmedabad-1 under Section 151 of the Act. Pursuant thereto, a notice dated 27.03.2025 (annexed as Annexure A) came to be issued to the Petitioner under Section 148 of the Act, for Assessment Year 2020-21, alleging escapement of income.

SUBMISSIONS OF PETITIONER

4. Learned advocate for the petitioner submitted that the said enquiry register is a third-party document, containing unverified enquiry details which does not bear the petitioner's name, signature or acknowledgment and does not record any actual transaction, consideration paid, or flow of funds involving the petitioner. The mere reference to property survey no in an



enquiry register from a third party does not, *ipso facto*, satisfy the mandatory jurisdictional requirement under Explanation 2(iv) to Section 148 of the Act that the seized material must "pertain to" or "relate to" the petitioner. It is further submitted that the petitioner has no relationship whatsoever with the City Estate Management India and the said entity neither acted as a broker nor as an intermediary in the transaction relating to the said land. It is submitted that the petitioner along with her family members, had in fact purchased the said land for a total sale consideration of Rs.15,00,00,000/- (Rupees Fifteen Crores only) vide a registered sale deed dated 23.05.2019 (registered on 01.06.2019). The entire sale consideration value was paid through account payee cheques and banking channels, duly reflected in the bank accounts of the petitioner and family members. It is pertinent to note that the sale consideration of Rs.15,00,00,000/- was substantially higher than the prevailing stamp duty valuation of Rs.7,00,95,700/, thereby ruling out any suggestion of understatement or unaccounted consideration. The petitioner and the family members continue to remain the lawful owners of the said land and the name of the petitioner is duly reflected in the revenue records.

4.1 On the sole basis for initiation of the impugned reassessment proceedings an enquiry register had been seized from City Estate Management India containing details of certain properties and their potential market rates. The said register is dated 24.07.2020, i.e. more than one year after the petitioner's registered purchase in May 2019. The register neither refers to the petitioner nor evidences any transaction undertaken by the petitioner. Moreover, the statements recorded during the search, Mr.Pravin Nagjibhai Bavadiya, proprietor of City Estate Management India, categorically stated that the register merely contained enquiry details of properties and that he was unaware whether such properties were ultimately sold or not.



SUBMISSIONS OF RESPONDENT

5. Vehemently opposing the writ petitions and the submissions advanced by the learned advocate for the petitioner as recorded here-in-above, the learned Senior Standing Counsel Mr.Aaditya Bhatt has submitted that as per the provision of Section 148 of the Act, more particularly, Clause 4 to Explanation (2), it cannot be said that the information, which is unearthed during the search proceedings from the concerned broker, does not pertain or pertains to any information contained therein relates to the assessee.

6. It is submitted that the legislature has deliberately used the expansive phrases "pertains to" and "relate to". Unlike the stringent requirement of "belongs to" under the erstwhile Section 153C of the Act and hence, as per the decision of the Supreme Court in the case of *Raymond Woollen Mills Limited vs. Income-tax Officer*, [1999] 236 ITR 34 (SC), the revenue has only to see whether there was a *prima facie* some material on the basis of which the department could reopen the case and the sufficiency or correctness of the material is not a thing to be considered at the stage of issuance of notice.

6.1 Further reliance is also placed by learned Senior Standing Counsel Mr.Bhatt on the decision of the Supreme Court in the case of *Assistant Commissioner of Income-tax vs. Rajesh Jhaveri Stock Brokers (P.) Private Ltd.*, [2007] 291 ITR 500 (SC) and it is submitted that the only question which is required to be examined at the stage of issuance of notice is whether there was relevant material on which a reasonable person could have formed a requisite belief.

6.2 Reliance is also placed on the decision of the Supreme Court in the case of *Anshul Jain vs. Principal Commissioner of Income-tax*, [2022] 143



taxmann.com 38 (SC). It is submitted that in the present case, the documents incriminating material which have been recovered during the search proceeding, cannot be said to be dumb documents, devoid of any evidential value. It is submitted that the material which was seized specifically mentions the names of the brokers or third parties and the same reveal the link between the petitioner and the land dealing, by paying the on- money. Thus, it is urged that, at this stage, the Court may not interfere with the reopening of the assessment.

ANALYSIS & CONCLUSION

7. We have heard the learned advocates appearing for the respective parties at length.

8. A search under Section 132 of the Act was conducted on B Safal Group and City Estate Group on 28.09.2021 and during the search, it is the case of the revenue that incriminating documents and digital data were seized. Post search, a statement of one Shri Pravin Nagjibhai Bavadia was recorded after he was confronted with the documents found and seized from the premise of the City Estate Management, which is a broker, dealing with land deals in the City of Ahmedabad. Statement under Section 131 of the Act of Shri Pravin Nagjibhai Bavadiya are incorporated in the impugned notice. A specific question No.14, was asked to him with regard to the documents found during the search and in response, he has submitted that '*I confirm that the documents were found and seized from the premises of the propriety entity City Estate Management*' It is further responded by him that sometimes the clients come with their land documents or title deeds and there might be such types of documents which are also seized with the above annexures and these belonged to the clients and not to him. Question No. 26, when he was confronted with the annexures, he has referred that such annexure contained the details of lands/plots available for sale at



different locations of Ahmedabad and each entry contains the details of land, location, village, taluka, survey number, area, rate, owner of the land, etc., and he doesn't know the current status regarding the sale of the land. So far as the case of the petitioner is concerned, the reopening is premised on an incriminating material found from a loose paper during the search the following incrementing material was found which mentions about the Survey No and land.

24.07.2020	Moje - Nandoli	Nr. Baghban 2 Party Plot 15,690 yrds Sur-302 Rate:27,000/- Ref: PN Bavadiya or DV
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9. By taking the rate mentioned in the loose paper the assessing Officer has calculated the value of the property at Rs.42,30,86,246/- and compared it to the sale consideration through the sale deed dated 01.06.2019. This information has been gathered on the data available on the Government website “Any RoR”. Thus, the date mentioned in the loose paper i.e. the incriminating material, is dated 24.07.2020, whereas the petitioner has purchased the land on 01.06.2019 through a registered sale deed by paying the amount through banking channels, except the material as mentioned herein above. Hence, there is no live link coming forth which would establish that the petitioner has purchased the land in question by paying the cash as “on-money”. The seized material is also refers to the date 24.07.2020 i.e. almost after a period of one year and the petitioner had brought the non-agricultural land at the relevant time and as on today the petitioner is the owner of the land. The statement recorded during the course of search Mr.Pravin Nagjibhai Bavadiya of the searched entity does not also reveal in any manner the name of the petitioner. We fail to understand how the Assessing Officer has alleged payment of “on-money” by the petitioner after one almost year from the date mentioned in the loose paper, by arriving



at a specific rate per square yard, when the petitioner has purchased the land one year before from the date mentioned in the loose paper. The survey number mentioned in the loose paper is linked with the petitioner by the revenue by gathering information from the government Website “Any RoR, which records the details of the sale deeds. It is true that the cash transactions are done in a clandestine manner using coded script, however, the revenue, before re-opening the assessment has to establish a live link of the assessee on the basis of seized material only. The expression “relates to” and “pertains to” used in Clause(iv) to Explanation 2 to Section 148 of the Act cannot be used in vacuum. The revenue after the seizure of incriminating material is under an obligation to analyze such material, in light of attendant circumstances and record relevancy and a *prima facie* opinion linking such material establishing escapement of income at the hands of the assessee. The information which is derived from the incriminating material in the instant case, does not establish live-link. The information is absolutely vague and unspecific and the rate of mentioned in the loose paper is attempted to be imposed upon the petitioner prospectively to the sale deed registered on 23.02.2021. The statement of Shri Bavadiya does not mention the name of the petitioner. There is no link, even *prima facie*, established with Safal Group or City Estate Management. All these aspects are very relevant, and are required to be examined before roping the petitioner in re-assessment. Thus, in our considered opinion, the provision of Section 148(a) of the Act is not attracted, as no live nexus established between the petitioners and the incriminating material found during search.

10. We are conscious about the legal precedent as set out by the Supreme Court in the decisions referred by the revenue. At the stage of notice of re-opening of the assessment, *albeit*, the Court cannot go into the sufficiency of evidence, however, simultaneously the Court has to examine the aspect as to whether there is even *prima facie* some material, which could enable the



department to reopen the assessment. In the present case, the reopening is based on a vague, irrelevant, and non-specific information.

11. The writ petitions, accordingly, **succeed**. The impugned notices issued under Section 148 of the Act are quashed and set aside.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI, J)

Radhika / 24,27,29,30