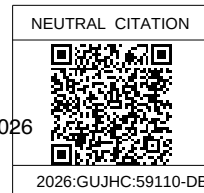


IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14467 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14472 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14547 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14568 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14595 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14597 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14608 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14609 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14611 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14613 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14615 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14624 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14629 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14630 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14753 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 14784 of 2025****With****R/SPECIAL CIVIL APPLICATION NO. 15323 of 2025****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE A.S. SUPEHIA****and****HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**

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Approved for Reporting	Yes	No
	✓	
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VENUS TOWNSHIP (INDIA) LLP**Versus****DEPUTY COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 1(1) ,**



AHMEDABAD

=====

Appearance:

MR TUSHAR HEMANI, SENIOR ADVOCATE with MS VAIBHAVI K
PARIKH(3238) for the Petitioner(s) No. 1

MR.VARUN K.PATEL(3802) for the Respondent(s) No. 1

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

and

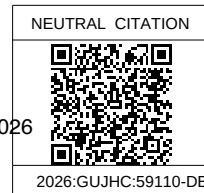
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 16/09/2026****COMMON ORAL JUDGMENT****(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. Since a common issue is involved in the captioned writ petitions, the same are heard and decided analogously by this common judgment and order. The writ petition being Special Civil Application No.14467 of 2025 is taken up as a lead matter.

2. By way of present writ petition, the petitioner – assessee has assailed the notice dated 29.07.2022 issued under section 148 of the Income Tax Act, 1961 (for short 'the Act') as well as the order dated 29.07.2022 passed under section 148A(d) of the Act seeking to reopen the income tax assessment of the petitioner for the Assessment Year (for short 'A.Y.') 2014-15. During the pendency of the writ petition, the Revenue has passed an assessment order dated 17.10.2025 under section 147 read with section 143(3) of the Act along with demand notice for the A.Y. 2014-15. The same are also challenged by way of the present petition.

BRIEF FACTS

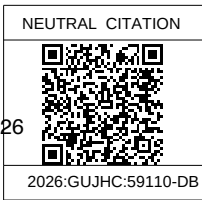
3. On 10.03.2015, search was initiated under section 132 of the Act at various premises of the petitioner i.e. Venus Group



and the assessment vide order dated 29.12.2017 under section 143(3) read with section 153/153A(i)(b) of the Act was framed wherein, various additional aggregating to Rs.1,32,10,000/- were made by the Assessing Officer. Being aggrieved, the petitioner challenged the assessment order by filing an appeal, both on merits and technical grounds. The Commissioner of Income Tax (Appeals) (for short 'CIT (Appeals)') vide order dated 29.03.2019, dismissed the appeals except granting relief to the extent of duplication of additions. The same was further subject matter of challenge before the Income Tax Appellate Tribunal (for short 'Tribunal') by the petitioner as well as the Revenue.

3.1 By the judgment and order dated 12.11.2020 passed in a group of 107 appeals preferred at the instance of the various assessees forming part of Venus group as well as the Revenue, the appeals were partly allowed in favour of the assessee whereas, the appeals of the Revenue were dismissed by the Tribunal.

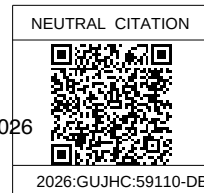
3.2 Against the order passed by the Tribunal, it appears that the Revenue filed rectification applications under the provision of section 254 of the Act, which were also dismissed. The said order passed by the Tribunal was also the subject matter of challenge by the Revenue by filing the writ petitions being Special Civil Application Nos.11998 & 11999 of 2023 and allied matters. By the judgment and order dated 02.11.2023 [in the case of Principal Commissioner of Income Tax (Central) Vs. Hitesh Ashok Vaswani, [2023] 156 taxmann.com 200 (Gujarat)], the writ petitions were dismissed. The Co-ordinate



Bench has recorded that the tax appeals filed by the Revenue against the original order dated 12.11.2020 were pending before this Court.

3.3 In the meantime, the Revenue issued notices under section 147 of the Act dated 07.04.2021 proposing to make additions for the earlier assessments. During the pendency of tax appeals, it appears that the Supreme Court vide judgment dated 04.05.2022 in the case of Union of India Vs. Ashish Agarwal, (2022) 444 ITR 1 (SC), adjudicated the issue relating to validity of reopening of notices across the nations. Thereafter, on 26.05.2022, the respondent issued the impugned show cause notice under section 148A(b) of the Act in continuation of the earlier notice dated 07.04.2021. The petitioner furnished a detailed reply to the above show cause notice vide letter dated 06.06.2022 and requested to drop the reassessment proceedings. By the impugned order dated 17.06.2022, the respondent authority disposed of the objections raised by the petitioner.

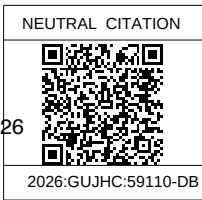
3.4 The petitioner raised further objections vide communication dated 24.06.2022 and 28.06.2022 objecting to reopening of the assessment and requesting to drop the same. By the impugned order dated 29.07.2022 passed under section 148A(d) of the Act, the Revenue concluded that there is escapement of income chargeable to tax to the tune of Rs.1,32,10,000/- and hence, considered it to be a fit case for issuance of notice under section 148 of the Act. Thereafter, the respondent issued notice dated 29.07.2022 under section 148 of the Act seeking to reopen the case of the petitioner for the



year under consideration. It appears that in the case of Keenara Industries Pvt. Ltd. Vs. Income Tax Officer, [2023] 453 ITR 51 (Gujarat), this Court set aside the notice and the order dated 29.07.2022 which was further subject matter of challenge and considered by the Supreme Court, and by the judgment and order dated 03.10.2024 in the case of Union of India Vs. Rajeev Bansal, [2024] 469 ITR 46 (SC), set aside the judgment of this Court in the case of **Keenara Industries Pvt. Ltd.(Supra)**, pursuant to which, the notices issued under section 148A(d) became alive and hence, the respondent resumed the reassessment proceedings by issuing notice under section 142(1) of the Act dated 19.09.2025. Hence, the petitioner filed present writ petition. As previously mentioned, the respondent authority framed the assessment order dated 17.10.2025 by making the same additions as made earlier, which is also challenged by the petitioner.

SUBMISSIONS ADVANCED ON BEHALF OF PETITIONER

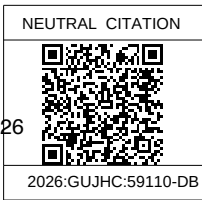
4. Learned Senior Advocate, Mr.Tushar Hemani appearing for the petitioner, at the outset, while referring to the impugned order, has submitted that the impugned order under section 148A(d) of the Act as well as the impugned order of the assessment passed under section 143(3) read with section 147 of the Act are required to be quashed and set aside as the reopening is premised on an incorrect notion by placing reliance on the decision of this Court in the case of Krishna Developers & Company Vs. Deputy Commissioner of Income Tax, Circle - 7(2) [2017] 84 taxmann.com 166 (Gujarat). It is submitted that in view of the pendency of the tax appeals



before this Court and the order passed by the CIT (Appeals) on 29.03.2019 on merits as well as on technical grounds, the reopening is impermissible. It is submitted that the Revenue has incorrectly applied the ratio of the said judgment in the case of the petitioners since in the said judgment, the Court has allowed the reopening of the assessment and the assessment order was set aside on the technical grounds as it was framed without service of notice to the assessee, which is not the case in the present writ petition.

4.1 While referring to the order dated 29.03.2019 passed by the CIT (Appeals), he has submitted that the CIT (Appeals) in fact, has considered the case of the present petitioner – assessee on merits as well as on technical grounds and ultimately, the CIT (Appeals) has partly allowed the appeals of the petitioners. He submitted that the CIT (Appeals) had decided various appeals, which resulted into challenge of 107 appeals before the Tribunal, which consisted of assessees as well as the Revenue.

4.2 Learned Senior Advocate, Mr.Tushar Hemani has also invited attention to the details of alleged unaccounted cash of various lands, which were subject matter of assessment more particularly, for A.Y. 2014-15. By comparing the details of the alleged cash payment of the land year wise to the impugned notices, he has submitted that the alleged amount is identical and the additions and disallowance, which form the alleged escapement of income, is also same. He has submitted that the Assessing Officer in the earlier round of assessment, which resulted into appeals before the CIT (Appeals) and subsequent



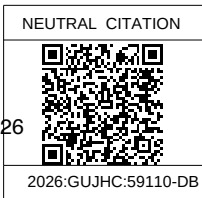
before the Tribunal as well as in the pendency of tax appeals, the additions as per the reassessment order under section 147 of the Act is Rs.1,32,10,000/- (Special Civil Application No.14467 of 2025) and as per the additions in the original assessment order under section 153A/153C of the Act is also same i.e. Rs.1,32,10,000/-. It is submitted that out of this 107 appeals, which were decided by the Tribunal, the revenue did not prefer tax appeals in the cases of 26 categories as a result of no tax effect. He has also referred to the decision of this Court in the case of **Hitesh Ashok Vaswani (Supra)** and has submitted that the writ petitions filed by the Revenue challenging the order of the Tribunal passed under section 254(2) of the Act seeking rectification of the order of the Tribunal and it is submitted that in fact, the Revenue has been consciously following its cause by challenging the assessment orders and the order passed by the CIT (Appeals). It is submitted that the petitioners have not filed tax appeals. Thus, it is urged that the impugned notice as well as the order of assessment are required to be quashed and set aside in view of pendency of tax appeals and conclusion of the assessment proceedings by the CIT (Appeals), which was further subject matter of Tribunal and is also subject matter of scrutiny before this Court in tax appeals and in the tax appeals, the assessment orders can always be verified by the tax Bench and hence, the Revenue cannot be permitted to have parallel proceedings.

SUBMISSIONS ADVANCED ON BEHALF OF RESPONDENT

5. Opposing the present writ petition and the foregoing

submissions, learned Senior Standing Counsel, Mr.Varun K. Patel appearing for the Revenue has urged that the Court may not interfere with the assessment order since the Revenue has precisely reopen the assessment for the year under consideration by placing reliance on the decision of this Court in the case of **Krishna Developers & Company (Supra)**. It is pointed out that the Tribunal vide judgment and order dated 12.11.2020 has allowed the appeals filed by the assesseees on technical grounds and hence, it is always open for the Revenue to reopen the assessment by issuing the impugned show cause notice and accordingly, the assessment order has been passed.

5.1 Learned Senior Standing Counsel, Mr.Varun K. Patel has also attempted to justify the action of the Revenue in reopening the assessment by contending that in the future, it may happen that this Court in tax appeals may decide the matters on technical grounds leaving no room for the Revenue to reopen the assessment. It is submitted that the decision of this Court in the case of **Hitesh Ashok Vaswani (Supra)**, will not come to the rescue of the assessee since the same was confined to the limited issue of deciding the rectification applications filed by the Revenue against the judgment and order of the Tribunal under the provision of section 254(2) of the Act. Thus, it is urged that since the ratio of the decision of this Court in the case of **Krishna Developers & Company (Supra)** squarely applies in the case of the present petitioner, the impugned order may not be interfered with.



ANALYSIS AND OPINION

6. We have heard the learned advocates appearing for the respective parties at length and perused the relevant documents, which have been pointed out by them. The following facts are established from the record and pleadings:

6.1 The petitioner was subjected to the assessment pursuant to the search conducted under section 132 of the Act on 10.03.2015 and accordingly, assessment order was framed vide order dated 29.12.2017 under section 143(3) read with section 153A/153C of the Act whereby, various additions aggregating to Rs.1,32,10,000/- were made by the Assessing Officer.

6.2 It is not in dispute and in fact, established from the impugned notice issued under section 148A(d) of the Act dated 29.07.2022 as well as the impugned assessment order dated 17.10.2025 passed under section 143(3) read with section 147 of the Act that, the additions are identical and similar to that of the original assessment order under section 153A/153C of the Act in all the captioned matters. Thus, there is no difference of a single rupee or paise. So far as additions are concerned, in the first round as well as in the second round of assessments, the amount remains the same.

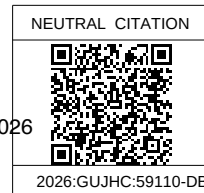
6.3 The petitioner challenged the assessment order passed under section 143(3) read with section 153A/153C of the Act dated 29.12.2017 by filing appeals before the CIT (Appeals). There were numerous appeals filed by the assessee and by the order dated 29.03.2019, the CIT (Appeals) decided the

appeals filed; on merits as well as on technical grounds. This fact is not disputed by Revenue. The CIT (Appeals) in few cases, granted relief to the petitioner to the extent of duplication of additions.

6.4 We have perused the order passed by the CIT (Appeals). The said order has been passed by examining the case of the assessee and Revenue on merits. The CIT (Appeals) while examining the additions made under sections 69B and 69C of the Act for the A.Ys. 2011-12 till 2014-15, has made the additions. For the A.Y. 2014-15, the CIT (Appeals) has considered the alleged cash payment for the land-in-questions, which are as under:

Particulars	Amounts held as escapement in impugned order u/s. 148A(d)	Amounts added vide order u/s. 143(3) r.w.s. 153C	Difference
Land at Santej Survey No.623	25,00,000	25,00,000	0
Land at Santej Survey No.671, 685, 686	40,00,000	40,00,000	0
Land at Santej Survey No.667 & 689	55,00,000	55,00,000	0
Land at Ognaj Survey No.1299	10,00,000	10,00,000	0
Unaccounted Cash Payments	2,10,000	2,10,000	0
Total	1,32,10,000	1,32,10,000	0

6.5 Thus, the additions come to total amount of Rs.1,32,10,000/-. Similar is the position in other writ petitions. The CIT (Appeals) thus, decided the appeals on merits as well as on technical grounds. The same was challenged by the assessee as well as the Revenue before the Tribunal (Income



Tax Appellate Tribunal, Ahmedabad). There were total 107 appeals before the Tribunal, both of the assessee and the Revenue and by the judgment and order dated 12.11.2020, the Tribunal allowed the appeals filed by the petitioners on technical grounds by recording in paragraph No.67 as under:

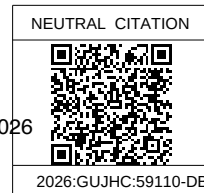
"67. As we have decided the technical ground in favour of the assessee as discussed above, we are not inclined to refer the issue on merit. Accordingly we dismissed the grounds of appeal raised by the assessee on merit as infructuous."

6.6 The appeals filed by the assessees were partly allowed whereas, the appeals filed by the Revenue were dismissed, which have resulted into further litigation in filing of Tax Appeals before this Court. Against the aforesaid decisions, the Revenue filed the rectification applications under the provision of section 254(2) of the Act, which were dismissed by the Tribunal. The same further resulted in filing of writ petitions by the Revenue being Special Civil Application Nos.11998 & 11999 of 2023 and allied matters, [Hitesh Ashok Vaswani (Supra)], this Court by the decision dated 02.11.2023, rejected the writ petitions by recoding in paragraph Nos. 13.4, 14, 15 as under:

"13.4 What is therefore evident on considering the decision of the ITAT in the Appellate proceedings where the issues have been examined threadbare on merits considering the case laws, merely because the Appellate Tribunal, which according to the Revenue has been decided by misinterpretation of facts and law, the same cannot be a subject matter of rectification.

14. In some of the cases before us in the each of the 4 Categories set out herein above, the Revenue has also filed Tax Appeals challenging the order of the Tribunal dated 12.11.2020 in various Tax Appeals under Section 260A of the Income Tax Act,1960. We have set out against each Special Civil Application numbers category wise in which Tax Appeals have been filed.

15. In light of the decisions in the case of R.C. Sabharwal (Supra) and in

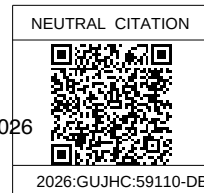


the case of Muni Seva Ashram (Supra), in such petitions where Tax Appeals are filed by the Revenue in the respective categories, the petitions so filed are not entertained while reserving the right of the Revenue to urge the grounds raised in these petitions while arguing the Appeals. The following petitions in which the Revenue has filed Tax Appeals and are pending are not entertained reserving the liberty to urge the grounds raised in the respective Tax Appeal. These petitions are accordingly disposed-off without assigning any further reasons."

6.7 The Coordinate Bench has also recorded that the 26 writ petitions where the Revenue has not filed tax appeals in the respective categories as a result of the low tax effect, and accordingly, this Court declined to interfere with the order dated 24.08.2022 passed by the Tribunal in rectification applications. The Revenue thereafter, filed the tax appeals before this Court challenging the order passed by the Tribunal, which are pending for final hearing and final decision.

7. As previously recorded by us, the petitioner has been subjected to the reassessment proceedings on the very same/identical additions of Rs.1,32,10,000/- by issuance of show cause notice dated 26.05.2022 under the provision of section 148A(d) of the Act and ultimately, after the decision of the Supreme Court in the case of **Rajeev Bansal (Supra)**, the notices issued under section 148A(d) of the Act dated 29.07.2022 have been resurrected, which has led to the present writ petition.

8. During the pendency of the present writ petition, the Revenue has passed an order dated 17.10.2025 under the provision of section 143(3) read with section 147 of the Act suggesting the similar additions made as per the reassessment order of the same amount i.e. Rs.1,32,10,000/- to that of under Section 153A/153C. Thus, in both; the assessment

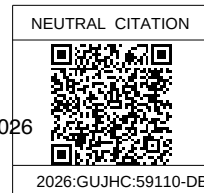


proceedings, i.e. the assessment order initially passed under section 153A/153C of the Act and the subsequent assessment order passed under section 147 of the Act, there additions remain identical. Thus, the petitioner has been embroiled in two reassessment proceedings resulting into two assessment orders which have resulted into double litigation being that of tax appeals and the present writ petitions.

9. The reopening of the assessment and the issuance of notice under section 148A(d) of the Act, dated 29.07.2022, is premised exclusively on the decision of **Krishna Developers & Company (Supra)**. We may, at this stage, refer to the said decision. The Revenue has taken shelter under this decision of this Court to reopen the assessment simultaneously. The relevant observations of the Coordinate Bench in the case of **Krishna Developers & Company (Supra)**, are as under:

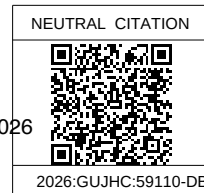
"15. In the case on hand, the assessee had raised two contentions before the Commissioner(Appeals). First was with respect to the validity of the assessment framed by the Assessing Officer without service of notice and second was with respect to merits of additions made by him in such order of assessment. The Commissioner (Appeals) confined his comments only to first of his contentions and declared that the assessment was invalid since it was framed without service of notice. In that view of the matter, he refused to comment on the assessee's contention on merits of the additions. Essentially, therefore, the order of Commissioner (Appeals) dealt with only one part of the assessee's appeal and refused to enter into the other part. The order of Commissioner, therefore, was confined to the ground of invalidity of assessment per-se and not on the merits of the additions made. The reopening is based on the belief of the Assessing Officer that the sale proceeds should be taxed as the business income and not as capital gain. This subject matter was not a part of the order of the Commissioner (Appeals). The Commissioner (Appeals) having entertained only part of the assessee's appeal, the principle of merger as flowing from the proviso to section 147 of the Act would not apply."

9.1 There cannot be any cavil on the proposition of law as annunciated by the Coordinate Bench in the case of **Krishna**



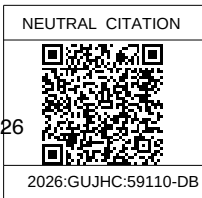
Developers & Company (Supra). The facts as recorded by the Coordinate Bench would suggest that the assessee before the CIT (Appeals) had raised two contentions challenging the validity of the assessment order framed by the Assessing Officer; i) was that the Assessing Officer without service of notice has framed the assessment order and; ii) was with respect to merits of additions made by him in such order of assessment. The CIT (Appeals) set aside the assessment order only on one ground that is, the assessment order having declared invalid since it was framed without service of notice whereas, the CIT (Appeals) did not venture into deciding the issue on merits, which was raised by the assessee. Thus, before the CIT (Appeals), the issue with regard to challenge of the assessment order on merits was never examined and only on the technical ground, the assessment order was set aside and the matter was remanded to the Assessing Officer.

10. In the present case, the CIT (Appeals) has decided the validity of the assessment order passed under section 153A/153C of the Act on merits as well as on technical grounds. The Revenue has not disputed the aforesaid facts but, has confined its submission on the order passed by the Tribunal, which was premised on the setting aside of the assessment order on technical grounds. The CIT (Appeals) in some of the cases, has decided the issue with regard to the duplication of additions in favour of the assesseees whereas, has dismissed the appeals filed by the assessee which resulted into 107 appeals before the Tribunal. The Revenue being aggrieved with the order passed by the Tribunal allowing the



appeals filed by the assesseees on technical grounds, filed the rectification applications by invoking the provisions of section 254 of the Act. This Court in the case of **Hitesh Ashok Vaswani (Supra)**, has rejected the writ petitions. The said order has been accepted by the Revenue and ultimately, the tax appeals challenging the order of the Tribunal are pending before this Court. Thus, the initial assessment order passed under section 153A/153C of the Act as well as the order passed by the CIT (Appeals) are subject matter of challenge by way of tax appeals. The additions made by the Assessing Officer in both the orders are identical and are premised on the same alleged violation of the provisions by the assessee.

11. Thus, in our considered opinion, when the entire issue is being examined in the tax appeals coupled with the fact that the initial order passed by the CIT (Appeals) is on merits as well as on examination of technical grounds, the reopening of the assessment by the Revenue and passing of the assessment order under provision of section 147 of the Act by placing reliance exclusively on the decision in the case of the **Krishna Developers & Company (Supra)**, is misplaced. The ratio of the decision of this Court in the case of **Krishna Developers & Company (Supra)**, cannot be invoked in the facts of the present case more particularly, in wake of the fact that the CIT (Appeals) has decided the appeals filed by the petitioner on merits as well as on technical grounds. It is only at the stage of Tribunal where the appeals filed by the petitioners are allowed on technical grounds whereas, the appeals filed by the Revenue are dismissed, and the same is



subject matter of examination in Tax Appeals. The issue with regard to the additions is being examined by the Coordinate Bench in tax appeals and hence, the Revenue cannot be allowed to undertake parallel assessment proceedings which would have direct bearing on the result of the tax appeals and the assessment order passed under section 153A/153C of the Act, which is premised on the identical facts and alleged violation of the provisions of the Act by the assessee. The Revenue has tried to create a backup, and has attempted to spin the wheels of assessment, to ensure that in either case, the assessee remains engaged in proceedings.

12. Hence, the captioned writ petitions **succeed**. The impugned notice as well as the consequential assessment orders passed under the provision of section 147 of the Act, are hereby quashed and set aside. We clarify that the observations made by this Court in the present order is only confined to the assessment order passed under section 147 of the Act and we have not opined anything on merits, as the issue with regard to the additions as well as the order passed by the CIT (Appeals) and the Tribunal is subject matter of examination in Tax Appeals.

(A. S. SUPEHIA, J)

(VAIBHAVI D. NANAVATI,J)