



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4162 of 2023

With

R/SPECIAL CIVIL APPLICATION NO. 4163 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

Sd/-

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Sd/-

Approved for Reporting	Yes	No
	✓	

SANDHYA MAULIK PATEL

Versus

ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE 2(3),
AHMEDABAD

Appearance:

MR B S SOPARKAR(6851) for the Petitioner(s) No. 1

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

CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

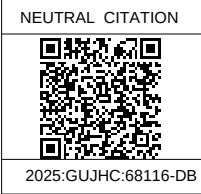
Date : 24/11/2025

COMMON ORAL JUDGMENT

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

1. **RULE.** Learned Standing Senior Counsel Mr. Patel waives service of notice of Rule for and on behalf of the respondent(s).

2. The present writ petitions emanate from the notices issued under the provisions of Section 153C of the Income-tax Act, 1961 (for short, "the Act") dated 13.10.2021 by the respondent-Assessing Officer (AO) for the Assessment Years (AY) 2014-15 to 2020-21.



3. Since a common issue is involved and a common prayer is made in the present writ petitions, and also with the consent of the learned advocates appearing for the respective parties, Special Civil Application No. 4163 of 2023 is taken as the lead matter.

FACTS :

4. It is the case of the petitioners that a search under Section 132 of the Act was conducted in the case of Land Broker & Financer Group, Ahmedabad on 15.10.2019, wherein digital data/images from the mobile phone of one Shri Dhaval Teli were acquired, based on which notices under Section 153C of the Act were issued to the petitioners on 13.10.2021. Upon receipt of such show-cause notices, the petitioners e-filed the return of income in October 2021 and also sought the satisfaction recorded, vide letter dated 28.10.2021, by the AO. Vide letter dated 08.11.2021, the petitioners were supplied two satisfaction notes. Thereafter, vide letter dated 17.11.2021, the petitioners filed objections to the recording of satisfaction notes as well as the issuance of show-cause notices. Subsequently, notices under Section 142(1) of the Act were issued on 09.07.2022 and were replied to on 20.07.2022. The notice under Section 143(2) of

the Act was also issued on 20.01.2023, and on 23.01.2023, the respondent authority passed the order disposing of the objections. The respondent authority also issued notices under Section 142(1) of the Act on 18.02.2023 to the petitioners seeking exhaustive information with regard to the alleged incriminating evidence found in search.

SUBMISSIONS ON BEHALF OF THE PETITIONERS :

5. While placing reliance on the provisions of Section 153C of the Act, more particularly clause (b), it is submitted by learned advocate Mr.Soparkar that, in fact, the information/document which was received by the AO during the search of Shri Dhaval Teli does not relate to the present petitioners. It is submitted that in the impugned notice, the AO has incorporated the statement of Shri Dhaval Teli, wherein he has referred to the transactions or MoU between the seller -Dilipbhai Patel and the buyer - Dhirenbhai Bharvad for the total sale consideration of Rs.39,32,25,000/-, out of which Rs.1,00,00,000/- was paid in cash on 01.03.2016. It is submitted that the searched person, Shri Dhaval Teli, has categorically stated that the deal was not done by him but by some other broker; however, he supplied the latest



information/document of 7/12 or Form No. 6 of the land in question. It is submitted that by making a public inquiry, the AO relied upon the registered sale deed numbered 885 dated 12.04.2018 between the petitioners and the seller and presumed that an amount of Rs. 27,32,00,000/- was undisclosed investment for the land in question for AY 2019-20. It is submitted that such an approach of the AO runs contrary to the provisions of Section 153C of the Act.

6. In support of his submissions, learned advocate Mr.Soparkar has placed reliance on the judgment of the Delhi High Court in the case of Commissioner of Income-tax-XIII vs. Radhey Shyam Bansal, (2011) 337 ITR 217 (Delhi) and also in the case Commissioner of Income-tax vs. Raj Pal Bhatia, (2011) 333 ITR 315 (Delhi) and on the judgment of the Apex Court in the case Principal Commissioner of Income-tax, Central-3 vs. Abhisar Buildwell (P.) Ltd., (2023) 454 ITR 212. It is submitted that it cannot be said that any incriminating material has been found which has a direct or indirect nexus with the petitioners during the search conducted on the third person, and hence, the impugned notices are required to be quashed and set aside.

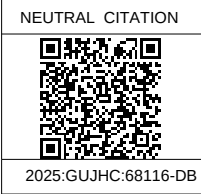
SUBMISSIONS ON BEHALF OF THE RESPONDENT :

7. In response to the aforesaid submissions, learned Standing Senior Counsel Mr.Patel, at the outset, submitted that while exercising judicial review over the satisfaction arrived at by the AO, this Court has very limited and restricted jurisdiction, which may be invoked only where the AO has committed a serious illegality or irregularity or is bereft of jurisdiction in arriving at such satisfaction, which is not the case of the petitioners. While inviting the attention of this Court to the satisfaction recorded by the AO in the show-cause notices, it is submitted that at this stage, since the assessment is yet to be undertaken, the names of the petitioners having been disclosed during the search conducted on Shri Dhaval Teli, who was a broker, the impugned notice may not be interfered with.

8. Learned Standing Senior Counsel Mr.Patel has also contended that it is shocking to note that the MoU, which was found during the search from Shri Dhaval Teli between the seller - Dilipbhai Patel and the buyer - Dhirenbhai Bharvad mentions the total sale consideration of Rs.39,32,25,000/-, out of which Rs.1,00,00,000/-

was paid in cash on 01.03.2016 to the seller. This is in contradistinction to the amount of sale consideration found by the AO between the same seller and the present petitioners, as the same land was sold for an amount of Rs.12,00,00,000/- vide sale deed registered as No.885 dated 12.04.2018, and hence the AO has recorded his satisfaction that there was undisclosed investment of Rs. 27,32,00,000/- in the sale of the land for AY 2019-20.

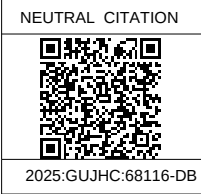
9. By placing reliance on the judgment of the Apex Court in the case Income Tax Officer vs. Vikram Sujitkumar Bhatia, (2023) 453 ITR 417 (SC), it is contended that the provisions of Section 153C of the Act were amended from 01.06.2015 and the expression "pertains or pertain to" was added. Hence, as per the amended provisions of Section 153C, more particularly clause (b), any information contained during the search emanating from any books of accounts or documents seized or requisitioned from the searched person, if it relates to a person other than the person referred to in Section 153A of the Act - which in the present case are the petitioners who have a direct nexus - then such person is liable to be assessed under Section



153C. Hence, it is contended that it cannot be said that the AO has committed any illegality in issuing the show-cause notice under Section 153C of the Act. It is submitted that the information/document with regard to the aforesaid land deal for the amount of Rs.12,00,00,000/- can be said to have been received during the search from the searched person i.e., Shri Dhaval Teli, who in his statement has admitted that initially the MoU was entered into for the very same land for a sale consideration of Rs.39,32,25,000/-, and merely because the said land deal did not fructify would not affect the assessment proceedings against the petitioners. It is submitted that when such information/document was received from the searched person regarding the deal done by the petitioners, the undisclosed investment of Rs.27,32,00,000/- was known, and accordingly the AO recorded his satisfaction, which satisfies the provisions of Section 153C. Thus, it is urged that the writ petitions may be dismissed.

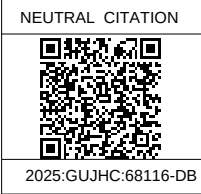
ANALYSIS AND CONCLUSION :

10. We have heard the learned advocates appearing for the respective parties at length and also perused the documents as pointed out by them.



11. The facts established from the record and pleadings are that on 15.10.2019, a search was conducted at the premises of the land broker Shri Dhaval Teli, Ahmedabad under Section 132 of the Act, and during the search, images of an MoU of land bearing Survey No. 329 were recovered. The MoU does not bear the name of the petitioners anywhere. The assessment in the case of the searched person, i.e., Shri Dhaval Teli, was completed on 14.07.2021 and the satisfaction note was recorded on 11.10.2021 by the AO, and accordingly the impugned show-cause notice has been issued to the petitioners alleging undisclosed investment in the land deal.

12. The search against Shri Dhaval Teli and the satisfaction note have no link which embroils the petitioners into the assessment proceedings. The MoU entered into between the seller – Dilipbhai Patel and the buyer – Dhirenbhai Bharvad refers to the total sale consideration of Rs. 39,32,25,000/-, out of which Rs. 1,00,00,000/- was paid in cash on 01.03.2016. Indubitably, the name of the petitioners does not figure in the MoU. The same does not even remotely connect the petitioners to the MoU.



13. Thus, the AO in his satisfaction has positively recorded that he ascertained from the "public domain" that the said land was purchased by the petitioners. The AO presumed that since the seller entered into the MoU for Rs.39,32,25,000/-, he could not have entered into a sale with the petitioners for Rs.12,00,00,000/- without receiving on-money. The MoU found from mobile images shared between Dilip Patel, Ashok Atmaram Patel (proposed seller) and Dhiren R. Bharwad (proposed purchaser) disclosed the sale of Survey No. 329 for Rs. 39.32 crores. The searched person, i.e., the broker, in his statement before the AO asserted that he did not broker the land deal and only supplied 7/12 Form and Form No. 6 showing land entries post search. Thus, these forms were not seized during the search but were handed over by the broker to the AO post search. After these were supplied, the AO obtained the sale deed information from the public domain. It is pertinent to note that there was no incriminating material found during the search having a direct nexus with the petitioners. Thus, the information/documents collected by the AO from the broker or seller cannot be said to create a live link involving the petitioners, and the presumption of escaped

assessment based on the difference between Rs. 39.32 crores and Rs. 12 crores is unsustainable.

14. In the present case, the search conducted against Shri Dhaval Teli (the searched person) did not yield any document relating to undisclosed income "relating to" or "pertaining to" the petitioners. Hence, the satisfaction recorded by the AO roping the petitioners into assessment proceedings on the basis of digital data impounded during the search, which has no nexus with the petitioners, is required to be quashed and set aside. Thus, the AO has acted *de hors* the provisions of Section 153C of the Act. Reliance placed by the Revenue on the judgment of the Apex Court in ***Vikram Sujitkumar Bhatia (supra)*** does not assist them, since the issue before the Apex Court pertained to the applicability of the amendment brought to Section 153C by the Finance Act, 2015 to searches conducted before 01.06.2015.

15. In light of the foregoing analysis and observations, the impugned notices are hereby quashed and set aside. The present writ petitions stand allowed. Rule made absolute. No order as to costs.



16. Registry to place a copy of this order in the connected matter(s).

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

Sd/-
(PRANAV TRIVEDI,J)

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