IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Reserved On : 22/12/2025
Pronounced On : 07/01/2026

R/SPECIAL CIVIL APPLICATION NO. 17933 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 17935 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 17938 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 17939 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 18983 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 18985 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 18986 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 18987 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 216 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 3563 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 3564 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 4890 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5350 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5422 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5855 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5858 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5861 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5864 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 5901 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 17675 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 26206 of 2022
With

R/SPECIAL CIVIL APPLICATION NO. 16341 of 2025
With
R/SPECIAL CIVIL APPLICATION NO. 16723 of 2025

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI Sd/-

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Approved for Reporting	Yes	No
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PARAS CHANDRESHBHAI KOTICHA
Versus
INCOME TAX OFFICER WARD - 1 (2)(2)

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Appearance:
MR TUSHAR HEMANI, SENIOR ADVOCATE WITH
MS VAIBHAVI PARIKH, MR MANISH J SHAH, JIMMY PATEL, MR S.N. DIVATIA, MR B.S. SOPARKAR, MR DHINAL SHAH & MR.VIJAY PATEL, ADVOCATES for the respective Petitioner(s)
MR VARUN K. PATEL, MR DEV PATEL, MR RUTVIJ PATEL, MR ADITYA BHATT, MR. KARAN SANGHANI, MS. MAITHILI MEHTA, MR. MAUNIL G YAJNIK(9346), SENIOR STANDING COUNSELS for the Respondent - DEPARTMENT

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

COMMON CAV JUDGMENT

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

1. The present group of petitions arise from the proceedings/ notices issued to the respective petitioners under Section 148 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”), reopening the assessment under Section 147 of the Act. The issue raised in the instant writ petitions arises prior to the promulgation of the Finance Act, 2021, by which the provisions of Sections 147 to 149 of the Act were substituted with new Sections 147, 148, 148A and 149 of the Act. It also removed Sections 153A to 153C of the Act and merged them under Section 147 of the Act.

2. The proceedings under Sections 147/148 of the Act stem from search actions conducted under Section 132 of the Act or from the requisitions made under Section 132A of the Act.

BRIEF FACTS :

3. It is the case of the petitioners that, when the proceedings emanate from a search conducted under Sections 132/132A of the Act, the Assessing Officer having jurisdiction over the respective petitioners is mandatorily required to follow the provisions of Sections 153A or 153C of the Act, instead of switching over or resorting to the reopening of assessment under Section 147 of the Act. It is also the case of the petitioners that the Assessing Officer of the searched person has to mandatorily record satisfaction as prescribed under Section 153C of the Act on the basis of material forwarded by the Assessing Officer of the searched person. Only upon recording such satisfaction with respect to incriminating material and after following the procedure prescribed under Section 153C of the Act, the proceedings can be initiated against a person other than the searched person. It is contended that resort to Sections 147/148 of the Act is permissible only in respect of material other than that emanating from the search.

4. Thus, the core issue raised in the present petitions is the legality of directly invoking the provisions of Sections 147/148 of the Act based on material obtained during a search conducted under Sections 132/132A of the Act, without resorting to proceedings under Section 153A or 153C of the Act.

5. The majority of the writ petitions, being Special Civil Application Nos.18983 of 2019, 18985 of 2019, 18986 of 2019 and 18987 of 2019, arise from the search conducted by the Assistant Commissioner of Income-tax, Central Circle-4, Surat, pursuant to a search action on the K. Star Group. The writ petitions being Special Civil Application Nos. 4890/2022, 5350/2022, 5855/2022, 5858/2022, 5861/2022, 5864/2022, 5901/2022, 26206/2022, 216/2022, 17675/2022 and 5422/2022 arise from the search action undertaken on the Navratna Group. In Special Civil Application Nos. 17933, 17935, 17938 and 17939 of 2018, a search was conducted at M/s. Affluence Commodities Pvt. Ltd. along with the petitioners. Whereas the writ petitions being Special Civil Application Nos. 16341 of 2025 and 16723 of 2025 arise from the search at Flamingo (Sanjay Govindram Agarwal).

6. Thus, a search under Section 132 of the Act was conducted on the entities, i.e. the searched persons under Section 153A of the Act, and the information / material was derived / collected from such searches and forwarded to the jurisdictional Assessing Officers of the respective petitioners, i.e. the other persons under Section 153C of the Act. However, instead of recording satisfaction, the jurisdictional Assessing Officers proceeded to issue the impugned notices under Section 148 of the Act for reopening the assessments.

SUBMISSIONS ON BEHALF OF THE PETITIONERS :

7. The learned advocates appearing for the respective petitioners have advanced the following submissions:-

8. Section 153C of the Act casts a mandatory obligation upon the Assessing Officer of the searched person to hand over books of account, documents or assets seized or requisitioned during the search, which belong to or pertain to a person other than the searched person, to the Assessing Officer having jurisdiction over such other person. The statutory mandate is evident from the plain language of Section 153C of the Act, which provides that where the Assessing Officer is satisfied that :

> (a) any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or
>
> (b) any books of account or documents seized or requisitioned pertain to, or any information contained therein relates to, a person other than the person referred to in Section 153A of the Act,
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> then such material shall be handed over to the Assessing Officer having jurisdiction over such other person.

9. Thus, it is contended that once the Assessing Officer of the searched person arrives at such satisfaction, he has no discretion but to transmit the material to the jurisdictional Assessing Officer of the other person after recording satisfaction. This statutory requirement is further reinforced by Central Board of Direct Taxes (CBDT) Circular No. 24 of 2015, which mandates recording of satisfaction by both the Assessing Officer of the searched person and the Assessing Officer of the other person.

10. That upon handing over of such material, proceedings under Section 153C of the Act stand automatically triggered. At that stage, the Assessing Officer of the 'searched person' cannot initiate proceedings under Sections 147/148 of the Act, as he lacks jurisdiction over the 'other person'. Equally, the jurisdictional Assessing Officer of the 'other person' has no option to choose between initiating proceedings under Sections 147/148 or under Section 153C of the Act, since the statutory trigger for Section 153C of the Act already stands activated upon transmission of material. Therefore, the contention that the Assessing Officer of the searched person or Assessing Officer of the other person can elect to proceed either under Sections 147/148 or under Section 153C of the Act is wholly misconceived and devoid of merit.

11. It is a settled principle of statutory interpretation that where a special provision governs a particular subject matter, the applicability of a general provision to that subject matter stands impliedly excluded. Once a statute prescribes a special mechanism, the general provisions yield to such special provisions.

12. Applying this principle, it is further submitted that Sections 153A and 153C of the Act are special provisions having non-obstante clauses for assessment or reassessment of income based on material seized during search proceedings under Section 132 of the Act, and have an overriding effect on Sections 147/148 of the Act. Consequently, reassessment in respect of such seized material cannot be undertaken by invoking the general provisions of Sections 147/148 of the Act.

13. It is emphasized that Sections 147/148 have existed in the statute book since the inception of the Act in 1961, whereas Section 153C was introduced later by the Finance Act, 2005, with retrospective effect from 01.06.2003. The legislative intent is accordingly explicit that assessments or reassessments based on search material must be carried out exclusively under Section 153C of the Act. Any contrary interpretation would render the introduction of Section 153C of the Act otiose and defeat the legislative purpose.

14. That the mandatory nature of this special machinery is fortified by Section 153D of the Act, which requires prior approval of an officer not below the rank of Joint Commissioner before passing an assessment order based on searched material. The legislature has thus consciously provided a distinct and self-contained procedural framework for search-based assessments under Sections 153A and 153C. Permitting recourse to Sections 147/148 would bypass these statutory safeguards, which could never have been the legislative intent.

15. Learned counsels further pointed out the provision of Section 153B(1)(ii) of the Act, which prescribes the limitation period for completing assessment in case of a person covered under Section 153C of the Act, and it is submitted that the limitation period commences not from the issuance of notice under Section 153C, but from the date on which the seized material is handed over to the Assessing Officer having jurisdiction over the ‘other person’.

16. In view of the aforesaid legislative scheme, it is submitted that any interpretation permitting reassessment

under Sections 147/148 on the basis of seized material would defeat the very object of enacting Section 153C of the Act, and such an interpretation ought to be eschewed.

17. In support of the aforesaid submissions, reliance is placed on various judgments of the Supreme Court as well as this Court. The same are as under

A. In the case of Khandubhai Vasanji Desai Vs. Deputy Commissioner of Income Tax, (1999) 236 ITR 73 (Guj.).

B. In the case of Principal Commissioner of Income-tax, Central-3 Vs. Abhisar Buildwell (P.) Limited, (2023) 454 ITR 212 (SC).

C. The Judgment of the High Court of Rajasthan in case of Shyam Sundar Khandelwal Vs. Assistant Commissioner of Income-tax, (2024) 161 taxman.com 255 (Rajasthan).

SUBMISSIONS ON BEHALF OF THE REVENUE :

18. In response to the aforesaid submissions, the learned Senior Standing Counsels appearing for the respondent-Department distinguished the judgments relied upon by the petitioners and made the following submissions.

19. At the outset, it is submitted that the core issue arising for consideration in the present group of petitions is whether, where documents or information relating to a person other

than the searched person (“other person”) have originated from or are gathered during a search under Section 132 of the Income-tax Act or requisition under Section 132A of the Act, it is mandatory for the Assessing Officer to invoke and assume jurisdiction under Section 153C for assessment of such other person or not, and whether the non-obstante clause in Section 153C bars the assumption of jurisdiction under Sections 147/148 in such cases or not.

20. That the answer to the aforesaid question is clearly in the negative. According to the respondents, it is not mandatory in all such cases to invoke Section 153C.

21. It is contended that documents or information originating from or gathered during a search or requisition can form the basis for assumption of jurisdiction either under Section 153C of the Act or under Sections 147/148 of the Act, subject to fulfillment of the respective statutory conditions. Both provisions are enabling provisions intended to assess or reassess escaped income.

22. The distinction between the two provisions was explained as follows :

(i) Assumption of jurisdiction under Section 153C of the Act is subject to fulfillment of mandatory conditions, namely, recording of two satisfaction notes—first by the Assessing Officer of the searched person and second by the jurisdictional Assessing Officer of the other person; and

(ii) Assumption of jurisdiction under Sections 147/148 of the Act is subject to recording of “reasons to believe”

regarding escapement of income, obtaining sanction of the competent authority, adherence to limitation, and other statutory safeguards.

Thus, it is contended that the mere fact that information or documents emanate from a search does not mandatorily compel the Assessing Officer to invoke Section 153C of the Act.

23. Learned Senior Standing Counsel has further submitted that Sections 147/148 of the Act constitute the general provisions relating to assessment or reassessment of escaped income and are applicable to all cases, including those where information pertaining to the other person has originated from a search or requisition. The non-obstante clause at the beginning of Section 153C(1) of the Act cannot be construed to impliedly exclude the operation of Sections 147/148 of the Act in such cases.

24. That, except for the non-obstante clause, there is nothing in the text of Section 153C of the Act which expressly or by necessary implication bars recourse to Sections 147/148 of the Act, where documents or information relating to another person are found during search proceedings. Any such interpretation, according to the respondent, would amount to reading words into the statute, which is impermissible.

25. It is contended by the learned Senior Standing Counsel that this issue is no longer *res integra* in view of the decision of this Court in the case of Amar Jewellers Ltd. Vs. ACIT, (2022) 444 ITR 97 (Guj.), wherein the scope of Section 153A of the Act has already been examined and interpreted.

26. It is further submitted that the phrase “Where the Assessing Officer is satisfied…” employed in Section 153C(1) of the Act itself indicates that invocation of Section 153C of the Act is conditional and not automatic. There is no statutory mandate requiring the Assessing Officer to compulsorily record satisfaction under Section 153C of the Act in every case where documents or information relating to another person are found during search or requisition.

27. According to the respondents, an interpretation which completely excludes the applicability of Sections 147/148 of the Act merely because the material originates from a search would not only be contrary to the plain language of Section 153C of the Act, but would also defeat the very object of reassessment provisions, which are intended to bring escaped income to tax.

28. Further, it is submitted that the legislative intent is to provide multiple statutory pathways, subject to fulfillment of their respective preconditions, for assessment or reassessment of income, and not to create an absolute embargo on the exercise of jurisdiction under Sections 147/148 of the Act merely because the information emanates from search proceedings.

29. The respondent-Department has also raised the predicament faced by it in case the recording of a satisfaction note is held to be mandatory where numerous persons are found to be involved, since it would not be possible to record the same by different Assessing Officers situated at various places in the country, and the very intention of the legislature

would get defeated. Hence, it is contended that in such cases, the provisions of Sections 147/148 of the Act can always be resorted to.

30. In support of the aforesaid submissions, reliance is placed on the following judicial precedents :

(i) In the case of PCIT Vs. Naveen Kumar Gupta *(2024) 168 Taxmann.com 574 (Delhi), paragraphs 3, 4, 5, 9, 13, 35 to 48, 53 to 62 and 65;*

(ii) In the case of PCIT Vs. Agroha Fincap Ltd. (2025) 179 taxmann.com 185(Delhi), paragraphs 4, 5, 10 and 12 to 17.

31. With regard to the decision of the Supreme Court in the case of ***Abhisar Buildwell (P.) Ltd.(supra)***, the learned Senior Standing Counsels have clarified as under:-

(i) The said decision deals with assessment of the searched person under Section 153A and not with assessment of an “other person” under Section 153C;

(ii) As noted in paragraph 5 of the judgment, the question before the Supreme Court was whether, in the case of completed or unabated assessments of the searched person, additions could be made in the absence of incriminating material found during search or requisition;

(iii) Reference was made to paragraph Nos.7, 13 and 14 of the judgment to submit that the Supreme Court has not examined or adjudicated upon the issue arising in the present petitions, namely, whether invocation of Section

153C is mandatory in all cases where documents or information relating to another person are found during search proceedings.

Accordingly, it is submitted that the reliance placed by the petitioners on the judgment in the case of ***Abhisar Buildwell (P.) Ltd.*** **(supra**) is misplaced.

SUBMISSIONS OF THE REVENUE IN SCA NO.17675/2022 and SCA NO.5422/2022.

32. Learned Senior Standing Counsel Mr. Aditya Bhatt appearing for the respondent in the writ petitions being Special Civil Application Nos.17675 of 2022 and 5422 of 2022 submitted that, in the case of the present petitioners, a search and seizure action under Section 132 of the Act was conducted on the Navratna Group on 11.04.2017. During the course of the search, a laptop belonging to one Shri Murlidhar Marutibhai Trivedi was seized, from which a digital Excel file bearing the name “x10000226.xls” was recovered.

33. It is contended that the “reason to believe” recorded by the Assessing Officer is not founded merely on the raw data contained in the seized Excel sheet. Rather, it is fundamentally premised upon a post-search development, namely, the proceedings before the Income Tax Settlement Commission (ITSC). The searched entity, Navratna Organisers and Developers Pvt. Ltd. (NODPL), approached the ITSC (Income Tax Settlement Commission) by filing a settlement application. In the said application, NODPL (Navratna Organiser and Developer Pvt. Ltd.) made a categorical admission that it had

accepted “on-money” (cash consideration) for the sale of residential units/villas in its project known as “Kalhaar Blues and Greens”. Further, NODPL reconciled the entries contained in the seized Excel file (x10000226.xls) with its own list of purchasers and admitted that the entries reflected actual cash receipts received from buyers.

34. Learned Senior Standing Counsel Mr.Bhatt has further submitted that the actionable material against the petitioners is not the seized Excel file *per se*, but the subsequent and voluntary admission made by the builder before the ITSC. This admission, according to the respondent, constitutes independent “information” which came into the possession of the Assessing Officer after the conclusion of the search. It is this post-search information that the petitioner had allegedly paid cash consideration of Rs. 2,33,28,500/-, which formed the basis for recording “reason to believe” and issuance of notice under Section 148 of the Act.

35. Thus, the foundation for reopening is the corroborated admission before the Settlement Commission, and not merely a seized document. Such admission, as it was contended, does not fall within the expression “books of account or documents seized” so as to mandatorily attract Section 153C of the Act.

36. On the aforesaid factual premise, it is submitted that invocation of Section 148 of the Act is:

(i) Factually justified, as it is based on post-search information arising from the ITSC proceedings;

(ii) Legally sustainable, as Section 153C is not attracted to material or information that comes into existence or is generated after the search; and

(iii) Consistent with legislative intent, which preserves Sections 147/148 as a remedial mechanism to bring escaped income to tax where the statutory conditions for invoking search assessment provisions are not strictly satisfied.

Thus, it is contended that Section 153C of the Act is confined to seized material belonging to or pertaining to another person, whereas admissions before the ITSC constitute a distinct evidentiary source capable of independently triggering reassessment proceedings.

37. In support of the aforesaid submissions, learned Senior Standing Counsel Mr.Bhatt has placed reliance on the following decisions :

A. In the case of Amar Jewellers Ltd.(supra)

B. In the case of Principal Commissioner of Income Tax Vs. Agroha Fincap Ltd. (2025) 179 taxmann.com 185 (Delhi);

C. In the case of Heval Navinbhai Patel Vs. Income Tax Officer (2021) 126 taxmann.com 82 (Gujarat);

D. In the case of ***Naveen Kumar Gupta(supra)***.

Placing reliance on the judgment of the Supreme Court in the case of Union of India vs. Rajeev Bansal (2024) 167

taxmann.com 70 (SC), it was submitted that where a statute expressly confers power or imposes a duty on a particular authority, such power or duty must be exercised strictly in the manner prescribed.

38. On that premise, it was further contended that the jurisdictional Assessing Officer of the petitioners was competent to invoke Sections 147/148 of the Act on the basis of post-search information, and that the search conducted under Section 132 of the Act does not, by itself, prohibit the exercise of reassessment jurisdiction when the statutory requirements of Section 153C of the Act are not attracted.

ANALYSIS AND CONCLUSION :

39. We have heard the learned advocates appearing for the respective parties.

40. The twin issues, which arise for our consideration in the present group of writ petitions, are namely:

(a) Whether the jurisdictional Assessing Officer, upon receipt of incriminating material pertaining to an assessee (other person) from the Assessing Officer of the searched person, can reopen the assessment under Sections 147/148 of the Act without there being any satisfaction recorded on such material by the Assessing Officer of the searched person and without resorting to the provisions under Section 153C of the Act or not ; and

(b) Whether the searched person (under Section 153A) can be subjected to reopening of assessment under

Sections 147/148 of the Act on the basis of incriminating material found during the search or not.

41. In order to appreciate the aforesaid issues, it would be apposite to examine the scheme and interplay of the relevant provisions, namely Sections 132, 147, 153A and 153C of the Act.

ASPECT OF RECORDING SATISFACTION NOTE UNDER SECTION 153C AND ITS IMPACT ON SECTIONS 147/148.

42. Section 132 of the Act empowers the Income-tax authorities to conduct search and seizure operations where the statutory conditions prescribed therein are satisfied.

43. Section 153A of the Act prescribes the procedure to be followed in cases where a search is initiated under Section 132 or a requisition is made under Section 132A. Sections 153A, 153B and 153C were inserted by the Finance Act, 2003 with effect from 01.06.2003, thereby introducing a distinct and special code for assessment and reassessment in search-related cases.

44. Section 153A of the Act opens with a non-obstante clause overriding Sections 139, 147, 148, 149, 151 and 153 of the Act. Further, Section 153C of the Act provides that assessment of income of any other person, i.e. a third party, shall be undertaken thereunder, and all the petitioners fall under this provision. The relevant portions of Sections 153A, 153B and 153C of the Act are as under :

"SECTION 153A : Assessment in case of search or requisition.

[(1)] Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003 but on or before the 31st day of March, 2021], the Assessing Officer shall-

> *(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for the relevant assessment year or years] referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;*

> *(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made [and for the relevant assessment year or years]:*

153B – Time limit for completion of assessment under section 153A -

(1) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,-

> *(a) in respect of each assessment year falling within six assessment years referred to in clause (b) of [sub-section (1) of section 153A], within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;*

(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed :

–[Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or one year from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.]

SECTION 153C : Assessment of income of any other person

[(1)] Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of —[sub-section (1) of section 153A] :]

[Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned

by the Assessing Officer having jurisdiction over such other person.

(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year-

(a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or

(b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or

(c) assessment or reassessment, if any, has been made,

before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.]"

45. Thus, the use of the expression "the Assessing Officer is satisfied" in Section 153C mandates the recording of satisfaction on the incriminating material sent to him/her by the Assessing Officer of the searched person. The law relating to the recording of satisfaction by the Assessing Officer of the searched person and its transmission to the jurisdictional Assessing Officer is no longer *res integra*. The Supreme Court

in the case of Manish Maheshwari vs. Asstt.Commissioner of Income Tax with Indore Construction (Pvt.) Limited vs. Commissioner of Income Tax and Another, 2007 (3) SCC 794, on a similar issue arising of non-recording of satisfaction note in the old provision of section 158BD(153C) of the Act has held thus:

> *"**12** The conditions precedent for invoking the provisions of Sec. 158BD, thus, are required to be satisfied before the provisions of the said chapter are applied in relation to any person other than the person whose premises had been searched or whose documents and other assets had been requisitioned u/s. 132A of the Act.*
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> ***xxx xxx xxx***
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> ***16** Law in this regard is clear and explicit. The only question which arises for our consideration is as to whether the notice dated 06.02.1996 satisfies the requirements of Sec. 158BD of the Act. The said notice does not record any satisfaction on the part of the Assessing Officer. Documents and other assets recovered during search had not been handed over to the Assessing Officer having jurisdiction in the matter.*
>
> ***17** No proceeding u/s. 158BC had been initiated. There is, thus, a patent non-application of mind. A prescribed form had been utilized. Even the status of the assessee had not been specified. It had only been mentioned that the search was conducted in the month of November 1995. No other information had been furnished. The provisions contained in Chapter XIVB are drastic in nature. It has draconian consequences. Such a proceeding can be initiated, it would bear repetition to state, only if a raid is conducted. When the provisions are attracted, legal presumptions are raised against the assessee. The burden shifts on the assessee. Audited accounts for a period of ten years may have to be reopened.*
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> ***18** A large number of decisions of various High Courts have been cited at the bar. We would, at the outset, refer to a decision of the Gujarat High Court in Khandubhai Vasanji Desai and Others V/s. Deputy Commissioner of Income-Tax and Another, 1999 236 ITR 73. Therein, it was clearly held :*
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> *"This provision indicates that where the Assessing Officer who is seized of the matter and has jurisdiction over the person other than the person with respect to whom search was made u/s. 132 or whose*

books of account or other documents or any assets were requisitioned u/s. 132A, he shall proceed against such other person as per the provisions of Chapter XIV-B which would mean that on such satisfaction being reached that any undisclosed income belongs to such other person, he must proceed to serve a notice to such other person as per the provisions of sec. 158BC of the Act. If the Assessing Officer who is seized of the matter against the raided person reaches such satisfaction that any undisclosed income belongs to such other person over whom he has no jurisdiction, then, in that event, he has to transmit the material to the Assessing Officer having jurisdiction over such other person and in such cases the Assessing Officer who has jurisdiction will proceed against such other person by issuing the requisite notice contemplated by Sec. 158BC of the Act.

xxx xxx xxx

21 *As the Assessing Officer has not recorded its satisfaction, which is mandatory; nor has it transferred the case to the Assessing Officer having jurisdiction over the matter, we are of the opinion that the impugned judgments of the High Court cannot be sustained, which are set aside accordingly. The appeals are allowed. However, in the facts and circumstances of the case, there shall be no order as to costs."*

46. Subsequently, the Supreme Court in the case of CIT vs. Calcutta Knitwears [(2014) 362 ITR 673 (SC)], has recognized three stages of recording such satisfaction, namely:

(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 in respect of the searched person.

Accordingly, the Central Board of Direct Taxes issued Circular No.24/2015 dated 31.12.2015, clarifying the procedure

to be followed for initiation of proceedings under Section 153C of the Act.

47. The Supreme Court, in the case of Super Malls Private limited vs. Principal Commissioner of Income Tax, 8, New Delhi, 2020 (4) S.C.C. 581, has reiterated the aforesaid proposition of law. It is held thus:

> *"7.1 It cannot be disputed that the aforesaid requirements are held to be mandatorily complied with. There can be two eventualities. It may so happen that the Assessing Officer of the searched person is different from the Assessing Officer of the other person and in the second eventuality, the Assessing Officer of the searched person and the other person is the same. Where the Assessing Officer of the searched person is different from the Assessing Officer of the other person, there shall be a satisfaction note by the Assessing Officer of the searched person and as observed hereinabove that thereafter the Assessing Officer of the searched person is required to transmit the documents so seized to the Assessing Officer of the other person. The Assessing Officer of the searched person simultaneously while transmitting the documents shall forward his satisfaction note to the Assessing Officer of the other person and is also required to make a note in the file of a searched person that he has done so. However, as rightly observed and held by the Delhi High Court in the case of Ganpati Fincap (supra), the same is for the administrative convenience and the failure by the Assessing Officer of the searched person, after preparing and dispatching the satisfaction note and the documents to the Assessing Officer of the other person, to make a note in the file of a searched person, will not vitiate the entire proceedings under Section 153C of the Act against the other person. At the same time, the satisfaction note by the Assessing Officer of the searched person that the documents etc. so seized during the search and seizure from the searched person belonged to the other person and transmitting such material to the Assessing Officer of the other person is mandatory. However, in the case where the Assessing Officer of the searched person and the other person is the same, it is sufficient by the Assessing Officer to note in the satisfaction note that the documents seized from the searched person belonged to the other person. Once the note says so, then the requirement of Section 153C of the Act is fulfilled. In case, where the Assessing Officer of the searched person and the other person is the same, there can be one satisfaction note*

> *prepared by the Assessing Officer, as he himself is the Assessing Officer of the searched person and also the Assessing Officer of the other person. However, as observed hereinabove, he must be conscious and satisfied that the documents seized/recovered from the searched person belonged to the other person. In such a situation, the satisfaction note would be qua the other person. The second requirement of transmitting the documents so seized from the searched person would not be there as he himself will be the Assessing Officer of the searched person and the other person and therefore there is no question of transmitting such seized documents to himself."*

48. The aforesaid decisions of the Supreme Court and the Circular issued by the CBDT have been considered in numerous judgments. Unequivocally, the law mandates the recording of satisfaction by the Assessing Officer of the 'searched person' (under Section 153A of the Act) at the stage of transmission of seized material to the jurisdictional Assessing Officer of the 'other person' before assuming jurisdiction under Section 153C.

49. When incriminating material pertaining to a 'third/other person' is found during the course of a search conducted under Sections 132/132A of the Act and such material is transmitted to the jurisdictional Assessing Officer of such 'other person', the statute obliges the Assessing Officer to record satisfaction on such material before proceeding further. The legislative scheme does not carve out any exception permitting the jurisdictional Assessing Officer of the third person to assume jurisdiction under Section 153C of the Act in the absence of satisfaction recorded by the Assessing Officer of the searched person in the first place, and, as a necessary corollary, unequivocally not under Sections 147/148 of the Act as a second instance on the same material.

50. In other words, the absence of satisfaction recorded by the Assessing Officer of the searched person does not vest jurisdiction in the Assessing Officer of the third person to directly invoke the provisions of Sections 147/148 of the Act on the incriminating material found during search, more particularly when the provisions of Section 153C of the Act are not followed. Such satisfaction is a statutory requirement and a jurisdictional pre-condition, and not a mere procedural formality. This position stands fortified by binding judicial precedents and the clarificatory Circular issued by the CBDT, which is binding on the Department.

SCOPE OF THE PROCEEDINGS UNDER SECTIONS 147/ 148, 153A AND 153C READ WITH SECTION 132 OF THE ACT.

51. Before we further delve into the issue raised before us, we may succinctly mention that in view of the Finance Act, 2021, the provisions of Section 153A (pertaining to the searched person) and Section 153C (pertaining to the other than the searched person) are not made applicable *w.e.f.* searches conducted after 31st March, 2021. This procedure has now been deleted from the statute in relation to searches conducted on or after 1st April, 2021. The Finance Act, 2021 has introduced a *pari materia* provision in Section 148 of the Act in respect of searches conducted after 1st April, 2021.

52. Sections 153A to 153D were inserted vide the Finance Act, 2005 with retrospective effect from 01.06.2003. Both the provisions of Sections 153A and 153C begin with non-obstante clauses. Thus, the intention of the legislature is explicit that assessment or reassessment which emanates from

incriminating material arising from a “search” unquestionably has to be undertaken under Section 153A for the searched person and under Section 153C for the other person, after recording satisfaction on such incriminating material. Sections 147 and 148 are provisions relating to general assessment of income tax, which empower the Assessing Officer to reopen an assessment if income chargeable to tax has escaped assessment. The Finance Act, 2021 introduced completely new set of procedures and safeguards for these sections, moving from a subjective “reason to believe” to a more objective “information-based” approach.

53. Learned counsels appearing for the respective parties have primarily premised their submissions on the Supreme Court judgment rendered in the case of ***Abhisar Buildwell (P.) Ltd.*** **(supra**). This judgment has been followed/ interpreted by various High Courts. While examining the scope and ambit of Section 153A of the Act, the Supreme Court has held as under :

> *“11. xxx..x...The intention does not seem to be to re-open the completed/unabated assessments, unless any incriminating material is found with respect to concerned assessment year falling within last six years preceding the search. Therefore, on true interpretation of Section 153A of the Act, 1961, in case of a search under section 132 or requisition under section 132A and during the search any incriminating material is found, even in case of unabated/completed assessment, the AO would have the jurisdiction to assess or reassess the 'total income taking into consideration the incriminating material collected during the search and other material which would include income declared in the returns, if any, furnished by the assessee as well as the undisclosed income. However, in case during the search no incriminating material is found, in case of completed/unabated assessment, the only remedy available to the Revenue would be to initiate the reassessment proceedings under sections 147/48 of the Act, subject to fulfilment of the conditions*

mentioned in sections 147/148, as in such a situation, the Revenue cannot be left with no remedy. Therefore, even in case of block assessment under section 153A and in case of unabated/completed assessment and in case no incriminating material is found during the search, the power of the Revenue to have the reassessment under sections 147/148 of the Act has to be saved, otherwise the Revenue would be left without remedy.

xxxxxx xxxxxxx xxxxxxx

14. In view of the above and for the reasons stated above, it is concluded as under:

(i) that in case of search under section 132 or requisition under section 132A, the AO assumes the jurisdiction for block assessment under section 153A;

(ii) all pending assessments/reassessments shall stand abated;

(iii) in case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and
(iv) in case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under section 132 or requisition under section 132A of the Act, 1961. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under sections 147/148 of the Act and those powers are saved.

The question involved in the present set of appeals and review petition is answered accordingly in terms of the above and the appeals and review petition preferred by the Revenue are hereby dismissed. No costs."

54. The Supreme Court, while discussing the interplay between the provisions of Sections 153A and 147/148, has held that, in case, during the search no incriminating material

is found or in the case of completed/unabated assessments, the only recourse available to the Revenue would be to initiate reassessment proceedings under Sections 147/148 of the Act, subject to fulfillment of the conditions mentioned in Sections 147/148, as in such a situation, the Revenue cannot be left without any remedy. The Supreme Court has made these observations in relation to the “searched person” under Section 153A of the Act, and has carved out an exception for resorting to the provisions of Sections 147/148 of the Act, subject to fulfillment of the conditions envisaged therein, in cases where no incriminating material is found.

55. “Incriminating material” would mean any evidence or proof which connects the assessee with involvement in a delinquency or any deliberate act of concealment/ misdeclaration/ diversion of funds/income. The Supreme Court has rendered the decision in the context of the provisions of Section 153A of the Act, which does not stipulate recording of a satisfaction note in the case of the searched person, since the incriminating material which directly involves the searched person is recovered, whereas it is mandatory to note the nature/details of incriminating material found having a link with the “other person/third person” for enabling the Assessing Officer of such other person/third person to assume jurisdiction under Section 153C of the Act, which is not a requirement under Section 153A of the Act. The Supreme Court has clarified that the provisions of Sections 147/148 of the Act can be resorted to if there is any other material available other than the incriminating material, which can suggest that the income has escaped assessment.

56. In the case of an “other person”, the substratum of the reassessment/assessment is the material supplied by the Assessing Officer of the “searched person” only. Thus, the upshot of the discussion is that the jurisdictional Assessing Officer of the “other person”, in a search proceeding under Sections 132/132A of the Act of a “searched person”, does not have the privilege to assume jurisdiction under Sections 147/148 of the Act on the basis of the incriminating material sent to him. Thus, there are twin conditions which restrict the jurisdictional Assessing Officer from exercising powers under Sections 147/148 in the case of an “other person”, i.e., firstly, by relying on incriminating material bereft of a satisfaction note, and secondly, by placing reliance exclusively on such incriminating material.

57. In the case of most of the petitioners, it is noticed by us that the Assessing Officer has not recorded satisfaction on the material recovered from the entities, i.e. the searched persons, and without recording such satisfaction on the incriminating material, proceedings under Sections 147/148 of the Act have been resorted to, which, in our considered opinion, is in direct conflict with the provisions of Section 153C of the Act. The jurisdictional Assessing Officer of the petitioners cannot directly invoke the provisions of Sections 147/148 of the Act for reopening of the assessment unless he/she is in receipt of the satisfaction note on the incriminating material while exercising power under Section 153C of the Act. Apart from the material sent to the jurisdictional Assessing Officer, if such officer has knowledge or information from other sources which tends to

establish escapement of income, then, in such a case, the provisions of Sections 147/148 of the Act can be resorted to, subject to fulfillment of the conditions.

58. When the legislature has provided a special mechanism for assessment or reassessment based on search material, having a specific limitation period, the same must be followed strictly and exclusively, and recourse to the general provisions of Sections 147/148 is impermissible in respect of matters falling within the domain of the special provisions unless there are special circumstances carved out, as discussed hereinabove.

DISCUSSION ON CASE LAW :-

59. Albeit, numerous decisions are cited before us, it is noticed by us that the same are repetitive; hence, in order to avoid prolixity, we have dealt with only those which are relevant. The Rajasthan High Court, in the case of ***Shyam Sundar Khandelwal (supra)***, after considering the judgment of the Supreme Court in ***Abishar Buildwell (P.) Limited (supra***) and the judgment of the Karnataka High Court in case of *Shri Dinkara Suvarna Vs. DCIT**,*** 2023 454 ITR 21 (Karnataka) and also in a decision of the Bombay High Court in case of Aditi Constructions vs. Dy. CIT, 2023 151 taxman.com 513, has held as under : -

> *"35. The Supreme Court in the case of Abhisar Buildwell (P.) Ltd. (supra) while dealing with the provisions of section 153A held that in case of absence of incriminating material seized during the search, the department is not remediless for reassessing the unabated assessment on the basis of material received from the other sources and can proceed under section 148. The decision does not support the contentions raised that section 148 is rendered redundant if*

section 153C is to be resorted to in the facts of the present case.

36. The Single Bench of this Court in the case of Vijay Kumar Mehta (supra) held that if the Department has chosen not to proceed under section 153C, no right is created to the petitioner for getting the notice under section 148 quashed. Moreover, learned Single Judge was not having the benefit of the decision of the Supreme Court in the case of Abhisar Buildwell (P) Ltd. (supra). The appeal against the order was dismissed having rendered infructuous in view of the subsequent developments that the assessment order was passed.

37. The decision of the Madras High Court in the case of Saloni Prakash Kumar (supra) is of no help to the respondents. The High Court held that section 153C does not preclude issuance of notice under section 148. The field of applicability of two sections was not the issue before the Court.

38. The petitioner relied upon the decision of the Karnataka High Court in the case of Sri Dinakara Suvarna (supra). It would be relevant to quote Para-10:

"10. Admittedly no proceedings were initiated under section 153C of the Act. Thus, there is patent non-application of mind. It is relevant to note that the author of the diary Smt. Soumya Shetty had passed away prior to the date of search. It was argued on behalf of the Revenue that Shri. Ashok Kumar Chowta had offered tax on lump-sum income."

39. Further reliance was placed upon the decision of the Bombay High Court in the case of Mis. Aditi Constructions (supra). The para-9 is quoted:-

"9. We find that the jurisdictional conditions for invoking section 147-148 are not satisfied as there is no failure to disclose material facts fully and truly. It is not in dispute that by the letter dated 11th September 2015 (Exhibit H) the Petitioner have submitted all the particulars along with supporting documents to the Respondent No.1. Hence the reasons to believe and a presumption based on the statement of Shri Bhanwarlal Jain (a third party) in the course of a search, that the loans of the entities were bogus or accommodation entries was clearly dispelled. Moreover, the specific provisions of S. 153C would prevail over the general provisions of section 147 in the case of search on 3rd party."

40. In view of above discussion the notices issued under section 148 and the impugned orders are quashed. However, the respondents shall be at liberty to proceed against the petitioners in accordance

with law."

60. The aforesaid decision is followed by the Bombay High Court in the case of Sejal Jewellery vs. Union of India, (2025) 171 taxmann.com 846.

61. The respondent has placed reliance on the judgment of the High Court of Delhi in the case of ***Navin Kumar Gupta*** **(supra**). A careful reading of the facts of the judgment in the case of ***Navin Kumar Gupta*** **(supra**), as recorded by the Delhi High Court, would reflect that in the said case, a search was conducted under Section 132 of the Act against the searched person, and the material was forwarded by the Assessing Officer to the Assessing Officer of the third person. The jurisdictional Assessing Officer of the third person also received a report from the Investigation Wing, Mumbai, regarding the assessee purchasing units of a penny stock during the financial year 2010–2011, and based on the said information from the Investigation Wing, Mumbai, the Assessing Officer of the third person issued a notice under Section 148 of the Act. In such facts, the Delhi High Court held that the proceedings under Section 148 of the Act were valid.

62. In the said case, the Delhi High Court held that the non obstante clause of Section 153C of the Act would not be applicable, as the Assessing Officer did not assume jurisdiction under Section 153C of the Act.

63. So far as the aforesaid proposition of law is concerned, there cannot be any cavil, as it is always open to the Assessing Officer to invoke the provisions of Sections 147/148 of the Act

on the basis of material received which does not form part of the incriminating material sent to him by the Assessing Officer of the searched person. This is precisely the case of the petitioners before us.

64. As recorded hereinabove, it is a settled legal precedent and a statutory obligation upon the jurisdictional Assessing Officer of the third person, i.e. the assessees/petitioners, to record his satisfaction, and there is no escape from recording satisfaction on the incriminating material sent to him by the Assessing Officer of the searched person, who was subjected to search under Section 132 of the Act.

65. Reliance is also placed by the respondent-department on the decision in the case of ***Heval Naveenbhai Patel (supra)***. The facts of the said case suggest that in a search undertaken of a searched person, the Assessing Officer of the third person came to know that the assessee had not filed any return of income, and hence an opinion was formed that where no return of income has been furnished by the assessee, though his total income or the total income of any other person in respect of which he is assessable under the Act exceeds the maximum amount not chargeable to tax, it would be deemed to be a case where income chargeable to tax has escaped assessment. Such opinion was formed on the basis of material sent to the jurisdictional Assessing Officer of the third person (assessee). In such facts, details and documents relating to land transactions were obtained from the Sub-Registrar for the purpose of identifying the beneficiaries in the transaction with the searched person, and the Division Bench of this Court

upheld the action of reopening the assessment by invoking the provisions of Section 148 of the Act. The Division Bench held that the Assessing Officer of the searched person, while passing the assessment order under Section 153A or prior thereto, is required to record his satisfaction about the material, and if such material reveals any undisclosed income of a person other than the searched person, he has to transmit such documents/material along with his satisfaction note to the Assessing Officer having jurisdiction over such other person (third person). Ultimately, in paragraph No. 35, the Coordinate Bench has held as under :-

> *"35. Indisputably in the case on hand, the search was undertaken prior to 1-6-2015. If that be so then, it is clear that before issuing the notice under section 153(C) of the Act, the primary condition has to be fulfilled and which is that the money, bullion, documents etc., seized should belong to such other person. If this condition is not satisfied, no proceedings could be taken u's. 153C of the Act. The seized documents do not belong to the two writ applicants herein but were seized from the premises of the Venus Group. It is not the case of the revenue that the seized documents are in handwriting of the two writ applicants. In such circumstances, the Assessing Officer could not have initiated proceedings under section 153(C) of the Act but based on the information, could be said to be justified in reopening the assessment for the reasons assigned and referred to above"*

66. In the case of ***Amar Jewellers Limited (supra)***, while examining the provisions of Sections 153A and 147 of the Act, it is held as under :

> *"55. Thus, having regard to the aforesaid discussion, we have reached to the conclusion that the argument of Mr. Hemani as regards the non obstante clause contained in section 153A and its effect is without any merit. It is difficult for us to take the view that the non obstante clause in section 153A excludes the very applicability of sections 147 and 148 respectively of the Act. We are in agreement with the submission of Mr. Bhatt, the learned senior counsel appearing for the revenue that the non obstante clause in*

> *section 153A should be understood as merely dispensing with the procedural aspect of section 147 of the Act.*
>
> *84.xx……*
> *(c) To say that the assessment undertaken under Section 153A of the Act can never be reopened under section 147 of the Act, would be an incorrect statement of law.*

67. As recorded by the Division Bench of this Court in the case of ***Amar Jewellers Limited (supra)***, it is noted that a search was undertaken under Section 132 of the Act on a searched person, i.e. the Amar Group, and proceedings under Section 153A of the Act were initiated, as it was found by the Assessing Officer of the searched person that there were some bogus purchases made by the assessee. Such information was received from the Investigation Wing, Mumbai, as well as the Investigation Wing, Surat. Thus, initially, after the search was undertaken, a notice under Section 153A of the Act was issued by the Assessing Officer to the searched person, and thereafter, on receiving information from the Investigation Wings, proceedings under Section 148 of the Act were invoked seeking reopening of the assessment. In such a factual backdrop, the Court held that the proposition that once an assessment under Section 153A of the Act is undertaken, the assessment can never be reopened under Section 147 of the Act would be an incorrect statement of law.

68. Both Sections 153A and 153C begin with non-obstante clauses, referring to the provisions of Sections 147 and 148 of the Act. As held by the Rajasthan High Court in the case of *Shyam Sunder Khandelwal* (supra), these provisions have an overriding effect over the regular provisions of assessment or

reassessment. The provisions of Section 147 can be invoked by the Assessing Officer if he has reason to believe that any income has escaped assessment for any assessment year. This facet is different from the knowledge acquired of undisclosed income from the incriminating material collected during search and seizure. Hence, it is not open to the Assessing Officer to invoke the provisions of Sections 147/148 of the Act for reopening the assessment on the incriminating material gathered during search and seizure under Sections 132/132B of the Act, when the special provisions beginning with non-obstante clauses are engrafted in the statute.

69. We do not endorse the submission of the Revenue expressing its predicament for bypassing the statutory provisions of Sections 153A and 153C of the Act and directly invoking the provisions of Sections 147/148 of the Act in cases where the names of numerous assessees surface during search. The statute does not provide such shortcuts. Merely because the Revenue faces numerous assessees whose names have been unearthed during search and whom it believes have evaded tax, the statutory provisions cannot be bypassed. The Latin maxim *"Quando aliquid prohibetur ex directo, prohibetur et per obliquum"* deciphers to mean "What cannot be done directly cannot be done indirectly." This legal principle is a foundation of the legal system, as it safeguards the interests of citizens. The law cannot be bypassed through incidental means if such actions are directly forbidden by law. It is trite that when a statute vests certain power in an authority to be exercised in a particular manner, that authority has to exercise

such power by following the manner prescribed in the statute, and any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid.

ANALYSIS AND OPINION ON THE FACTS OF THE CAPTIONED WRIT PETITIONS :-

70. Having discussed the contours of Sections 132, 147, 148, 153A and 153C of the Act, we shall now examine the facet of recording of satisfaction notes and the invocation of reassessment proceedings under Sections 147/148 of the Act in the respective petitions.

71. The captioned petitions can be divided in to ***Four Groups***, whose petitioners are subjected to reassessment as under:

A) The Petitioners in whose case the information has emerged from the search/raid conducted at Navratna Group (NODPL).

B) The petitioners in whose case the information has emerged from the search/raid conducted at K-Star Group.

C) The petitioners in whose case the information has emerged from the search/raid conducted at Flamingo (Sanjay Govindram Agarwal).

D) The petitioners in whose case the search was conducted during the search/raid conducted at Affluence Commodities Pvt. Ltd

72. **Group-A:-** Since most of the writ petitions belong to Group-A (Navratna Group), we are analyzing the legality of

reassessment under Sections 147/148 of the Act. In these writ petitions, the facts suggest that pursuant to the warrant issued in the name of one Murlidhar Marutibhai Trivedi, who is a shareholder of Navratna Infrastructure, a search was undertaken at his residence and at Navratna Organisers and Developers Pvt. Ltd. (NODPL) on 11.04.2017. During the search at the residence of Murlidhar Trivedi, backup data was taken from his laptop, and a digital Excel sheet was recovered. This Excel file contained details of the Kalhaar Scheme such as unit number, area of unit, selling price of land, construction cost, amount received from purchasers, etc. Thereafter, during the proceedings before the Income Tax Settlement Commission (ITSC), the Navratna Group submitted a list of purchasers (from F.Y. 2011–12 to 2016–17), wherein the unit number, name of purchaser, date of execution of sale deed, cost of land and construction, etc., were mentioned. The said list was compared with the Excel file recovered from the laptop of Shri Murlidhar, and it was observed by the authorities that NODPL had maintained proper records of all receipts in cash as well as through cheque on the sale of units/villas in the Kalhaar Scheme. NODPL, in its application before the ITSC, admitted that it had received “on-money” (cash) for the sale of units/villas at the “Kalhaar Blues and Greens” project, wherein it was disclosed that the purchasers had paid huge amounts in cash. Thereafter, the Deputy Commissioner of Income Tax, Central Circle-1(1), Ahmedabad, vide communication dated 05.03.2021, conveyed to the respective Jurisdictional Assessing Officers (JAOs) to analyze the data and ascertain the names of the purchasers from the Excel sheet submitted by

the Navratna Group, from the sale deed value, registration number and dates, and accordingly to take necessary remedial action to protect the interest of the Revenue. Thus, in the proceedings before the ITSC, and on admission of the Navratna Group post-search, the JAOs were directed to analyze the data of the purchasers, which ultimately disclosed the cash transactions undertaken by the petitioners. *Albeit,* the original source of incriminating material against the petitioners is the Excel sheet recovered during the search from Shri Murlidhar, however, the names and the factum of cash transactions were revealed during the proceedings before the ITSC, that too on an application filed by the Navratna Group admitting the cash transactions from the petitioners. Thus, the information regarding payment of cash was received post-search on the basis of the admission, since during the search the names of the petitioners were never revealed from the incriminating material (Excel sheet). Only when the data supplied by the Navratna Group was compared with the Excel sheet, the exact details emerged. In such circumstances, there was no occasion for the Assessing Officer of the searched entity to record satisfaction and forward it to the jurisdictional Assessing Officer of the petitioners. The proceedings under Sections 147/148 of the Act were initiated subsequently on the directions issued by the Deputy Commissioner of Income Tax, Central Circle-1(1), Ahmedabad, vide communication dated 05.03.2021. Thus, the material information of names and cash transactions unearthed by the Jurisdictional Assessing Officers (JAOs) subsequently on the basis of data supplied by the Navratna Group before the Settlement Commission constitutes

an independent source, and hence such information/material is sufficient to trigger action under Sections 147/148 of the Act. Therefore, the Revenue is justified in reopening the assessment under Sections 147/148 of the Act on the information received subsequently.

73. **Group-B :-** The petitioners of this group are subjected to reassessment under Sections 147/148 of the Act on the basis of incriminating material found during the search at the K-Star Group. There is no satisfaction note recorded by the Assessing Officer of this entity, and the material has been merely supplied to the JAO of the petitioners, who has invoked the provisions of Section 148 of the Act. Hence, the power under Sections 147/148 cannot be invoked by the JAO in the absence of a satisfaction note. There is no independent material, or any material gathered post-search from any other source, apart from the material found during the search at the K-Star Group, pointed out to us.

74. **Group-C:-** Similar is the position of the petitioners of this group to that of Group-B. The information/incriminating material to the JAO of the petitioners has been transmitted by the Assessing Officer of Flamingo (Sanjay Govindram Agarwal) without recording a satisfaction note. No independent material, or any material gathered post-search apart from the material found during the search, has been pointed out to us.

75. **Group-D:-** It is interesting to note that in the writ petitions being Special Civil Application Nos. 17933 of 2018, 17935 of 2018, 17938 of 2018, and 17939 of 2018, the

assessments for the Assessment Years 2011–12 to 2014–15 are sought to be reopened by resorting to the provisions of Sections 147/148 of the Act on the basis of the search conducted and the panchnama drawn on the petitioners. The contents of the impugned notice and the affidavit-in-reply filed by the Assessing Officer reveal that during the search and survey action conducted on 18.12.2014 covering many commodity traders, where one of them was Affluence Commodities Pvt. Ltd., Dhiren A. Shah and Amee D. Shah Ltd., a search was also conducted at the business premises of the petitioners. The writ petitioners in these writ petitions were subjected to search under Section 132 of the Act and hence fall under the provisions of Section 153A of the Act, and not under Section 153C of the Act. Incriminating material in the form of loose paper files was found during the search at the premises of the petitioners. The cases of these writ petitions are governed by the decisions of the Supreme Court in the case of ***Abhisar Buildwell (P.) Ltd. (supra)*** and ***Amar Jewellers (supra)***. Thus, the Assessing Officer was mandated by the provisions of Section 153A to follow the procedure prescribed therein on the basis of incriminating material found during the search conducted under Section 132 of the Act, and hence the statute prohibits him from switching over or resorting to the provisions of Section 148 of the Act from Section 153A unless there is material gathered from an independent source. Hence, such action is held to be illegal and without jurisdiction. However, as held by the Supreme Court and the Division Bench of this Court in the aforesaid decisions, it is always open for the Revenue to resort to the provisions of Sections 147/148 of the Act, subject to fulfillment

of the conditions mentioned therein and availability of material from an independent source from which the Assessing Officer has “reason to believe” that income has escaped assessment

76. We answer the issues by summarizing the observations as under :

A) It is mandatory for the Assessing Officer of a “searched person” (Section 153A of the Act) to record satisfaction on the incriminating material found during the search under Sections 132/132A of the Act and communicate the same to the jurisdictional Assessing Officer of the “other/third person”.

B) In the absence of any satisfaction note recorded by the Assessing Officer of the searched person, the jurisdictional Assessing Officer of the other person cannot assume jurisdiction under Section 153C of the Act solely on the basis of material sent to him by the Assessing Officer of the searched person. In other words, the “other person” cannot be subjected to assessment/ reassessment under Section 153C of the Act on the material received by him sans a satisfaction note; hence, such an approach would be illegal, without jurisdiction, and liable to be quashed.

C) The jurisdictional Assessing Officer of the “other/searched person” (Section 153C) can invoke the provisions of Sections 147/148 of the Act only on the basis of material available to him from other sources, other than the incriminating material sent to him. In case a satisfaction

note is recorded on the incriminating material and transmitted to him/her, then the only recourse available to the jurisdictional Assessing Officer is to proceed under Section 153C of the Act and not under Sections 147/148 of the Act.

D) In the case of assessees who are subjected to reassessment under the provisions of Section 153A of the Act, the Assessing Officer cannot switch over or invoke the provisions of Sections 147/148 of the Act on the basis of incriminating material found during the search and seizure conducted under Sections 132 or 132A of the Act. However, the Revenue cannot be restricted, barred, or left remediless from invoking the provisions of Sections 147/148 of the Act, subject to fulfillment of the conditions mentioned therein, and the assessment can be reopened on the basis of material collected post-search from any other independent source.

:: ORDER ::

77. On overall appreciation of the facts and analysis, the following order is passed :-

1) The writ petitions of Group-A, being Special Civil Application Nos. 4890 of 2022, 5350 of 2022, 5855 of 2022, 5858 of 2022, 5861 of 2022, 5864 of 2022, 5901 of 2022, 26206 of 2022, 216 of 2022, 17675 of 2022 and 5422 of 2022, are dismissed. However, we clarify that the dismissal of the writ petitions shall not be construed as detrimental to the petitioners in the

reassessment proceedings, which shall proceed in accordance with law. Rule ***discharged***.

2) The writ petitions of Groups B, C and D, being SCA Nos. 3563 of 2022, 3564 of 2022, 18983 of 2019, 18985 of 2019, 18986 of 2019, 18987 of 2019, 16341 of 2025, 16723 of 2025, 17933 of 2018, 17935 of 2018, 17938 of 2018 and 17939 of 2018, are allowed. The impugned action of reopening the assessment is quashed and set aside, reserving liberty in favour of the Revenue to resort to proceedings under Sections 147/148 of the Act, subject to fulfillment of the conditions mentioned therein, while keeping in mind the observations made by this Court. Rule made ***absolute*** to such extent. No order as to costs.

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

Sd/-
(PRANAV TRIVEDI,J)

MAHESH/01, 02, 03

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MAHESH OMPRAKASH BHATI(HC01086), PRIVATE SECRETARY, at High Court of Gujarat on 07/01/2026 17:42:56