



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 4948 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

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Approved for Reporting	Yes	No
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DHRUV VIJAYKUMAR TRIVEDI

Versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 3(1)(1), AHMEDABAD

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Appearance:

MR B S SOPARKAR, WITH MR. MANYA ANJARIA, ADVOCATE for the
Petitioner(s) No. 1

AADITYA D BHATT, SENIOR STANDING COUNSEL for the Respondent(s)
No. 1

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CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 09/04/2026

ORAL JUDGMENT

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

1. Heard learned advocate Mr. B.S. Soparkar with learned advocate Mr. Manya Anjaria for the petitioner and learned Senior Standing Counsel Mr. Aaditya Bhatt for the respondent. Learned advocate Mr. Anjaria has tendered the copy of the judgement dated 10.02.2026 passed in Special Civil Application No. 13093 of 2025. Learned advocate Mr. Soparkar, has submitted that the issue is squarely covered in the said decision.

2. Having regard to the controversy arising in the petition which is in narrow compass, with the consent of the learned advocates for the respective parties, the matter is taken up for hearing.

3. Rule returnable forthwith. Learned Senior Standing Counsel Mr.Aaditya Bhatt waives service of notice of rule on behalf of the respondent.

4. By this petition under Article 226 of the Constitution of India, the petitioner challenges the issuance of notices under section 148A(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dated 29.03.2025 proposing to issue notice under Section 148 of the Act for the Assessment Year 2019-20 and also the order dated 25.06.2025 passed by the respondent under Section 148A(3) of the Act and notice dated 26.06.2025 issued under Section 148 of the Act.

5. The brief facts leading to filing of the present writ petition are that the petitioner along with his family members had jointly purchased two parcels of lands admeasuring 40,875 sq.mtrs. and 4,757 sq.mtrs. from Vikrambhai Khodabhai Desai, Gafurbhai Khodabhai Desai, Khodabhai Jayamalbhai Desai and Lilabhai Thobanbhai Desai and in respect of the same mutation entries were passed on 23.08.2013 and 26.08.2013 respectively. Thereafter, one Shahnor Sarosh Kothawala filed an appeal under Rule 108(5) of the Gujarat Land Revenue Rules, 1972. However, the Deputy Collector vide order dated 24.09.2015 allowed the same by holding the mutation entries invalid. The said order dated 24.09.2015 was challenged before the District Collector, Ahmedabad,

5.1. It is the case of the petitioner that pending the appeal, on 26.02.2016, Shahnoor Sarosh Kothawala sold the disputed property to one Pradeep Vallabhbbhai Joiser. In response to that a police complaint on 22.08.2016 came to be filed by the petitioner against Pradeep Vallabhbbhai Joiser and others for illegally and forcibly taking the possession of the disputed property. Subsequently, vide order dated 05.05.2016, the District Collector, Ahmedabad set aside the order dated 24.09.2015 passed by the Deputy Collector, Sanand and restored the mutation entries.

5.2. Being aggrieved by the said order, the petitioner filed suit being Special Civil Suit No. 406 of 2016 for setting aside the sale deed which took place between Shahnoor Kothawala and Pradeep Joiser and also sought for declaration of title and possession of the said land before the District Court, (Rural) Ahmedabad. Along with the same, revision application and stay application was also filed before the Special Secretary, Revenue Department (Appeals) [SSRD] by the said Shahnoor Kothawala and Pradeep Joiser challenging the order dated 05.05.20216 passed by the Collector, Ahmedabad, which came to be rejected vide order dated 14.09.2016.

5.3. It is the case of the petitioner that Special Civil Suit No.406 of 2016 was converted into Special Civil Suit No.625 of 2017. However, on 21.10.2019, the suit came to be withdrawn by the petitioner on execution of the sale deed dated 23.10.2019 whereby the petitioner had sold the disputed land to Pradeep Joiser for a consideration of Rs.80,00,000/-. Thereafter, the petitioner filed return of income for the Assessment Year 2019-20 on 24.10.2019 for a sum of Rs.8,99,950/-.



5.4. It is also the case of the petitioner that a survey operation under Section 133A of the Act was carried out on 22.10.2024 in the case of M/s. Crown Decor Pvt. Ltd., at the factory and the office premises. During the course of forensic backup, various digital devices were found at the premises which had been taken and impounded and in the post survey proceedings, on the analysis of digital data of the mobile phone pertaining to Shri Praful Bhatt, who is an employee of the Olympic Decor LLP, a draft complaint written by one Ramesh Suthar in the form of PDF file was found along with an image of handwritten paper in the mobile phone. Therefore, based on these two documents, summons under Section 131 of the Act were issued to Pradeep Joiser and the petitioner and their statements were also recorded.

5.5. Thereafter, on the strength of Survey Dissemination note which was uploaded on 17.03.2025 on the insight portal as per the risk management strategy formulated by the Board, the impugned notice under Section 148(1) of the Act came to be issued by the respondent asking the petitioner to show cause as to why notice under Section 148 of the Act should not be issued alleging income escapement assessment at Rs.1,17,00,000/-. In response to the same, the petitioner filed a detailed reply objecting against the impugned notice for reassessment. The respondent rejected the submissions advanced by the petitioner and passed the impugned order dated 25.06.2025 under Section 148A(3) of the Act and also issued notice under Section 148 alleging escapement of income assessment at Rs.1,17,00,000/-. Hence, the petitioner is constrained to approach this Court by way of present petition.



6. Learned Senior Advocate Mr.S.N. Soparkar assisted by learned advocate Mr. B.S. Soparkar for the petitioner while inviting attention of this Court to the notice issued under Section 148A(1) of the Act has submitted that the reopening of the assessment is premised on the surmises and conjectures and on the statement of various persons who are not connected with the petitioner. It is submitted that as per the facts recorded in the said notice, survey action was taken in the case of M/s. Crown Decor Pvt. Ltd., and during the course of survey action of such premises, in post survey proceedings the mobile phone pertaining to one Praful Bhatt who is the employee of Olympic Decor LLP, a draft complaint in the form of PDF file was found which related to some land dispute and the Whatsapp conversation of Shri Praful Bhatt and Shri Ramesh Suthar revealed the details of the land transaction of the petitioner with one Shri Pradeep Joiser.

6.1. While referring to the alleged complaint of one broker Shri Ramesh Suthar which is undated, it is submitted that the petitioner is sought to be roped in the reassessment proceedings by alleging that the petitioner has paid a huge amount of cash of Rs.4,68,00,000/- for settling the dispute with one Upendrasinh Chauhan through Pradeep Joiser. It is submitted that in fact no complaint was filed before the Police authorities and all the allegations made in the complaint on which the reopening is premised cannot be relied upon as the facts recorded therein have not been further investigated by any of the authorities. So far as the image of the cash receipt which has been found from the mobile phone, it is submitted that the same also does not in any manner reflect that the petitioner has obtained the amount in cash for the land in question.

6.2. Learned Senior Advocate Mr. Soparkar has submitted that the author of the said complaint which has been filed before the Director General of Police, Gandhinagar i.e. Ramesh Suthar is never summoned by the authorities and hence in wake of the fact it is submitted that reopening is required to be quashed and set aside.

7. In response to the aforesaid submissions, learned Senior Standing Counsel Mr. Aaditya Bhatt for the respondent while placing reliance on the very same material on which the case of the petitioner is premised, has submitted that the investigation and the search proceedings reveal that the petitioner had entered into huge cash transaction for settling the entire issue of the land in question being Survey No. 105 Block No. 152 which was purchased by the petitioner and his family. It is submitted that at this stage, when the allegations referred in the complaint as well as the name figuring of the petitioner in the cash receipt is still being investigated, the writ petition may not be entertained.

8. We have heard the learned advocates appearing for the respective parties at length. The entire case of the respondent - Revenue hinges on the undated complaint written by one Ramesh Suthar to the Director General of Police. In his complaint he has referred to the cash transaction entered by one Upendrasinh Chauhan who is the broker with the present petitioner. However, it is not in dispute that the said complaint is never investigated any further. Interestingly, the recovery of such complaint is found from the PDF file in the mobile phone pertaining to one Shri Praful Bhatt who is an employee of Olympic Decor, whereas the search has been conducted at M/s. Crown Decor Pvt. Ltd., on 22.10.2024. It is established that the petitioner is not connected either with M/s.

Crown Decor Pvt. Ltd. or with Olympic Decor LLP or with Shri Praful Bhatt or with Ramesh Suthar.

9. It is pertinent to note that the author of the complaint Ramesh Suthar is not summoned by the Assessing Officer and hence only on this sole ground the entire reopening is required to be quashed and set aside. After the reopening the Assessing Officer has also recorded the statements of the petitioner as well as of the Pradeep Joiser as the same also do not in any manner reveal that the petitioner has entered into cash transaction through Praveenkumar Joiser for removing him as he was in alleged unauthorized possession of the land in question. The image of the cash receipt found from the mobile phone also does not in any manner indicate the receipt of the amount by the petitioner. Hence, it appears that reopening of the assessment is premised on the conjectures and surmises and without having direct link with the petitioner from the search material gathered from the persons/entities, as mentioned herein-above. Hence, the present writ petition deserves to be allowed.

10. In view of the above, the writ petition succeeds. The impugned notices as well as the impugned order passed by the respondent is hereby quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI, J)

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