



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

**R/SPECIAL CIVIL APPLICATION NO. 3868 of 2026**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

**and**  
**HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

Approved for Reporting		
Yes	No	
✓		

RAIVAT KALPESHBHAI SHAH

Versus

INCOME TAX OFFICER, WARD 3(3)(2) AHMEDABAD

Appearance:

MR. TUSHAR HEMANI, SR. ADVOCATE WITH MS VAIBHAVI K

PARIKH(3238) for the Petitioner(s) No. 1

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

**CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

**HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

**Date : 15/04/2026**

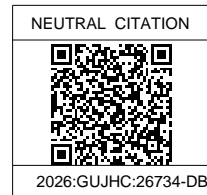
**ORAL JUDGMENT**

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

**RULE** returnable forthwith. Learned Senior Standing Counsel Mr. Aaditya D. Bhatt waives service of notice of rule on behalf of the respondent.

1. Since a short issue is involved, with consent of learned advocates for the respective parties, the matter is taken up for final hearing.

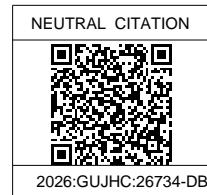
2. By way of present writ petition, the petitioner is assailing the impugned notice dated 27.03.2025 issued under Section



148 of the Income Tax Act, 1961 (for short "the IT Act") for the assessment year 2020-21.

**BRIEF FACTS:**

3. The petitioner, an individual engaged in the business of real estate, filed his return of income for assessment year 2020-21 on 11.02.2021 declaring total income at Rs. 8,54,240/-. During the year under consideration, the petitioner sold land bearing Survey No. 591 situated at Village Godhavi by registered sale deed dated 27.05.2019 to Luv Dharminbhai Patel, Shivlal Damji Patel, Premdas Damji Patel and Mitesh Amritbhai Patel for a consideration of Rs. 1,30,00,000/-. A search action under Section 132 of the IT Act was conducted on 28.09.2021 at the premises of B Safal Group and City Estate Management India, a real estate broker providing brokerage services to the B Safal Group. During the course of the search, inquiry registers were found and seized from the premises of City Estate Management India containing details of various lands and plots in and around Ahmedabad along with their survey numbers, area and asking rates. In one of such inquiry registers, a noting dated 13.03.2019 was found in respect of land at Village Godhavi bearing Survey No. 591. On the basis of the said information, the Respondent recorded a satisfaction note on 15.03.2025 which was approved by the Principal Commissioner of Income Tax-3, Ahmedabad on 21.03.2025. Thereafter, the Chief Commissioner of Income Tax, Ahmedabad-1 granted approval under Section 151 of the IT Act on 26.03.2025. The Respondent thereafter issued the

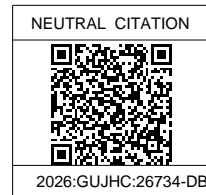


impugned notice dated 27.03.2025 under Section 148 of the IT Act, alleging that the petitioner had received on-money of Rs. 8,54,53,897/- on sale of the aforesaid land. The petitioner filed detailed replies in response to notices under Sections 142(1) and 143(2) of the IT Act reiterating the illegality of the reopening. Hence, the petitioner has approached this Court by way of the present writ petition.

#### **SUBMISSIONS ON BEHALF OF THE PETITIONER:**

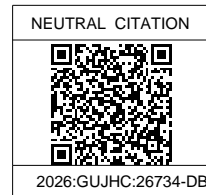
4. Learned Senior Advocate Mr. Tushar Hemani at the outset submitted that in this case, the Petitioner is seller of the land in question whereas buyer is one Luv Dharminbhai Patel (AQMPP9223E) having 55% share. On the basis of the very same inquiry register entry found during the very same search, proceedings were initiated in the hands of the buyer Luv Dharminbhai Patel as well. The said Luv Dharminbhai Patel challenged the said action of reopening (SCA 4336 of 2026) before this Hon'ble Court and the same has already been allowed by this Hon'ble Court on 8<sup>th</sup> April, 2026. So if the noting could not be used for initiating reopening proceedings in the hands of the buyer, the same certainly cannot be used for initiating reopening in the hands of the seller.

5. Learned Senior Advocate Mr. Tushar Hemani has submitted that the Assessing Officer has sought to reopen the assessment only on the basis of a noting found in the seized inquiry register and the statement of Shri Pravin Nagjibhai Bavadiya, the broker and proprietor of City Estate



Management India. It is submitted that the relevant noting in the seized inquiry register is dated 13.03.2019, whereas the petitioner sold the concerned land bearing Survey No. 591 at Village Godhavi by registered sale deed dated 27.05.2019 - i.e., approximately two and a half months after the date of the noting. The noting, therefore, predates the actual sale transaction and, as per the statement of Shri Pravin Nagjibhai Bavadiya himself recorded under Section 131 of the IT Act on 27.12.2021, the inquiry registers merely contain details of "land/plots available for sale at different locations near Ahmedabad" and their current status of sale was not known to him. Accordingly, the register entry dated 13.03.2019 is, at best, a pre-transaction market inquiry and cannot be treated as a record of any concluded sale transaction executed by the petitioner on 27.05.2019. It is further submitted that the Respondent has used the very same notation dated 13.03.2019 as the jurisdictional basis for two separate reassessment proceedings - alleging payment of on-money on purchase of the same land in assessment year 2019-20, and receipt of on-money on sale in assessment year 2020-21. The rate of Rs. 8,000/- per square yard recorded in the register cannot simultaneously constitute the purchase price and the sale price of the same property, revealing that the Assessing Officer lacked any coherent prima facie satisfaction as regards the year under consideration.

4.1 It is further submitted that the name appearing in the seized inquiry register against the relevant entry is "Bro. Manish Bopal" - a person who is entirely unconnected to and

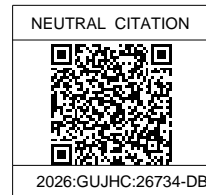


unknown by the petitioner. The petitioner's name is nowhere to be found in the seized register. The Department has not conducted any inquiry whatsoever from Shri Manish Bopal, whose name actually appears in the register. Furthermore, neither the seized inquiry register nor the statement of Shri Pravin Nagjibhai Bavadiya recorded under Section 131 of the Act makes any reference to the petitioner. The jurisdictional condition that the seized material must "pertain to" or information contained therein "relate to" the assessee, as required under Explanation 2(iv) to Section 148 of the IT Act, is not satisfied in the present case.

5. In support of the aforesaid submissions, learned Senior Advocate has placed reliance on the judgment and order dated 24.11.2025 passed in *Sandhya Maulik Patel v. Asstt. CIT [2025] 181 taxmann.com 123 (Gujarat)*, *Naliniben Jagdishkumar Gandhi v. ITO [2026] 183 taxmann.com 126 (Gujarat)* and *Deepak Chinubhai Shah v. Dy. CIT* (Special Civil Application No. 13298 of 2025) and allied matters.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENT:**

6. While opposing the aforesaid submissions, learned Senior Standing Counsel Mr. Aaditya D. Bhatt, appearing for respondent-revenue, has contended that from the search conducted on B Safal Group and City Estate Management India on 28.09.2021, inquiry registers were seized from broker Shri Pravin Nagjibhai Bavadiya. These registers are not mere dumb documents but are structured business



records of a professional real estate broker, systematically maintained with precise survey numbers, village locations, area measurements and rates. In his statement recorded on oath under Section 131 of the IT Act on 27.12.2021, the broker admitted ownership of these registers and confirmed that they belong to his business, thereby activating the statutory presumption of truthfulness under Sections 132(4A) and 292C of the Act.

6.1 It is further submitted that on verification of revenue records through the AnyROR portal, it was found that the land bearing Survey No. 591 at Village Godhavi, as recorded in the seized inquiry register, was sold by the petitioner on 27.05.2019. The asset-based nexus between the seized document and the petitioner's transaction is thus established through the exact survey number match. Under Explanation 2(iv) to Section 148 of the IT Act, when documents seized from any other person "pertain to" or information contained therein "relates to" the assessee, the Assessing Officer shall be deemed to have information suggesting escapement of income. It is submitted that the discrepancy in dates and the name of the third party are matters relating to the merits of the proposed addition and are to be adjudicated during the course of the assessment proceedings. It is, therefore, urged that the present writ petition may be dismissed.

6.2 It is further submitted that the Assessing Officer is not required to conclusively prove escapement of income at the stage of issuing the notice. The threshold is merely



"information suggesting escapement" and the same has been met in the present case. The entry in the seized register reflecting a rate of Rs. 8,000/- per square yard for land bearing Survey No. 591 at Godhavi, as against the sale consideration of Rs. 1,30,00,000/- recorded in the sale deed, constitutes sufficient tangible material for invoking jurisdiction under Section 148 of the IT Act.

6.3 It is further submitted on behalf of the respondent that the action of reopening is well-supported by the pronouncements of the Hon'ble Supreme Court. Reliance is placed on Raymond Woollen Mills Ltd. v. ITO [1999] 236 ITR 34 (SC), wherein it was held that at the stage of issuance of notice under Section 148, the Court is not required to go into the merits of the matter, and whether income had or had not escaped assessment is not the relevant consideration at that stage. Reliance is also placed on CIT v. Rajesh Jhaveri Stock Brokers (P.) Ltd. [2007] 291 ITR 500 (SC) and Anshul Jain v. PCIT [2022] 143 taxmann.com 38 (SC). It is further submitted that the expression 'pertains to' or 'relates to' as employed in Explanation 2(iv) to Section 148 is wider in amplitude than the expression 'belongs to' as used in Section 153C; therefore, the seized document need not directly belong to the assessee—a mere relation to or pertaining to the assessee's income is sufficient to invoke the reopening jurisdiction.

### **ANALYSIS AND OPINION:**

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

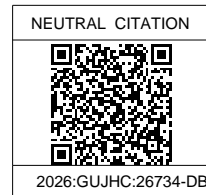


documents placed on record. The action of reopening of assessment against the petitioner is premised on a search conducted at the office premises of City Estate Management India on 28.09.2021. During the search, inquiry registers of broker Shri Pravin Nagjibhai Bavadiya were seized. The relevant extract of the seized inquiry register which forms the sole basis for the impugned notice reads as under:

*13.3.19 / 213 | Moje:- Godhavi | Opp. Godhavi Village | S. No. 591 | 20,000 sq. | Rate - 8,000 | Bro. Manish Bopal*

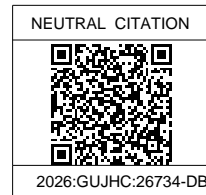
8. On the basis of the aforesaid entry in the seized inquiry register, the Assessing Officer formed the opinion that the petitioner had received on-money of Rs. 8,54,53,897/- on sale of land bearing Survey No. 591 at Village Godhavi and accordingly sought to reopen the assessment year 2020-21.

9. At the outset we note that the petitioner sold the land bearing Survey No. 591 at Village Godhavi to, amongst others, Shri Luv Dharminbhai Patel (PAN: AQMPP9223E), who holds a 55% share in the said property. On the basis of the very same inquiry register entry dated 13.03.2019 found during the very same search, proceedings under Section 148 of the IT Act were initiated in the case of Shri Luv Dharminbhai Patel as well, alleging that he had paid on-money on purchase of the said land. Shri Luv Dharminbhai Patel challenged the said action of reopening by preferring Special Civil Application No. 4336 of 2026 before this Court. The said petition has been allowed by this Court on 08.04.2026,



thereby quashing the reopening proceedings against the buyer. The logical and necessary corollary of the said order is that the buyer did not pay any on-money in the said transaction. Since the same transaction is before this Court from both sides - the seller and the buyer - and this Court has already held that the buyer is not liable for any on-money in respect of the same property based on the same seized register entry, no unaccounted consideration could conceivably have been received by the petitioner as seller in the very same transaction. The revenue cannot blow hot and cold simultaneously: having failed to sustain the allegation of payment of on-money against the buyer, it cannot succeed in sustaining the allegation of receipt of on-money against the seller on the basis of the same material.

9.1 We find that, even on the question of the evidentiary weight to be attached to the seized inquiry register, the revenue's case is materially weakened by the admissions made by Shri Bavadiya himself during his statement recorded in the course of the search. At Question No. 14, Shri Bavadiya candidly admitted that sometimes clients come with land documents or title deeds and these belonged to the clients and not to him. This admission directly and significantly undermines the blanket presumption under Section 292C that all entries in the inquiry register necessarily record actual financial transactions carried out by or through Shri Bavadiya. Further, at Question No. 26, it emerges that the 'owner of the land' is typically the person whose name is entered in the register—confirming that the name reflected therein is that of



the owner or broker who listed the property, and not necessarily a party who paid or received any undisclosed consideration. These specific admissions by the searched person himself effectively negate the foundation upon which the revenue has sought to invoke a generalised presumption under Section 292C to treat the inquiry register entries as conclusive evidence of on-money transactions involving the petitioner.

10. The name "Bro. Manish Bopal" appearing in the seized inquiry register is of a person who is entirely unconnected to the petitioner or the sale transaction in question. No inquiry has been conducted from Shri Manish Bopal, whose name actually appears in the register. The petitioner's name is nowhere to be found in the seized register. Furthermore, the statement of Shri Pravin Nagjibhai Bavadiya recorded under the provisions of Section 131 of the IT Act does not in any manner mention the name of the petitioner. Thus, we do not find any direct or indirect link between the petitioner and the seized document. The revenue has attempted to reopen the assessment year 2020-21 only on the basis of some vague information allegedly connected from the seized document, which does not in any manner relate to the present petitioner.

11. Even otherwise, this issue is no more res integra as the same is covered in favour of the assessee by the judgements of this Court in the cases of *Sandhya Maulik Patel v. Asstt. CIT [2025] 181 taxmann.com 123 (Gujarat)* and *Naliniben Jagdishkumar Gandhi v. ITO [2026] 183 taxmann.com 126*

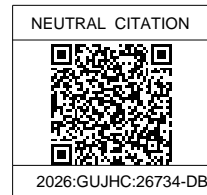


(Gujarat). In the case of *Naliniben Jagdishkumar Gandhi*, this Court has, after considering a similar entry in the same inquiry register seized in the same search, held as follows:

*"Except the seized documents as mentioned herein-above, and the statements of the searched person Shri Bavadiya, there is no material recorded by the Assessing Officer which would reveal the name of the petitioner. It is true that cash transactions operate in very clandestine manner, and the reassessment cannot be quashed, but the revenue has to prove a live link connecting the assessee. The only link is the survey number of the petitioner. It is pertinent to note that the date of the seized document referred is of 11.08.2017 and it is the case of the Assessing Officer that the entire plot of land was sought to be sold at the rate of Rs.17,000/- per square yard in the year 2017 as per the entry made in the register (seized document)."*

The aforesaid principle applies with equal force to the present case, where not only is the survey number the only link between the register entry and the petitioner, but the very same register entry has already been adjudicated upon by this Court in the context of the buyer's reassessment, which has been quashed, leaving no foundation whatsoever for the parallel proceedings against the petitioner-seller.

We find further support in two recent decisions of this Court arising from the very same search. In *Trupti Aakash Desai v. ITO, Ward 3(3)(5), Ahmedabad* [Special Civil Application No. 985 of 2026, decided on 08.04.2026], this Court, dealing with the search at B Safal Group conducted on 28.09.2021 and the very same seized inquiry register, held that the entries therein 'cannot be used in vacuum' and that a live and direct nexus between the seized material and the



assessee sought to be reopened is a sine qua non. In Kantilal Parsotamdas Patel v. ITO [Special Civil Application No. 3676 of 2026, decided on 08.04.2026], this Court, following the aforesaid line of reasoning and dealing with a similar set of facts arising from the same search, quashed the reassessment proceedings. The present case, on its facts and in law, is indistinguishable from both these decisions and deserves to succeed on this additional ground as well.

### **FINAL ORDER**

12. Hence, we are of the opinion that the assessment has been sought to be reopened on the basis of conjectures and surmises. The seized inquiry register entry does not establish any live nexus with the petitioner. There is no direct or indirect link between the seized document and the present petitioner. The reassessment proceedings against the buyer of the very same land, based on the very same register entry, have already been allowed by this Court vide order dated 08.04.2026 in Special Civil Application No. 4336 of 2026, conclusively establishing that no on-money changed hands in the transaction. The invocation of the proceedings under Section 148 of the IT Act is ill-conceived and unsustainable. Accordingly, the captioned writ petition stands allowed. The impugned Notice dated 27.03.2025 issued under Section 148 of the IT Act is hereby quashed and set aside.

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

**(PRANAV TRIVEDI, J)**