



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 16693 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-

and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI Sd/-

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|------------------------|-----|----|
| Approved for Reporting | Yes | No |
| | | ✓ |

M/S TOUCH COMM TECH PRIVATE LIMITED

Versus

NATIONAL E-ASSESSMENT CENTRE, DELHI & 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 MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 15/06/2026

ORAL JUDGMENT

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

1. In the present writ petition, the petitioner is seeking quashing and setting aside the order dated 27.07.2022 passed under section 148A(d) of the Income Tax Act, 1961 (for short "the Act") reopening the assessment of the petitioner for the Assessment Year (AY) 2013-14.

2. At the outset, learned advocate Mr. Shah appearing for the petitioner has submitted that reopening of the assessment is required to be quashed on the ground of non-application of mind by the respondent on the credit entries mentioned in the Return of Income (ROI). It is submitted



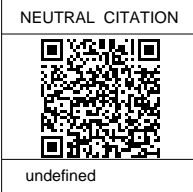
that reopening is premised on the allegations of accommodation entries to the tune of Rs.70,00,000/- as the same is unfounded in view of the specific credit entries of Rs.25,00,000/- mentioned in the ROI. It is submitted that the respondents have assumed that income to the tune of Rs.70,00,000/- has escaped the assessment. While referring to page No.94 of the writ petition, the details of the entities/beneficiaries and the debit and credit entries for the AY in question, it is contended that credit entry of Rs.20,00,000/- with Acute Consultancy Ltd. is of opening balance, whereas debit and credit entries with Sampada Chemicals Ltd. of Rs.25,00,000/- would be NIL and finally, debit entry of Rs.25,00,000/- with Shyam Alcohol & Chemicals Ltd. is of opening balance and this vital aspects have been ignored by the Assessing Officer (AO), though pointed out by the petitioner and thus, it is submitted that reopening is required to be quashed and set aside. Moreover, it is submitted that if the aforesaid entries are considered in true perspective, the alleged amount of escapement comes below the amount of Rs.50,00,000/- thus, attracting the provision of section 149 of the Act (Old Regime) and hence, reopening of the assessment, which is beyond 6 years is required to be quashed and set aside. Thus, it is urged that the writ petition may be allowed.



3. In response to the aforesaid submissions, learned Senior Standing Counsel Mr. Bhatt has submitted that reopening of assessment at this stage, may not be interfered with as there is enough material connecting the petitioner with one Shri Vipul Vidur Bhatt, against whom the search was conducted on 05.02.2016 and during his confessional statement, complicity of the petitioner was established. It is submitted that the fact that the petitioner routed Rs.25,00,000/- back to the entry operator does not extinguish the taxability of Rs.70,00,000/-, which entered the books of the petitioner from unexplained sources. He has submitted that the statutory limit of Rs.50,00,000/- will not rescue the petitioner from reopening of the assessment under the provision of section 149 (1())b) of the Act.

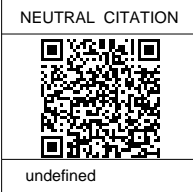
4. We have heard the learned advocates appearing for the respective parties and also perused the documents, as pointed out by them.

5. The petitioner filed its ROI for the AY 2013-14 on 30.09.2013 declaring total income of Rs. NIL after set-off of brought forward loss of Rs.3,52,561/-. Thereafter, the case of the petitioner was selected for scrutiny and assessment was finalized under section 143(3) of



the Act. It appears that search action under section 132 of the act was carried out in the case of Shri Vipul Vidur Bhatt on 05.02.2016 and alleged documents reveal allegations pertaining to bogus accommodation entries which prompted the respondents to issue show-cause notice dated 26.05.2022 under section 148A(b) of the Act. The petitioner accordingly, responded to the show-cause notice vide letter dated 08.06.2022. Ultimately, the objections of the petitioner were rejected by the impugned order dated 27.07.2022 passed under section 148A(d) of the Act and consequently, the Notice of Intimation dated 28.07.2022 was issued under section 148 of the Act.

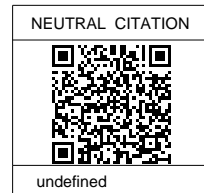
6. At the outset, we may point out that the entire allegations are premised on escapement of income on alleged accommodation entries to the tune of Rs.70,00,000/-. We find the determination of amount of Rs.70,00,000/- as ill-founded in view of the specific explanation tendered by the petitioner by producing the details of the names of beneficiaries along with PAN numbers and debit and credit entries for the AY 2012-13. These details were already available with the respondents at the time of the original proceedings however, reopening is only premised on the basis of the material documents found



during the search conducted at Shri Vipul Vidur Bhatt on 05.02.2016. Thus, after passage of more than 6 years, the assessment is reopened.

7. Be that as it may. The petitioner explained the alleged entries, which were already presented in its ledger account. It is not in dispute that these entries are annexed along with notice dated 12.04.2021 issued under section 148 of the Act.

8. A bare perusal of the entries reveals that for Acute Consultancy Ltd., an alleged bogus entity, name of the beneficiary is alleged to be the petitioner wherein the debit entry of Rs.20,00,000/- has been referred which is the opening balance; for Sampada Chemicals Ltd., an alleged bogus entity, against the beneficiaries, name of the petitioner is referred, wherein debit of Rs.25,00,000/- is mentioned against the credit entry of Rs.25,00,000/-. Thus, this would amount to be NIL entry as the amount of Rs.25,00,000/- alleged to have been debited from the petitioner, which have been subsequently credited during the year. Finally, in the case of Shyam Alcohol & Chemicals Ltd., another alleged bogus entity; against the name of the petitioner a debit entry of Rs.25,00,000/- during the year figures which is also the opening balance.



9. The Regular assessment under section 143(3) of the Act was completed on 29.12.2016 by determining an amount of total income of Rs.10,62,320/-. The credit entry of Rs.25,00,000/- with Sampada Chemicals Ltd. has totally been ignored by the AO. Thus, it appears that in order to bring the assessment within the ambit of limitation, the entire amount of 70,00,000/- has been determined by the Assessing officer. On deleting of the amount of Rs.25,00,000/-, the alleged amount of escapement will come to Rs.45,00,000/-, which is below the threshold limit of Rs.50,00,000/- as envisaged under the provision of section 149(1)(b) of the Act. Once the amount of alleged escapement of income comes below the threshold of limitation of Rs.50,00,000/- as provided under section 149 of the Act, the same debars reopening of the assessment under section 147/148 of the Act beyond the period of 3 years, which is more than 6 years in the present case. The proviso under Section 149 states no notice can be issued under the provisions of Section 148 after lapse of three years if the escaped income is below Rs.50,00,000/-. The Revenue with respect for the AYS 2013-14 to 2015-16 has also barred the reopening of the assessment vide Instruction NO.1/2022 dated 11.05.2022 if the income escaping assessment is less than Rs.50,00,000/- in view of the judgement of the Apex Court in the case of



Union of India vs Ashish Agarwal, 2022 SCC Online SC 543.

10. In light of the foregoing observations, the impugned order dated 27.07.2022 issued under section 148A(d) of the Act is hereby quashed and set aside. The writ petition is accordingly allowed.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI, J)

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