

Reserved On : 11/11/2025
Pronounced On : 18/11/2025

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.3734 of 2025
With
R/SPECIAL CIVIL APPLICATION NO.3736 of 2025

FOR APPROVAL AND SIGNATURE:

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

and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI **Sd/-**

Approved for Reporting	Yes	No
	✓	

PARAG RAMESHBHAI GATHANI
(THROUGH POA HOLDER DHIREN VINODCHANDRA SHAH)
Versus
INCOME TAX OFFICER, WARD 2 INTERNATIONAL TAXATION
& ANR.

Appearance:

(IN R/SPECIAL CIVIL APPLICATION NO.3734 of 2025)

MR TUSHAR HEMANI, SENIOR ADVOCATE, with MS VAIBHAVI K PARIKH for Petitioner

MR.VARUN K.PATEL(3802) for the Respondent(s) No.1,2

(IN R/SPECIAL CIVIL APPLICATION NO.3736 of 2025)

MR TUSHAR HEMANI, SENIOR ADVOCATE, with MS VAIBHAVI K PARIKH for Petitioner

MR.ADITYA BHATT for the Respondent(s) No.1

MR.VARUN K.PATEL(3802) for the Respondent(s) No.2

CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

COMMON CAV JUDGMENT

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

- (1) These writ petitions raise identical issues and, therefore, with the consent of the parties, the same are decided by a common judgement and order.
- (2) The issue involved in these petitions pertains to the challenge to the issuance of a notice under Section 153C of the Income Tax Act, 1961 ("the Act" for short) by the respondent authority upon the petitioner for the Assessment Year 2017–18.
- (3) The facts, as narrated in Special Civil Application No.3736 of 2025, are as follows:
- (4) The petitioner, by way of the present petition under Article 226 of the Constitution of India, seeks to challenge the impugned notice dated 09.02.2024 issued by the respondent authority under Section 153C of the Act for the Assessment Year 2017–18. Respondent No.1 issued the impugned notice dated 09.02.2024 under Section 153C of the Act, for the Assessment Year 2017–18, calling upon the petitioner to furnish a return of income. Pursuant to the issuance of the aforesaid notice, the respondent authority supplied

copies of the "satisfaction note" recorded on 14.07.2023 by the Assessing Officer of the petitioner, and another "satisfaction note" recorded on 06.06.2023 by the Assessing Officer of the "searched person", for the purpose of invoking jurisdiction under Section 153C of the Act. A perusal of the satisfaction notes reveals that jurisdiction under Section 153C of the Act has been invoked primarily on the ground that the petitioner allegedly made an "on-money" payment for the purchase of a property.

(5) The satisfaction notes indicate that:

(a) A search action under Section 132 of the Act was carried out on 15.10.2019 in the case of a land broker and financier group of assessees, during which the residential premises of one Suresh Ranchhodbhai Thakkar (a third party) were also covered;

(b) Certain incriminating material, including WhatsApp chat images, was found and seized during the course of the said search;

(c) Upon examining some of these images, it was found that the financial transactions

mentioned therein were carried out between Dharmesh Gathani, Parag Gathani, Rushisinh Thakor, and Randhirsinh Thakor;

(d) During the post-search inquiry, the statement of Suresh R. Thakkar, was recorded on 20.12.2019 under Section 131 of the Act, wherein he confirmed the chat and communication with Rushisinh Thakor regarding a land deal facilitated by Suresh Bharwad. He further stated that the land was sold by Rushisinh Thakor to Paresh Gathani, and the consideration was paid in both cash and cheque;

(e) During the course of assessment proceedings under Section 153C in the case of Rushisinh Thakor and Randhirsinh Thakor, concluded in March 2023, a registered sale deed of land bearing Survey No.135, Okaf, was produced. On perusal of the said deed, it was found that the land had been purchased in the name of Bharti Dharmesh Gathani, wife of Dharmesh Gathani, vide sale deed dated 24.07.2020, for a registered consideration of Rs. 3,80,00,000/-;

(6) The petitioner, vide letter dated 06.03.2025, raised objections against the initiation of

proceedings under Section 153C of the Act for the year under consideration.

- (7) Learned Senior Advocate Mr.Tushar Himani, has submitted that the satisfaction note for initiating proceedings under Section 153C of the Act was recorded nearly four years by the Assessing Officer after the search and almost two years after the assessment of the searched person had been completed. This reflects an inordinate delay in the initiation of proceedings under Section 153C of the Act, and hence the impugned Notice is required to be quashed.
- (8) In support of his submissions, he has placed reliance on the judgment of the Supreme Court in the case of Commissioner of Income-Tax-III vs. Calcutta Knitwears, [2014] 43 taxmann.com 446 (SC), and the subsequent Circular No.24/2015 issued by the respondent-department in view of the decision of the Supreme Court in the case of **Calcutta Knitwears (supra)**, and has submitted that the case of the petitioner would be squarely covered in view of the circular and the decision of the Supreme Court. Further, reliance is also placed by learned Senior Advocate Mr.Himani on the

decision of this Court in the case of Principal Commissioner of Income-Tax vs. Jitendra H. Modi (HUF), [2018] 92 taxmann.com 510 (Gujarat).

- (9) In response, the learned Senior Standing Counsel Mr. Patel for respondent No.2 submitted that the issuance of the impugned notice under Section 153C of the Act is strictly in consonance with the provisions of the Act. It was contended that, subsequent to the Finance Act, 2015, the jurisdictional requirement mandates that the Assessing Officer of a person other than the searched person must be satisfied that the documents seized "pertain to or relate to" such other person. It is contended that in the present case, the WhatsApp chats discovered on the phone of the searched person, Shri Suresh R. Thakkar, coupled with his sworn statement and the subsequently registered sale deed, clearly establish that the seized documents "relate to" the petitioner. Hence, even applying the ratio of CIT vs. Jasjit Singh, (2023) 458 ITR 437 (SC) the impugned notice for A.Y. 2017-18 would fall within the extended limitation period of ten assessment years under Sections 153C and 153A of the Act.

(10) Learned Senior Standing Counsel Mr. Patel, while referring to the Circular No.24/2015 dated 31.12.2015, has clarified that though the interpretation adopted by the Supreme Court in case of **Calcutta Knitware (supra)** with respect to Section 158BD, equally applies to Section 153C of the Act, however the decision of the Supreme Court will not apply to the facts of this case. It was pointed out that in the present case, the assessment proceedings of the searched person, Shri Suresh R. Thakkar, were completed in August 2021, during the post-Delta phase of the COVID-19 pandemic and during that period, most Government offices, including those of the Income Tax Department, were functioning with significantly reduced staff strength, often below 50% capacity. It is submitted that before normalcy could be restored, the third wave was triggered by the Omicron variant commenced in December 2021 and continued until February 2022, with normal operations resuming only around May 2023, and hence, in light of these constraints, the Assessing Officer of the searched person drew the satisfaction note on 06.06.2023 and transferred the seized material to the Assessing Officer of the

"other person" on 02.02.2024. The Assessing Officer of the petitioner, upon receipt of such material, recorded his satisfaction on 14.07.2023 and accordingly issued the impugned notice.

- (11) It was further submitted that during the intervening period, the Department underwent a substantial administrative transformation with the introduction of the Faceless Assessment Scheme, 2020, notified vide CBDT Notification No.60/2020 dated 13.08.2020, and subsequent notifications. Under the said scheme, effective from 13.08.2020, all assessment-related functions except those pertaining to search and seizure under Sections 153A and 153C and certain categories of reassessments were centralized and assigned to faceless units. This large-scale structural reform necessitated extensive redistribution of jurisdiction among traditional Assessing Officers and the newly created Faceless Assessment Units. It is contended that albeit, the present case falls outside the purview of the Faceless Scheme, the Department's functioning during this transitional phase was significantly affected by the concurrent

operational demands of implementing the new system.

(12) Learned Senior Standing Counsel Mr. Patel, in support of his submissions, has placed reliance on the decision of the Punjab and Haryana High Court in the case of Bhupinder Singh Kapur vs. Income-tax Officer, [2025] 175 taxmann.com 689 (Punjab & Haryana), and has submitted that the High Court of Punjab and Haryana has validated the action of the department, though the satisfaction note was recorded almost after a period of 9 months. It is submitted that against the aforesaid decision, SLP (Civil) No.1352/2025 was also preferred before the Supreme Court, which was dismissed by order dated 24th January, 2025.

(13) We have heard the learned advocates appearing for the respective parties at length. The established dates and events from the pleadings are as under :

Date	Event
15.10.2019	'Search action' was carried out in the case of ' <i>Suresh R. Thakkar</i> '.
August, 2021	'Assessment' was framed in the case of ' <i>Suresh R. Thakkar</i> ' (searched person).

06.06.2023	<i>'Satisfaction note' was recorded by the 'AO of searched person'.</i>
14.07.2023	<i>Satisfaction note' was recorded by the 'AO of petitioner'.</i>
09.02.2024	<i>"Notice under Section 153C' of the Act was issued for the year under consideration.</i>

(14) Thus, it is apparent from the dates and events mentioned hereinabove that the search action was carried out in the case of Suresh R. Thakkar, i.e., the searched person, on 15th October, 2019, and the assessment was framed in August 2021. The satisfaction note was recorded on 6th June, 2023 by the Assessing Officer of the searched person, which was forwarded to the Assessing Officer of the petitioner, who in turn recorded the satisfaction note on 17th October, 2023, and thereafter the notice under Section 153C of the Act was issued on 6th November, 2023. Thus, the proceedings under Section 153C of the Act have been initiated almost four years after the search and almost two years after framing of assessment of the searched person, i.e., Suresh R. Thakkar.

(15) Keeping in mind the aforementioned established facts, we may, at the outset, refer to the decision of the Supreme Court in the case of **Calcutta Knitwears (supra)**. The Supreme Court in the said case, while examining the provisions of Section 158BC of the Act (now Section 153A of the Act), has held as under:

"44. In the result, we hold that for the purpose of Section 158BD of the Act, a satisfaction note is sine qua non and must be prepared by the Assessing Officer before he transmits the records to the other Assessing Officer who has jurisdiction over such other person. The satisfaction note could be prepared at either of the following stages: (a) at the time of or along with the initiation of proceedings against the searched person under Section 158BC of the Act, (b) along with the assessment proceedings under Section 158BC of the Act; and (c) immediately after the assessment proceedings are completed under Section 158BC of the Act of the searched person."

(16) In view of the aforesaid decision of the Supreme Court, the respondent-department issued Circular No.24/2015 in light of the provisions of Section 153C of the Act clarifying the recording of the satisfaction note at three stages. The said Circular is incorporated as under :

"CIRCULAR NO.24 of 2015 [F.NO.279/MISC./140/2015/ITJ]

Section 153C, READ WITH SECTION 158BD OF THE
INCOME TAX ACT, 1961 – SEARCH AND SEIZURE –
ASSESSMENT OF INCOME IN CASE OF OTHER PERSON –
RECORDING OF SATISFACTION NOTE UNDER SECTION

158BD/153C OF THE SAID ACT
CIRCULAR NO.24/2015
[F.NO.279/MISC./140/2015/ITJ], DATED 31-12-2015

The issue of recording of satisfaction for the purposes of section 158BD/153C has been subject matter of litigation.

2. The Hon'ble Supreme Court in the case of M/s Calcutta Knitwears in its detailed judgment in Civil Appeal No.3958 of 2014 dated 12.3.2014 (available in NJRS at 2014-LL-0312-51) has laid down that for the purpose of Section 158BD of the Act, recording of a satisfaction note is a prerequisite and the satisfaction note must be prepared by the AO before he transmits the record to the other AO who has jurisdiction over such other person u/s 158BD. The Hon'ble Court held that "the satisfaction note could be prepared at any of the following stages:

(a) at the time of or along with the initiation of proceedings against the searched person under section 158BC of the Act; or

(b) in the course of the assessment proceedings under section 158BC of the Act; or

(c) immediately after the assessment proceedings are completed under section 158BC of the Act of the searched person. "

3. Several High Courts have held that the provisions of section 153C of the Act are substantially similar/pari-materia to the provisions of section 158BD of the Act and therefore, the above guidelines of the Hon'ble SC, apply to proceedings u/s 153C of the IT Act, for the purposes of assessment of income of other than the searched person. This view has been accepted by CBDT.

4. The guidelines of the Hon'ble Supreme Court as referred to in para 2 above, with regard to recording of satisfaction note, may be brought to the notice of all for strict compliance. It is further clarified that even if the AO of the searched person and the "other person" is one and the same, then also he is required to record his satisfaction as has been held by the Courts.

5. In view of the above, filing of appeals on the issue of recording of satisfaction note should also be decided in the light of the above judgement. Accordingly, the Board hereby directs that pending litigation with regard to recording of satisfaction note under section 158BD 1153C should be withdrawn/not pressed if it does not meet the guidelines laid down by the Apex Court."

(17) Thus, as per the Circular of the respondent-Department, the judgment of the Supreme Court in the case of **Calcutta Knitwears (supra)** and the recording of the satisfaction note in three stages apply to the proceedings under Section 153C of the Act.

(18) Though, the Assessing Officer had an opportunity to record the satisfaction note at two stages i.e stage (a) and (b) as specified in the Circular, the same is not done. The next state which was available was stage (c) on immediate completion of proceedings of the searched person in August 2021, however, the satisfaction note was recorded on 6th June, 2023, after a period of 22 months. The satisfaction note was drawn by the Assessing Officer of the petitioner on 17th October, 2023. The satisfaction note of 17th October, 2023 of the petitioner (paragraph No.2.7) mentions that during the course of the assessment proceedings under Section 153C of

the Act in the case of Shri Rushisinh Thakor and Shri Randhirsinh Thakor, concluded in March 2023, the transactions pertain to the sale, i.e., purchase of land by one Smt. Bharti Dharmesh Gathani, w/o. Dharmesh Gathani, vide sale deed dated 24th July, 2020, for a registered value of Rs.3,80,00,000/-. Thus, the Assessing Officer of the searched person prepared the satisfaction note on 6th June, 2023, after completion of the assessment in August 2021, i.e., almost after a period of 22 months. We may, at this stage, refer to the decision of the Coordinate Bench of this Court in the case of **Jitendra H. Modi (supra)**, wherein this Court, by placing reliance on the decision of the Supreme Court in the case of **Calcutta Knitwears (supra)**, has held that satisfaction recorded after 09 months could not be said to be immediate action and hence, the Coordinate Bench of this Court set aside the notices issued under Section 158BD of the Act. In the instant case, there has been a delay of 22 months in recording the satisfaction, which runs contrary to the decision in **Calcutta Knitwears (supra)** as well as provision '(c)' of Circular No.24/2015 dated 31.12.2015, which uses the expression

"immediately after the assessment procedure is completed".

(19) Twin reasons are assigned by the respondents in the affidavit in reply for delay in recording the satisfaction note, (a) COVID-19 pandemic; and, (b) adoption of Faceless Scheme. So far the reason of COVID-19 is concerned, the same runs contrary to the action of the respondents, since the assessment of the searched person was itself done during the pandemic, and in the affidavit-in-reply, the respondent has mentioned that the Omicron variant commenced in December 2021 and continued until February 2022. Thus, even after February, 2022, the satisfaction note has been recorded on 17.10.2023. The second reason of workload due to Faceless Scheme is also a lame excuse, since indubitably the exercise under sections 153A and 153C of the Act falls outside the purview of the said scheme. Hence, both the reasons assigned appear to be an afterthought, hence the same are rejected.

(20) The reliance placed by the learned advocate Mr.Patel on the decision of **Bhupinder Singh**

Kapur (supra) will not come to the rescue of the respondents, since in the present case, there is 22 months delay in recording the satisfaction. There was no restricting factor on the Assessing Officer to record the satisfaction earlier. The expression "immediate", though is impossible to quantify in period, however, the same cannot be extended to such an extent which defeats the purpose of cost effective, efficient and expeditious completion of search assessments. The intention of using such term is to reduce and avoid long drawn proceedings and to bring certainty to the assessment.

(21) Thus, both the writ petitions succeed. The impugned notices issued under Section 153C of the Act for the respective assessment years are hereby quashed and set aside. RULE is made absolute. There shall be no order as to costs.

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

Sd/- .
(PRANAV TRIVEDI, J)

BHAVESH-[PPS] / Alok Alok *