

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं  
अन्नपूर्णा गुप्ता, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And  
Smt. Annapurna Gupta, Accountant Member

आयकर अपील सं /ITA No. 733/AHD/2026  
निर्धारण वर्ष /Assessment Year : 2020-2021

<b>Gopallal Mathurdas Vaishnav</b> <b>2, Vrajbhumi Bunglow, Nr.</b> <b>Vallabh Bunglow, B/h. Divine</b> <b>School, Khodiyarnagar,</b> <b>Ahmedabad-382350, Gujarat</b>  <b>PAN/GIR NO: ADEPV8269P</b>	<b>VS.</b>	<b>The ITO,</b> <b>Ward- 3(3)(5)</b> <b>Ahmedabad-380015</b>
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आयकर अपील सं /ITA No.728/Ahd/2026  
निर्धारण वर्ष /Assessment Year :2019-20

<b>Gopallal Mathurdas Vaishnav</b> <b>2, Vrajbhumi Bunglow, Nr.</b> <b>Vallabh Bunglow, B/h. Divine</b> <b>School, Khodiyarnagar,</b> <b>Ahmedabad-382350, Gujarat</b>  <b>PAN/GIR NO: ADEPV8269P</b>	<b>VS.</b>	<b>The ITO,</b> <b>Ward- 3(3)(5)</b> <b>Ahmedabad-380015</b>
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

Assessee by :	Shri Dhinal Shah, AR
Revenue by :	Shri Rignesh Das, CIT-DR

सुनवाई की तारीख/Date of Hearing : 20/05/2026  
घोषणा की तारीख /Date of Pronouncement: 07/07/2026

**आदेश/O R D E R**

**Per Sanjay Garg, Judicial Member:**

The captioned appeals have been preferred by the assessee against the separate orders of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, passed under section 250 of the Income Tax Act, 1961, dated 10.02.2026 and 07.03.2026 for the assessment years 2019-20 and 2020-21 respectively. Since the facts and issues involved in both the appeals are identical in nature and interconnected, therefore, both these appeals were heard together and are being disposed of by this common order. Assessee's appeal i.e. ITA No. 733/Ahd/2026 for AY 2020-21 is taken as lead case.

**ITA No.733/Ahd/2026 for AY 2020-21:**

2. The brief facts of the case are that the assessee is an individual engaged in the business of trading in copper scraps and ingots under the name M/s Bhumi Enterprise. For the assessment year 2020-21, the assessee had filed his return of income on 14.12.2020 declaring a total income of Rs. 42,67,820/-, which was processed under section 143(1) of the Act. Subsequently, the case of the assessee was flagged on the Insight Portal under the high-risk category based on specific information received from the Investigation Wing. The information suggested that the assessee was a beneficiary of accommodation entries from a fake bill provider, M/s. Pooja Enterprises, involving fictitious purchases to the tune of Rs. 22,47,47,533/- during the financial year 2019-20. The Assessing Officer (in short, "the AO"), observed that the Investigation Wing had analyzed the GST data and further the 360-degree profiling of the entities involved in providing bogus invoicing and bogus GST Input Tax Credits was done. That the report of the Investigation Wing suggested that the assessee and various parties in the subsequent layers had obtained fake invoices and bills merely for booking purchases in their books of account to inflate expenses, reduce taxable profits, and to claim bogus Input Tax Credit under the GST regime. Acting upon the report

of the investigation wing, the AO, after following the statutory procedure laid down in section 148A of the Act, issued a notice dated 20.03.2024 under section 148 of the Act and thereby reopened the assessment.

3. During the course of the reassessment proceedings, the AO observed that while the assessee submitted copies of the GST return, tax audit report, purchase invoices, and bank statements, he failed to submit complete primary records such as a purchase register, purchase ledger with PANs of parties, lorry receipts, or commodity-wise stock registers to evidence the physical delivery of the goods. Furthermore, a notice was issued under section 133(6) of the Act to the supplier, M/s Pooja Enterprises to verify the transactions, which was not complied with. The Assessing Officer held that mere routing of transactions through banking channels did not sanctify the genuineness of the purchases, especially when the Investigation Wing had reported that the supplier was an entry provider engaged in providing bogus invoicing for passing on illegal Input Tax Credit. Consequently, the Assessing Officer treated the alleged purchases amounting to Rs. 22,47,47,533/- as a colourable device and disallowed the same as unexplained expenditure under section 37(1) of the Act, thereby assessing the total income at Rs. 22,90,15,353/-.

4. During the first appellate proceedings, the assessee vehemently challenged both the validity of the reopening and the additions on merits. The assessee contended that the reopening was based purely on borrowed satisfaction without the underlying information being supplied and, thereby, challenged the jurisdiction of the AO in issuing the notice under section 148 of the Act. On merits, the assessee pleaded that the books of accounts were audited and not rejected, complete quantitative details were maintained, and the total sales of Rs. 88.93 Crores achieved against the total purchases were accepted by the Revenue without any dispute. The assessee submitted that treating purchases of Rs. 22.47 Crores as bogus while simultaneously accepting the corresponding sales would

result in a gross absurdity in the financial statements. However, the Ld. CIT(A) rejected all the contentions raised by the assessee. The Ld. CIT(A) upheld the assumption of jurisdiction by the AO, by noting that the AO had shared the relevant portions of the Investigation Report along with the show-cause notice and had independently applied his mind. The Ld. CIT(A) further held that the primary onus to prove the genuineness of the expenditure lay squarely on the assessee, which remained undischarged in the complete absence of transport receipts or delivery records, and thereby confirmed the disallowance.

5. Being aggrieved by the order of the Ld. CIT(A), the assessee, has come in appeal before us, raising the following Grounds of Appeal:

*“01. The learned CIT(A) has erred in confirming the notice issued under Section 148 on 01-05-2023 along with Order under Section 148A(d) in as much as there is no escapement of income and that no underlying information alleged in relation to bogus purchases has been supplied by the AO and therefore the notice issued under Section 148 is bad in law.*

*02. The learned CIT(A) has erred in confirming the addition on account of unexplained business expenditure under Section 37(1) of Rs. 22,47,47,533 on the ground that the appellant has failed to prove genuineness of the purchases in as much as:*

*(i) the books of accounts are audited and the same has not been rejected by the AO*

*(ii) the complete details of purchases including the quantitative records are available which are not disputed*

*(iii) there is no dispute about sales and in the absence of this the purchases cannot be treated as unexplained expenditure*

*(iv) the payments to M/s. Pooja Enterprise has been made by account payee cheque and the same is not disputed by the learned AO.*

*03. The appellant says and submits that the alleged unexplained bogus purchases cannot be added under Section 37(1).”*

6. **Ground No.1:** The assessee vide ground No. 1 has agitated against the assumption of jurisdiction by the AO for re-opening of the assessment u/s 147 of the Act and the validity of the order passed u/s 148A(d) of the Act as well as of the notice issued u/s 148 of the Act. The Ld. DR, on the other hand, has strongly relied upon the order of the CIT(A) in this respect.

7. We have considered the rival contentions of the Ld. Representatives of the parties and gone through the record. Before proceeding further, we deem it appropriate to reproduce the relevant provisions of Section 148A of the Act as were in force during the relevant period as amended by the Finance Act, 2022, w.e.f. 01.04.2022:

***“148A. Conducting inquiry, providing opportunity before issue of notice under section 148.***

*The Assessing Officer shall, before issuing any notice under section 148,—  
(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;*

*(b) provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);*

*(c) consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);*

*(d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:  
Provided .....*

*(emphasis supplied by us)*

8. A perusal of the above reproduced provisions of Section 148A of the Act would reveal that a duty is cast upon the AO to firstly conduct an inquiry, if so required, in respect of the information received from the Investigation Wing to check the veracity of such information by co-relating and verifying such information suggesting escapement of income of the assessee. The AO is further

supposed to share such information and results of any such inquiry, if any, conducted by him, with the assessee and to provide him an opportunity of hearing as to why a notice under section 148 should not be issued on the basis of such information and/or results of such inquiry. Now, it will be relevant to reproduce herein the notice issued by the AO to the assessee u/s 148A(b) of the Act:

**“GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT**

**OFFICE OF THE INCOME TAX OFFICER  
WARD 3(3)(5), AHMEDABAD**

To,  
GOPALLAL MATHURADAS VAISHNAV  
16, ADITIYA APPARTMENT, NEAR POOJA BUNGLOWS,  
NIKOL ROAD, ODHAV, AHMEDABAD - 382415, Gujarat, India

<b>PAN</b>	<b>A.Y.</b>	<b>Dated</b>	<b>DIN &amp; Notice No.</b>
ADEPV8269P	2020-21	05/03/2024	ITBA/AST/F/148A(SCN)/2023-24/1062035173(1)

**Subject: Notice under clause (b) of section 148A of the Income-tax Act, 1961**

Sir/Madam/M/s.,

Whereas I have information which suggests that income chargeable to tax for the Assessment Year 2020-21 has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/ enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

2. You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice under section 148 of the Income tax Act, 1961 should not be issued.

3. You may submit your reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before 13/03/2024 electronically at [www.incometax.gov.in](http://www.incometax.gov.in).

**VIPIN KHICHAIR  
WARD 3(3)(5) AHMEDABAD**

**ANNEXURE  
SHOW CAUSE NOTICE U/S 148A(b) OF THE I.T. ACT, 1961**

As per the information uploaded in INSIGHT Portal under 'High Risk CRIU/VRU Cases', the following information(s) in your case has (have) been flagged on Insight Portal in accordance with the Risk Management Strategy formulated by CBDT.

1. As per the information uploaded in Insight and flagged by the Risk Management, information in the case of Gopal Das Mathuradas Vaishnav PAN-ADEPV8269P was shared regarding the assessee has entered into bogus transaction/fictitious transactions The details taken from Insight portal is as under:-

**Personal details:**

PAN	ADEFY8259F	DDE/ Incorporation
Name	GOPALLAL MATHURADAS VAISHNAV	
Address	2, Vrajehum Bungalows, Near Division School, Nikol Ahmedabad	
State	Gujarat	
Email		
.. PCIT	PCIT, Ahmedabad - 3	

**Information Details:**

Information FY	Information Source Type	Source Description	Information Type	Description	Value
2017-18	Suspicious Transaction Report	STR	Others	OTHERS	-
2018-19	Suspicious Transaction Report	STR	Others	OTHERS	-
2019-20	Suspicious Transaction Report	STR	Others	OTHERS	-
2020-21	Suspicious Transaction Report	STR	Others	OTHERS	-

**Verification Result:**

Actionable FY	Result Type	Result Description	Result Value / Remarks
2017-18	Fictitious Transaction	BOGUS PURCHASES	4,26,05,512
2018-19	Fictitious Transaction	BOGUS PURCHASES	38,79,82,030
2019-20	Fictitious Transaction	BOGUS PURCHASES	22,47,47,553
2020-21	Fictitious Transaction	BOGUS PURCHASES	10,04,39,316

**Documents**

Sr. No.	Document Type	Document Description	Remarks	Documents Name	Size (KB)
-	VERPT	-	-	D NESH CHAND compressed (1).pdf	2396393

2. On verification of information/documents available on record, it is found that Gopaldas Mathurdas Vaishnav was one of the beneficiaries of fake bill provider Pooja Enterprises. Details of the same are as under:

<b>S. No.</b>	<b>Name of Beneficiary</b>	<b>PAN of Beneficiary</b>	<b>Name of Bill Provider</b>	<b>PAN of Bill Provider</b>	<b>Transaction Value</b>	<b>FY involved</b>
1	Gopaldas Mathurdas Vaishnav	ADEPV8269P	Pooja Enterprises	AATFP8454E	22,47,47,533	2019-20

3. The information received has been perused and analyzed which needs no further enquiry. The information received suggests that the Income Chargeable to tax of Rs. 22,47,47,533/- for Assessment Year 2020-21 has escaped assessment within the meaning of Section 147 of Income Tax Act, 1961. The details of the information available with relevant documents are enclosed with the notices.

4. In view of the above information(s) received and shared with you, as above and verified by this office on the basis of documents available on record and in accordance with Section 148 A(b) of the IT, Act, 1961 you are requested to show cause as to why a notice under section 148 of the IT Act, 1961 should not be issued on the basis of above mentioned information which suggests that income chargeable to tax amounting to Rs. 22,47,47,533/- has escaped assessment in your case for A.Y. 2020-21.

5. You may submit your reply to this notice, alongwith supporting documents (if any) on the above mentioned issued on or before the date stipulated in this notice through e-proceedings.

VIPIN KHICHAAR  
WARD 3(3)(5) AHMEDABAD”

9. A perusal of the afore-reproduced notice issued by the AO u/s 148A(b) of the Act would reveal that the assessee was supplied only the information that the Investigation Wing had received information of assessee having made certain suspicious transactions with Pooja Enterprises, and on verification, as per the Investigation Wing, the assessee had entered into fictitious transactions of bogus purchases in the Financial Years 2017-18 to 2020-21. Further, that in the Financial Year 2019-20 relevant to Assessment Year 2020-21, the assessee allegedly made bogus purchases of Rs. 22,47,47,533/- from Pooja Enterprises. The information supplied to the assessee was general and vague. It is nowhere pointed out in the said information as to which of the transactions/invoices were

fictitious and what was the basis for such information. The AO, admittedly did not conduct any inquiry in respect of the above information, by observing, “The information received has been perused and analyzed which needs no further enquiry”. The assessee under the circumstances was not given any opportunity to rebut the correctness or veracity of such information. The assessee, under the circumstances, filed the following reply along with documents to the AO:

*“BHUMI ENTERPRISE  
PLOT NO. 496 TO 499, ROAD NO. 13, GIDC, KATHWADA, AHMEDABAD-  
382430  
13-03-2024*

*To,  
THE COMMISSIONER OF INCOME TAX  
WARD 3(3)(5), AHMEDABAD*

*RESPECTED SIR,  
SUBJECT: Reply to Notice under clause (b) of section 148A of the  
Income-tax Act, 1961.  
REF: ITBA/AST/F/148A(SCN)/2023-24/1062035173(1) Dated 05-03-2024  
PAN: ADEPV8269P  
F.Y.: 2019-20  
A.Y.: 2020-21*

*With reference to the above subject, I am in receipt of the notice captioned above wherein it is stated that I had entered into bogus transaction / fictitious transactions with Pooja Enterprises (AATFP8454E) amounting to Rs.22,47,47,533/-.*

*In this regard, I clarify that all the transactions made with Pooja Enterprises are genuine. To authenticate these transactions, I have submitted the following details by which you may consider their genuineness:*

- 1. Copy of ledger A/c of Pooja Enterprises in our books for FY 2019-20.*
- 2. Copy of bank statement highlighting payment made to Pooja Enterprises.*
- 3. Sample copies of original purchase invoices, E-way bills and Transport LR.*

*Kindly consider the above documents & clarification regarding this issue and in case you require any further information, I will be happy to share it with you.*

*Thanking you,*

*Yours faithfully,*

*FOR BHUMI ENTERPRISE*

*SD/-  
GOPALLAL MATHURADAS VAISHNAV  
(Proprietor)*

*ENCL: AS ABOVE”*

10. The AO, thereafter, proceeded to pass the order u/s 148A(d) of the Act. In the said order, the AO discussed the basis of the information also, which was not supplied to the assessee and hence, giving no opportunity to the assessee to rebut such basis of the report of the Investigation Wing.

11. Now, coming to the relevant observations made by the AO in the order passed u/s 148A(d) of the Act. The AO firstly mentioned the fact of receipt of information on Insight Portal and thereafter, reproduced the contents of the information as mentioned in the notice issued u/s 148A(b) of the Act, as reproduced above. Thereafter, he has reproduced the reply of the assessee to the said notice. Thereafter, the AO proceeded to pass the order u/s 148A(d) of the Act, by firstly observing that he has considered the reply of the assessee but the same was not found acceptable. He observed that as per the information received through Insight Portal, the assessee had made fictitious transactions in the form of bogus purchases amounting to Rs. 22,47,47,533/- with M/s. Pooja Enterprises. Thereafter, he proceeded to discuss the information flagged on the Insight Portal, the relevant part of which is reproduced as under:

“ .....

**3.2 Perusal of the GSTR-1 of Shri Dinesh Chand for the FY 2017-18 and 2018-19 revealed that various parties had obtained Invoices/Bills for booking purchases in their books of account and to claim bogus Input Tax Credit of GST as well. From the 360-degree profile, it is seen that these purchases were made from persons in various years who either -**

*(a) did not file any ITR for the relevant assessment years or*

*(b) did not declare any trading activity in their ITR filed for the relevant Assessment Years or*

(c) declared the profit u/s 44AD of the Act on the declared gross receipts while, on the contrary, huge purchases were made by them or

(d) had no economic rational while transacting such huge value and without proper business activity.

**3.3 On analysing the GST Data** of the assessee and the persons found in subsequent Layers of the assessor, it is seen that various persons have taken fake invoices either from the assessee directly or from the persons found in subsequent layers of the assessee in different years. Further, it is also seen from the GST Data that the HSN of these persons who obtained the fake invoices are not similar to that of the assessee. Accordingly, these persons were requested to justify the financial transactions by furnishing the (a) copy of Invoices (b) ledger account of the suppliers in their books of accounts and (c) material evidence in support of the actual delivery of the goods. However, it is seen that the summons/letters sent were either received back or, on receipt of the same, no compliance whatsoever was received or the reply furnished was without any supporting evidence for the actual delivery of the goods, etc. In view of the above, the transaction value of purchases is considered as the quantum of bogus purchases obtained by the beneficiaries to inflate the expenses for reducing the element of profits in the years and to claim input tax credit of GST.

4 A chart is compiled containing (a) the name & PAN of the beneficiaries, (b) name & PAN of the persons who issued bogus Invoices to the beneficiaries, (c) transaction value and (d) the year in which such bogus Invoice was obtained by the beneficiaries.”

12. The AO, thereafter reproduced the chart wherein the name of the assessee has been mentioned at Sr.No.6. The relevant contents are reproduced as under:

<b>S. No.</b>	<b>Name of Beneficiary</b>	<b>PAN of Beneficiary</b>	<b>Name of Bill Provider</b>	<b>PAN of Bill Provider</b>	<b>Transaction Value</b>	<b>FY invol ved</b>	<b>Remarks</b>
1	Gopaldas Mathurdas Vaishnav	ADEPV8269P	Pooja Enterprises	AATFP8454E	22,47,47,533	2019-20	The beneficiary did not furnish any convincing reply to the query issued vide DIN ITBA/INV/F/17/2022-23/1047093280(1) dated 07/04/2022. The genuineness of the transaction remained unsubstantiated with material evidence.

13. The Investigation Wing, on the basis of above information, requested the AO of Shri Dinesh Chand, who allegedly operated paper companies to provide bogus invoicing, to re-open his assessment. The Investigation Wing further requested the Jurisdictional Assessing Officer of the beneficiaries to initiate proceeding w/s 147 read with section 148A of the Act. The AO of the assessee, accordingly, proceeded to re-open the assessment of the assessee. The AO further in Para-7 of the order passed u/s 148A(d) of the Act observed as under:

*“7. Transaction of the assessee with M/s Pooja Enterprise needs thorough investigation which could be done at assessment proceedings only. Thus, in view of the facts discussed above, the return filed for the assessment year under consideration has not reflected a truly, correctly, and completely disclosed income for the assessment year 2019-20. The genuineness of transactions remained unexplained, in absence of appropriate justification from the assessee. As such, sales/purchase of goods with M/s Pooja Enterprise is/are nothing but accommodation entry(ies) which needs/need to be brought into the tax net. It may also be worth mentioning that the word used in Section 148 of the Act, as mentioned in condition (ii), is "suggests" and not "proves". On receipt of the information, the same has been analyzed in the context of the details available on record, and after due consideration of the results of inquiries conducted, it is established that the assessee has failed to contend with the fact that income arising out of these transactions has been offered for taxation for the relevant assessment year.*

*8. Therefore, in the light of the above reasons, information and material available on record, I am of the considered view that the assessee has failed to explain the above-mentioned transactions and income earned/ derived there from, during the year under consideration and the same remained unexplained and unsubstantiated as per the relevant provisions of the Act. Hence, on the basis of material available on record which establish that the income chargeable to tax in respect of above-mentioned unexplained transactions of Rs 22,47,47,533/-, which has escaped assessment for FY 2019-20 and therefore, this is a fit case for issuance of notice under Section 148 of the Act for Assessment Year Year 2020-21.*

*9. This order is being passed under Section 148A(d) of the Act, with prior approval of the specified authority as defined under Section 151 of the Act.”*

14. A perusal of the relevant contents of the order passed u/s 148A(d) of the Act, would reveal that in this case, the AO has solely acted upon the information received on the Insight Portal from the Investigation Wing. The Investigation Wing, on the other hand, has not given any definite or conclusive information that the assessee has obtained the bogus purchase invoices, rather as noted above, in

the remarks column, the Investigation Wing has remarked that the beneficiary did not furnish any convincing reply to the query issued, and hence, the genuineness of the transaction remained unsubstantiated with material evidence. Therefore, the Investigation Wing only doubted the genuineness of the transaction for want of supply of material evidence to substantiate the same. This is not a case where the Investigation Wing has pointed out certain concrete, convincing or conclusive information duly corroborated with relevant evidences showing that the assessee had entered into fictitious transactions of bogus purchases with M/s. Pooja Enterprises. Under the circumstances, the AO, as per the procedure prescribed u/s 148A of the Act was supposed to check the veracity of such information by making requisite inquiries. However, as observed hereinabove, the AO instead of making such inquiries, has recorded, "*The information received has been perused and analyzed which needs no further enquiry*". Thus, the Investigation Wing has pointed out that the genuineness of the transactions could not be substantiated for want of material evidence, but the AO treated the said remarks of the Investigation Wing as conclusive report of bogus transactions and thereby, of escapement of the income of the assessee for the year under consideration. The AO even did not bother to go through the reply, details and evidences furnished by the assessee in the shape of copy of ledger account, copy of bank statements, copies of purchases invoices, E-way bills and transport lorry receipts. He has passed the order u/s 148A(d) of the Act holding that the income of the assessee for the year under consideration has escaped assessment, solely, on the basis of information received from Investigation Wing, which, in fact, suggested that the genuineness of the transactions in question could not be substantiated for want of evidence. Therefore, the information provided by the Investigation Wing, though, may be a triggering factor to initiate the proceedings u/s 148A of the Act by making the requisite inquiries and giving opportunity of hearing to the assessee as prescribed under clauses (a) & (b) of Section 148A of the Act, however, the AO was supposed to pass a reasoned order based on the result of such inquiries

and after duly considering the reply and submissions of the assessee in respect of such information and result of enquiries thereof, as prescribed under clauses (c) and (d) of section 148A of the Act. Hence, the order passed by the AO solely on the basis of vague and general information, further based on mere suspicion of the Investigation Wing, without following the requisite procedure as prescribed under clauses (a) to (d) of Section 148A of the Act, is not a legally valid order and hence, is liable to be quashed. Therefore, the subsequent notice issued u/s 148 of the Act is also not sustainable in the eyes of law.

15. At this stage, it will also be relevant to compare the earlier provisions of section 147 of the Act with the substituted provisions as brought vide Finance Act 2021 w.e.f. 01.04.2021.

**Earlier Provisions w.e.f. 01.06. 2016:**

***" 147. Income escaping assessment.***

*If the Assessing Officer has **reason to believe** that any income chargeable to tax has escaped assessment for any assessment year, he may, **subject to the provisions of [sections 148 to 153](#)**, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned "*

**Substituted provisions w.e.f. 01.04.2021:**

***147. Income escaping assessment.***

*If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, **subject to the provisions of sections 148 to 153**, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year).Explanation.—For the purposes of assessment or reassessment or recomputation under this section, the Assessing*

*Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with.]*

16. It is pertinent to mention here that section 148A of the Act (as reproduced in earlier part of this order) has been inserted vide Finance Act 2021 w.e.f. 01.04.2021. As per the earlier provisions (prior to 01.04.2021), if the AO has **reason to believe** that any income chargeable to tax has escaped assessment for any assessment year, he could reopen the assessment by issuing notice u/s 148 of the Act. The various courts of law have held that the reasons to form the belief of escapement of income of the assessee should be based on some direct or circumstantial evidence having a material bearing on the formation of such belief and not on the basis of suspicion, gossip or rumour or a mere pretense of the AO. The AO must apply his own mind upon such information or evidence coming to his possession, and should proceed to reopen the assessment by just borrowing his satisfaction from the Investigation Wing. Nonetheless, the operating words triggering the reopening of the assessment are, “**reasons to believe**” and hence, there need not be of any conclusive observation or finding of the AO regarding the escapement of income of the assessee. If the material coming into the knowledge or possession of the AO is such that any officer, in the ordinary course of his duties, would believe that the income of the assessee has escaped assessment, though, such material may not be enough to give any conclusive finding of such escapement of income, the reopening of the assessment would be justified. However, there is a sea-change in the relevant provisions w.e.f. 01.04.2021 as the aforesaid key words- “**reason to believe**” do not find mention in the substituted provisions. In the substituted provisions, the operating words are, “if any income chargeable to tax, . . ., has escaped assessment” . The aforesaid substituted provisions of section 147, when read with the simultaneously inserted provisions of section 148A of the Act , would show that the AO now is supposed to conduct inquiries, if required, with the prior approval of the specified authority, with respect to the information which suggests the escapement of income of the assessee, serve show-cause notice upon the assessee giving him the opportunity of hearing, consider the reply of the assessee and thereafter to decide, on the basis

of material available on record including the reply of the assessee as to whether that is a fit case for reopening of the assessment by way of passing an order in this respect, with the prior approval of the specified authority. Therefore, instead of on the basis of a reasonable belief, the course for the reopening of the assessment has been tightened, as the AO, under the substituted provisions, is supposed to pass a reasoned order, by following the due procedure as discussed above, with the approval of the specified authority in this respect. Under the substituted provisions w.e.f. 01.04.2021, the reopening on the basis of 'reason to believe' has been done away with, rather, the AO is supposed to pass a reasoned order giving a finding that it is a fit case for issuance of notice under section 148 of the Act.

17. In the case in hand, the AO has issued notice under section 148 of the Act on the basis of unsubstantiated and uncorroborated information received from the Investigation Wing, without making the requisite enquiries, and without considering the reply of the assessee. The order passed by the AO under section 148A(d) of the Act is not based on a reasonable findings of escapement of income holding the same to be a fit case for reopening of the assessment by way of issuing notice under section 148 of the Act. The reopening of the assessment in this case, is, therefore, held as bad in law and hence, the consequential assessment order passed under section 147 of the Act is not sustainable and the same is, therefore, quashed.

18. It is pertinent to mention that further amendment has been brought to the provisions of sections 148 and 148A of the Act, w.e.f. 01.09.2024, however, since the said amended provisions being not relevant for adjudication of this case, hence, the effect of the said amended provisions is not discussed at this stage.

19. **Ground No.2:-** Now coming to the factual matrix of the case. After perusal of the notice issued u/s 148A(b) of the Act and the order passed u/s 148A(d) of

the Act and after going through the impugned assessment order and appellate order of the CIT(A), it is revealed that the reopening of the assessment in this case was made on the basis of certain investigation initiated by the Sales Tax Department/GST Department, wherein they had show-caused the assessee by serving notice dated 07.10.2022, 'intimating, discrepancies in the return after scrutiny u/s 61 of GGST/CGST Act, 2017 regarding the suspicious input tax credit availed by the assessee from Pooja Enterprise. The copy of the said notice dated 07.10.2022 has been placed at Page 44 of the Paper Book. However, the Ld. Counsel for the assessee has invited our attention to the copy of the 'order of acceptance of reply against the notice issued u/s 61' whereby, the GST Department after considering the reply of the assessee given in response to the show-cause notice dated 07.10.2022, has accepted the said reply finding the same as satisfactory and holding that no further action is required to be taken in the matter. The copy of the said order dated 27.06.2023 has been placed at Paper Book Page 43. Therefore, the very basis upon which the reopening of the assessment was triggered in this case has ceased to exist and hence, in the absence of any specific and independent findings of escapement of income, not only the reopening of the assessment is bad in law but also the impugned additions are not sustainable.

20. Even otherwise, the Ld. Counsel for the assessee has brought to our attention the volumeness evidence furnished before the lower authorities which includes copy of the Audit Report for the year under consideration, copy of the GSTR Return, GSTR order as noted above dated 27.06.2023, ledger of M/s. Pooja Enterprise for the year under consideration, sample bill of Pooja Enterprise with E-way bill and lorry receipts, details of closing stock as on 25.03.2020, account confirmation from M/s. Pooja Enterprise, copy of purchase register, copy of bank statement for the year under consideration regarding payment made to Pooja Enterprise and Freight Carrier ( transporter) - Ledger with invoice and lorry

receipt . The AO has not pointed out any defect, short coming or infirmity in the evidences furnished by the assessee to prove the genuineness of the purchases. The AO has merely acted upon the unsubstantiated and uncorroborated report of the Investigation Wing, without properly examining the matter even during the assessment proceedings. Moreover, the assessee is a trader. The corresponding sales have been admitted. If the assessee has made the sales, it is obvious that he has also made the purchases. It is also not the case of the AO that the assessee had made the purchases in question from some other party or from grey market. The impugned order of the AO and the appellate order of the CIT(A) are not based on any reasonable findings given after appreciation of the evidences furnished by the assessee. Therefore, the impugned additions made/confirmed by the lower authorities are not sustainable, the same are accordingly, ordered to be deleted.

21. In the result, the impugned order of the CIT(A) is set-aside. The appeal of the assessee stands allowed.

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22. Since the facts and issues involved in this appeal are identical to that have been discussed above in assessee's appeal for A.Y. 2020-21, hence, our findings given above will mutatis mutandis apply to this appeal also. This appeal of the assessee is also, accordingly, stands allowed.

23. In the result, both the captioned appeals of the assessee stand allowed.

**This order pronounced on 07/07/2026 under Rule 34(4) of the ITAT Rules.**

**Sd/-**  
**(Annapurna Gupta )**  
**Accountant Member**  
अहमदाबाद/Ahmedabad, दिनांक/Dated 07/07/2026

**Sd/-**  
**( Sanjay Garg)**  
**Judicial Member**

**True Copy**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT (A) -
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , अहमदाबाद/DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad