



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 4336 of 2026**

**FOR APPROVAL AND SIGNATURE:**

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

**and**

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

Approved for Reporting	Yes	No
		✓

LOVE DHARMINKUMAR PATEL

Versus

INCOME TAX OFFICER WARD 3(3)(2) & ANR.

Appearance:

MR DARSHAN R PATEL(8486) for the Petitioner(s) No. 1

MR AADITYA D BHATT(8580) for the Respondent(s) No. 1,2

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

and

**HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

**Date : 08/04/2026**

**ORAL JUDGMENT**

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

1. **RULE** returnable forthwith. Learned Senior Standing Counsel Mr.Aaditya Bhatt waives service of notice of rule for respondents.

2. The present writ petition has been filed challenging the notice issued under Section 148 of the Income Tax Act, 1961 (for short, "the Act") dated 31.03.2025, along with the notices issued under Section 142(1) of the Act dated 01.12.2025, 02.02.2026, and 05.03.2026.

3. The petitioner filed his return of income for Assessment Year 2020-21 on 07.11.2020. It appears that a search and



seizure was conducted on Bsafal Group and City Estate Groups under section 132/132A of the Act and some material was collected in such search and during the course of search, it was found that M/s.City Estate Management India, a Real Estate Broker, is providing broking service to Bsafal Group.

4. It is alleged that the cash transactions in real estate was being done by selling various lands/plots etc. in and around Ahmedabad city. The details of address, name of person, survey numbers of the land in question and the market rate of property were unearthed during such proceedings. Post search, the statement of one Shri Pravin Nagjibhai Bavadiya was recorded by the revenue, the relevant extract of the statement recorded under Section 131 of the Act dated 27.12.2021 is incorporated in the impugned notice. Based on such material, the revenue has reopened the assessment by issuing the notice under Section 148 of the Act.

5. On 14.04.2025, the petitioner addressed a letter to the respondents objecting to the initiation of proceedings.

6. On 26.10.2025, the petitioner requested the respondents to provide relevant documents. No action was taken by the respondents pursuant to the letter of the petitioner dated 26.10.2025, however, on 01.12.2025, the petitioner received a notice under Section 142(1) of the Act.

7. On 09.12.2025, the petitioner addressed a letter to the respondents, annexing a copy of the sale deed and pointing out that the entire transaction had been carried out through banking channels and that no cash was involved.



8. On 02.02.2026, the petitioner received two notices under Section 142(1) of the Act, in response to which replies were filed on 07.02.2026.

9. On 24.02.2026, the petitioner received a reply from the Assistant Commissioner of Income Tax, Circle, Gandhinagar.

10. On 05.03.2026, the petitioner received a show cause notice proposing an addition of Rs.4,69,99,643/- (being 55% of Rs. 8,54,53,897/-).

11. On 13.03.2026, the petitioner filed a reply to the said notice, contending that there was non-compliance with Section 127 and that the case had been illegally transferred from Ahmedabad to Gandhinagar without any basis. The petitioner once again objected to the reopening of proceedings and reiterated the submissions made earlier.

12. Learned advocate Mr. Patel, appearing for the petitioner has submitted that the seized material has no nexus with the transaction carried out by the petitioner. It is submitted that the respondent has relied upon seized material referring to a sale deed dated 27.05.2019 and has adopted a rate of Rs.8,000/- per sq. yard solely from the loose paper and on that basis to concluded the property rate at Rs.9,84,53,897/-, hence a huge amount of on-money was paid in cash.

13. It is further submitted that the petitioner purchased the land on 27.05.2019, which was agricultural land, and that the respondent- authority has relied upon wholly irrelevant and



incorrect facts, as the petitioner had no transaction dated 23.02.2017. Hence, the seized material has no nexus with the petitioner, and the entire payment for the land purchased on 27.05.2019 was made through banking channels.

14. It is submitted that the petitioner had not entered into any transaction with Bsafal Group, City Estate Management India, or City Procon Realtors Private Limited. The petitioner had jointly sold the parcel of agricultural land situated at Godhavi with co-owners Shri Shivlal Patel, Premdas Patel, and Mitesh Patel during the year under consideration. The said land was purchased for a total consideration of Rs.1,30,00,000/-, out of which the petitioner's share was 55% i.e. Rs.71,50,000/-.

15. It is further submitted that the seized material is dated 23.02.2017, whereas the petitioner purchased the agricultural land on 27.05.2019, which is subsequent to the date reflected in the seized material. Thus, the petitioner has no connection whatsoever with the said material, and there is no live link between the seized material and the petitioner.

16. In support of his submissions, learned advocate Mr.Patel has placed reliance on the judgment of this Court in the case of Naliniben Jagdishkumar Gandhi vs. Income Tax Officer, (2026) 183 taxmann.com 126 (Gujarat).

17. Vehemently opposing the present writ petition, the submissions advanced as recorded here-in-above, the learned Senior Standing Counsel Mr.Aaditya Bhatt has submitted that as per the provisions of Section 148 of the Act, more particularly Clause 4 below Explanation 2, it cannot be said



that the information, which is unearthed during the search proceedings from the concerned broker, does not pertain or pertains to any information contained therein relates to the assessee.

18. It is submitted that the legislature has deliberately used the expansive phrases "pertains to" and "relate to". Unlike the stringent requirement of "belongs to" under the erstwhile Section 153C of the Act regime and hence, as per the decision of the Supreme Court in the case of Raymond Woollen Mills Limited Vs. Income-tax Officer, [1999] 236 ITR page 34 (SC), the revenue has only to see whether there was a *prima facie* some material on the basis of which the department could reopen the case and the sufficiency or correctness of the material is not a thing to be considered at the stage of issuance of notice.

19. Further reliance is also placed by learned Senior Standing Counsel Mr.Bhatt on the decision of the Supreme Court in the case of Assistant Commissioner of Income-tax vs. Rajesh Jhaveri Stock Brokers (P.) Ltd., [2007] 291 ITR 500 (SC) and it is submitted that the only question which is required to be examined at the stage of issuance of notice is whether there was relevant material on which a reasonable person could have formed a requisite belief.

20. Reliance is also placed on the decision of the Supreme Court in the case of Anshul Jain vs. Principal Commissioner of Income-tax, [2022] 143 taxmann.com 38 (SC). It is submitted that in the present case, the documents / incriminating



material which have been recovered during the search proceeding, cannot be said to be dumb documents, devoid of any evidential value. It is submitted that the material which was seized specifically mentions the names of the brokers or third parties and the same reveal the link between the petitioner and the land dealing, by paying the on- money. Thus, it is urged that, at this stage, the Court may not interfere with the reopening of the assessment.

21. We have heard the learned advocates appearing for the respective parties at length.

22. A search under Section 132 of the Act was conducted on Bsafal Group and City Estate Group on 28.09.2021 and during the search, it is the case of the revenue that incriminating documents and digital data were seized. Post search, a statement of one Shri Pravin Nagjibhai Bavadia was recorded after he was confronted with the documents found and seized from the premise of the City Estate Management, which is a broker, dealing with land deals in the city of Ahmedabad. Statement under Section 131 of the Act of Shri Pravin Nagjibhai Bavadiya are incorporated in the impugned notice. A specific question No.14, was asked to him with regard to the documents found during the search and in response, he has submitted that *'I confirm that the documents were found and seized from the premises of the propriety entity City Estate Management'* It is further responded by him that sometimes the clients come with their land documents or title deeds and there might be such types of documents which are also seized with the above annexures and these belonged to the clients and not to him. Question No. 26, when he was confronted with



the annexures, he has referred that such annexure contained the details of lands/plots available for sale at different locations of Ahmedabad and each entry contains the details of land, location, village, taluka, survey number, area, rate, owner of the land, etc., and he doesn't know the current status regarding the sale of the land. From the seized material, a loose paper chit was found, which makes reference to Survey No.591 situated at Moje Godhavi, which was sold by the petitioner on 27.05.2019. The relevant contents of the said chit are as under:

*"23.02.2017*

*Moje : - Godhavi*

*Opp.Godhavi Village*

*S.No.591 & 614*

*20,000 Sq.(Survey No.)*

*Rate 8000/-*

*Bro Manish Bopal"*

23. Thus, the Assessing Officer, after calculating the amount per square yard on the basis of the figures referred to in the chit, concluded that the total value was Rs.9,84,53,897/-. By comparing the said amount with the sale consideration of Rs.13000000/- reflected in the sale deed dated 27.05.2019, it was further concluded that the differential amount had been paid in cash as "on-money". The respondents have, however, not established any connection with the individual, Manish Bopal, who is referred to in the chit.

24. A bare perusal of the chit reveals that it does not contain any names or identifiable figures, and the same is dated 23.02.2017. After a gap of almost two years, the petitioner bought the land vide sale deed dated 27.05.2019 having his



55% share. We fail to understand how the Assessing Officer has alleged payment of “on-money” by the petitioner after two years, by arriving at a rate of Rs.8,000/- per square yard. The entire calculation appears to have been made on the basis of data collected from “Any RoR”, a Government website reflecting details of sale deeds. The respondents have also not disputed that the transaction undertaken by the petitioner was in accordance with his 55% share. The survey number mentioned in the loose paper is linked with the petitioner by the revenue by gathering information from the government Website “Any RoR”, which records the details of the sale deeds. It is true that the cash transactions are done in a clandestine manner using coded script, however, the revenue, before re-opening the assessment has to establish a live link of the assessee on the basis of seized material only. The expression “relates to” and “pertains to” used in Clause(iv) to Explanation 2 to Section 148 of the Act cannot be used in vacuum. The revenue after the seizure of incriminating material is under an obligation to analyze such material, in light of attendant circumstances and record relevancy and a *prima facie* opinion linking such material establishing escapement of income at the hands of the assessee. The information which is derived from the incriminating material in the instant case, does not establish live-link. The information is absolutely vague and unspecific and the rate mentioned in the loose-paper is attempted to be imposed upon the petitioner after a period of two years on the basis of sale deed registered on 27.05.2019. The statement of Shri Bavadiya does not mention the name of the petitioner. There is no link of the petitioner with broker ‘Manish’ whose name appears in the



loose paper. There is no link, even remotely, found with Bsafal Group or City Estate Management India or City Procon Realtors Private Limited. All these aspects are very relevant, and are required to be examined before roping the petitioner in re-assessment. Thus, in our considered opinion, the provisions of Section 148 of the Act are not attracted, hence the action of the respondents in re-opening of the assessment requires to be quashed.

25. We are conscious about the legal precedent as set out by the Supreme Court in the decisions which are cited by the revenue. At the stage of notice of re-opening of the assessment, *albeit*, the Court cannot go into the sufficiency of evidence, however, simultaneously the Court has to examine the aspect as to whether there is even *prima facie* some material, which could enable the department to reopen the assessment. In the present case, the reopening is based on a vague, irrelevant, and non-specific information.

26. The writ petition, accordingly, **succeeds**. The impugned notices are quashed and set aside. Rule made absolute.

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

Sd/-  
**(PRANAV TRIVEDI, J)**

MAHESH/12