



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2650 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI Sd/-

| Approved for Reporting | Yes | No |
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RAO TRADELINK PRIVATE LIMITED
 Versus
 INCOME TAX OFFICER WARD 3(1)(2) AHMEDABAD

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Appearance:
 MS VAIBHAVI K PARIKH(3238) for the Petitioner(s) No. 1
 AADITYA D BHATT(8580) for the Respondent(s) No. 1
 NOTICE SERVED for the Respondent(s) No. 1

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

Date : 25/11/2025
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

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

2. Since a short issue is involved, the present writ petition is taken up for final hearing today with the consent of the learned advocates appearing for the respective parties.

3. The petitioner has assailed the notice dated 31.03.2024 issued by the respondent under the provisions of Section 148 of the Income Tax Act, 1961 (for short "the Act") seeking reopening of the



income-tax assessment of the petitioner for the Assessment Year (AY) 2017-18.

FACTS:

4. The petitioner is a Company incorporated under the Companies Act, 1956, the majority shareholders of which are citizens of India. The petitioner, during the year under consideration, was engaged in the business of trading in textile fabrics and made certain purchases from Ruchita Chemicals LLP in the normal course of business and made various payments against such purchases to the said party. The closing credit balance of Ruchita Chemicals LLP was Rs. 96,79,38,144/-, which is a part of the total trade payable of Rs. 1,12,43,13,194/- reflected in the audited financial statements. The petitioner filed its return of income for AY 2017-18 on 30.10.2017 declaring total income at Rs. 11,09,730/-. The year under consideration was selected for scrutiny assessment by issuing statutory notice dated 10.08.2018 under Section 143(2) of the Act. The then Assessing Officer (AO), vide notice dated 19.08.2019 issued under Section 142(1) of the Act, called upon the petitioner to furnish various details including details pertaining to (i) trade payables and (ii) purchases. The petitioner, vide letter dated 28.08.2019, furnished a detailed reply to the aforesaid notice.



5. The then AO, vide notice dated 06.09.2019 issued under Section 142(1) of the Act, again called upon the petitioner to furnish various details including the details as above. The petitioner, vide letters dated 19.09.2019, and notice dated 03.10.2019 issued under Section 142(1) of the Act, was called upon to furnish various details. The petitioner, vide letter dated 07.10.2019, furnished a detailed reply to the aforesaid notice. Accordingly, the petitioner, vide letter dated 24.10.2019, furnished certain further details. Ultimately, assessment was framed under Section 143(3) of the Act vide order dated 30.10.2019, whereby the return of income was accepted.

6. Thereafter, the respondent issued a notice dated 31.03.2024 under Section 148 of the Act for the year under consideration. It is mentioned therein that the respondent has information that a search action was initiated under Section 132 of the Act in the case of the petitioner or in the case of a person in respect of whom the petitioner is assessable under the Act on 08.12.2021.

7. The respondent, vide notice dated 08.10.2024 issued under Section 142(1) of the Act, called upon the petitioner to furnish various details and information. Such details also included details pertaining to the source of payment of Rs. 7,00,00,000/- to Ruchita Chemicals LLP. The



petitioner, vide letter dated 19.10.2024 (uploaded on 22.10.2024), furnished a detailed response to the said notice. The respondent, vide notice dated 31.12.2024 issued under Section 142(1) of the Act, called upon the petitioner to furnish various details and information including details pertaining to the claim of purchases and sales of goods, as mentioned in submissions dated 19.10.2024. The petitioner, vide letter dated 10.01.2025, raised objections against the action of reopening the case of the petitioner for the year under consideration. The respondent, vide communication dated 03.02.2025, disposed of the objections raised by the petitioner against reopening and, *inter alia*, held that the action of reopening is justified in law. The satisfaction note recorded prior to reopening the case of the petitioner for the year under consideration was also supplied.

SUBMISSIONS ON BEHALF OF PETITIONER

8. Learned Senior Advocate Mr.Tushar Hemani has submitted that the underlying transaction is with respect to the payment against purchases made from Ruchita Chemicals LLP in the normal course of business and is duly recorded in the audited books of account and, accordingly, the petitioner has also furnished the ledger of Ruchita Chemicals LLP, contra ledger and sample bills. It is submitted that the purchases from Ruchita Chemicals LLP have not at all been doubted by the respondent, and all the transactions are duly reflected in the books of



account maintained by the petitioner and hence, the respondent was not justified in doubting the portion of payment made against such purchases. Thus, it is urged that the impugned notice deserves to be quashed.

9. It is submitted that there is no escapement of income chargeable to tax and that the provisions of Section 147 of the Act can be invoked only if income chargeable to tax has escaped assessment. It is further submitted that the reopening is premised on a change of opinion and that the respondent has acted illegally and without jurisdiction in issuing notice under Section 148 of the Act, which can be resorted to only if there is escapement of income chargeable to tax and there must be a live link or close nexus between the material before the AO and the opinion with regard to the escapement of income; such link is absent in the present case. It is submitted that the AO cannot take any action under Section 147 of the Act merely because he happens to change his opinion or to hold an opinion different from that of his predecessor on the same set of facts, and having formed an opinion at the original assessment stage, it is not open thereafter to change the opinion and take a different stand.

10. Finally, while inviting the attention of this Court to the order dated 03.02.2025, it is submitted that the AO himself is not sure about the quantum of



escapement and has left it open to be determined subsequently on completion of assessment proceedings and hence, it is urged that the impugned notice as well as the order are requires to be quashed and set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

11. Learned Standing Senior Counsel Mr. Bhatt has submitted that during the search conducted under Section 132 of the Act against Invent Assets Securitization and Reconstruction Private Limited on 08.12.2021, a statement was made by the CEO of Invent Assets disclosing the modus operandi in diverting the funds and, on close scrutiny thereafter, the role played by Invent Assets along with its sister concerns, including the present petitioner, was uncovered and it was noticed that there was escapement of income. It was noticed that the funds were mobilized by Invent Assets to purchase the banks', financial institutions', borrowers' group by the funds of the borrowers' group itself under the garb of purchase. It is submitted that Ruchita Chemicals LLP had advanced an amount of Rs. 7,00,00,000/- to Pioneer Management and Finance Consultancy and on receiving the same from the petitioner, under the pretext of being a genuine business transaction through a colourable device, made the purchases.



12. It is submitted by learned Standing Senior Counsel Mr.Bhatt that during the search, it was noticed from the bank account statement of Ruchita Chemicals LLP that just before advancing a loan to Pioneer Management and Finance Consultancy (i.e., Invent Assets), credit entries came from the petitioner and on the same day, the same funds were transferred to Invent Assets. It is submitted that it cannot be said that reopening of the assessment is based on a change of opinion since, on finding of new material and discovery of modus operandi in a search conducted on Invent Assets, it came to light that the petitioner is involved in a dubious purchase and hence, the provisions of Section 148 of the Act were invoked. Thus, it is urged that at this stage, the impugned notice issued under Section 148 of the Act may not be quashed as the final amount of escapement can be determined after the assessment is completed.

ANALYSIS AND CONCLUSION

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

14. The facts established from the record are that scrutiny assessment was undertaken by issuing statutory notice under Section 143(2) of the Act on 10.08.2018 for AY 2017-18. Various letters were issued to the petitioner pursuant to the aforesaid notice and there were inter se communications. The



petitioner filed detailed representations to all the letters and ultimately the assessment was framed under Section 143(3) of the Act on 30.10.2019, whereby the return of income of the petitioner was accepted. It is not disputed that the documentary evidence on record, which includes the ledger of Ruchita Chemicals LLP, contra ledger and sample bills, establishes that the petitioner had clarified the transactions with Ruchita Chemicals LLP and the purchases of Rs. 58,05,69,466/- for the year under consideration.

15. Pursuant to the notice issued on 31.12.2024 under Section 142(1) of the Act, the petitioner raised objections to the reopening of the case by contending that there is no escapement of income chargeable to tax at the end of the petitioner. It was explained that a sum of Rs. 7,00,00,000/- was given to Ruchita Chemicals LLP and such amount was for payment of purchase of goods during the normal course of business, and that there is no connection between the petitioner and Invent Assets, which was subjected to search under Section 132 of the Act on 08.12.2021.

16. The respondents have miserably failed to point out any connection between the petitioner and Invent Assets, against whom the search under Section 132 of the Act was undertaken. Purchases to the tune of Rs. 7,00,00,000/- have been questioned by the AO only on



presumption, without there being any concrete material. It is also not in dispute that the respondents have not questioned the purchases of Rs. 58,05,69,466/- from Ruchita Chemicals LLP and during the course of scrutiny assessment proceedings, the petitioner had satisfied the AO and ultimately the return of income was accepted.

17. The entire case of the respondent hinges on presumptions arising from the search undertaken of Invent Assets, and there is no material connecting the petitioner with Invent Assets. An attempt has been made to connect the petitioner with Invent Assets merely because Rs. 7,00,00,000/- was given by Ruchita Chemicals LLP to Pioneer Management and Finance Consultancy.

18. We may at this stage refer to the observations made by the AO in the communication dated 03.02.2025 issued under Section 142(1) of the Act. The same are reproduced below:

“Further, with reference to objection raised by assessee that there is no escapement of income, is misleading and frivolous. Assessment proceedings had been initiated based on information/documents seized during search in the case of Invent Assets Securitization and Reconstruction Pvt Ltd (Invent) on 08.12.2021 and prima facie information/docuements revealed that income of the assessee has escaped assessment. However, exact quantum of escapement, if any will be finalized only upon completion of assessment proceedings.”



19. A bare perusal of the findings recorded by the AO in the above communication clarifies that the AO is not sure about the exact quantum of escapement and that his opinion is still in a state of flux, as he has specifically stated that the quantum of escapement "if any" will be finalized only upon completion of assessment proceedings. Thus, the observations recorded by the AO disclose that he himself is unsure about the actual escapement and has made it subject to the final outcome of the assessment proceedings.

20. At this stage, we may refer to the observations of this Court in the case of Lambda Therapeutic Research Limited vs. Assistant Commissioner of Income Tax, 2018 402 ITR 177, which are as under :

"(12) After examining all the details, the Assessing Officer, by the assessment order dated 24.04.2014 consciously chose to make disallowance of Rs.9,82,226/- under section 80-IB(8A) of the Act holding that the income to the extent of Rs.9,82,226/- was not earned from the eligible business activities. It is pertinent note that the Assessing Officer while reworking the deduction has observed that "The detailed scrutiny of the claim of the assessee revealed that while claiming the deduction the assessee has not excluded the "notice pay income" and "other income" of Rs.9,62,549/- and Rs.18,677/- being not eligible for deduction under section 80IB of the Income Tax Act, 1961". The said observation belies the contention of the department that no detailed analysis was done by the Assessing Officer in the original scrutiny in relation to the activities carried out by the petitioner. As observed in the preceding paragraphs, the petitioner had supplied all the details of the activities in



response to the notice dated 12.11.2012. Thus, it can be assumed that the claim of the petitioner was processed in detail. The assessment cannot be reopened by forming an opinion that the activities carried on by the petitioner was professional service of research not leading to technology development only on the basis that the Assessing Officer failed to raise a particular question to that effect. It will be apposite to take note of observations made in the judgement rendered in similar set of facts in the case of Cliantha Research Ltd. (supra). The same are quoted as under:

"17. From the above it can be seen that the petitioners claim for deduction under Section 80IB(8A) of the Act came for detailed scrutiny by the Assessing Officer in the original scrutiny assessment. Series of queries were raised by the Assessing Officer. All such questions were answered at length by the assessee. He filed several replies before the Assessing Officer. Only after considering such replies and documents accompanying such replies, Assessing Officer framed the assessment in such assessment order. He disallowed only a small portion of the petitioners claim for deduction. To the extent the petitioner had claimed deduction for sample storage income, the same was disallowed, rest of the claim was accepted. By no stretch of imagination, can it be stated that the claim under Section 80IB(8A) of the Act was not examined by the Assessing Officer in the original assessment. Entire claim was thoroughly and painstakingly scrutinized. His queries were not restricted to sample storage income alone. For example, in his communication dated 21.10.2009 he called upon the petitioner to furnish details of transactions with various companies, such as M/s Cadila Healthcare Ltd., Lupin Ltd. Etc. These are the companies with whom the petitioner had entered into detailed agreements for carrying out scientific research. In paragraph 4 of such notice, he called upon the petitioner to furnish note on claim of deduction under Section 80IB(8A) of the Act to produce necessary evidence in support of such claim. He also directed the petitioner to furnish note on how all the conditions laid down under Rule 18DA were fulfilled."



(13) The earlier claim of deduction was examined and processed after calling for detailed explanation from the petitioner, and the same was accepted after forming an opinion on the activities carried out by the Company. There was no failure on the part of the petitioner as to full and true disclosure. The aforesaid analysis unveils that the reopening the petitioner's case for reassessment under section 147 of the Act is based on change of opinion and hence, the same is not justifiable as per the settled position of law."

21. Thus, as per the foregoing observations and settled legal precedent, if there is no failure on the part of the assessee as to full and true disclosure, and the assessment has been threadbare examined and approved after calling for detailed explanation, the reopening of the assessment can be said to be premised on a change of opinion.

22. In our considered opinion, the petitioner cannot be subjected to further reassessment in view of such vague observations recorded by the AO, particularly when the return of the petitioner had been accepted after detailed scrutiny of the documents presented by the petitioner, disclosing the purchases with Ruchita Chemicals LLP.

23. Thus, on an overall appreciation of the facts and documents on record, we are of the opinion that the reopening of the assessment is nothing but a change of opinion by the AO and hence, the petitioner cannot be subjected to further scrutiny of reassessment.



24. In light of the foregoing analysis and observations, the impugned notice dated 31.03.2024 issued under Section 148 of the Income Tax Act, 1961 is hereby quashed and set aside. The present writ petition succeeds. Rule is made absolute. No order as to costs.

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

Sd/-
(PRANAV TRIVEDI, J)

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