IN THE INCOME TAX APPELLATE TRIBUNAL
"RAJKOT" BENCH, RAJKOT

(***Convened through Virtual Court***)

BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR
& SHRI AMARJIT SINGH, ACCOUNTANT MEMEBR

आयकर अपील सं./I.T.A. No. 81/Rjt/2020

(**निर्धारण वर्ष /** Assessment Year : 2005-06)

Shri Jawahir Ravichandra Mehta P.O. Box No. 30, Dubai (UAE)	**बनाम**/ Vs.	**The Deputy Commissioner of Income-tax** Central Circle-2, Rajkot
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AQTPM8771H		
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

&

आयकर अपील सं./I.T.A. Nos. 82 to 85/Rjt/2020

(**निर्धारण वर्ष /** Assessment Years: 2005-06, 2010-11 to 2012-13)

Shri Ravichandra Vadilal Mehta 7th Floor, Mansarovar Apartment, Royal Park-6, Kalawad Road, Rajkot	**बनाम**/ Vs.	**The Deputy Commissioner of Income-tax** Central Circle-2, Rajkot
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ALOPM4962A		
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

&

आयकर अपील सं./I.T.A. No. 122 to 129/Rjt/2020

(**निर्धारण वर्ष /** Assessment Year : 1998-1999 to 2005-06)

Assistant Commissioner of Income-tax Central Circle-2, Rajkot	**बनाम**/ Vs.	**Shri Ravichandra V. Mehta** 7th Floor, Mansrovar

		Apartment, Royal Park, Kalawad Road, Rajkot
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

&

आयकर अपील सं./I.T.A. Nos. 86 to 89/Rjt/2020

(**निर्धारण वर्ष /** Assessment Years : 2005-06, 2010-11 to 2012-13)

Shri Balkrishna Ravichandra Mehta A-601, Kailash Tower, Opp. Odeon Mall, Vallabh Baug Lane, Ghatkoper (East), Mumbai - 400077	**बनाम**/ Vs.	**The Deputy Commissioner of Income-tax** Central Circle-2, Rajkot
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AJWPM9444P		
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

&

आयकर अपील सं./I.T.A. No. 112 to 119/Rjt/2020

(**निर्धारण वर्ष /** Assessment Year : 1998-1999 to 2005-06)

Assistant Commissioner of Income-tax Central Circle-2, Rajkot	**बनाम**/ Vs.	**Shri Balkrishna Ravichandra Mehta** 7th Floor, Mansrovar Apartment, Royal Park, Kalawad Road, Rajkot
(अपीलार्थी /**Appellant**)	..	(प्रत्यर्थी / **Respondent**)

अपीलार्थी ओर से/**Appellant by :**	Shri Dipak Rindani, A.R.
प्रत्यर्थी की ओर से / **Respondent by :**	Shri Ajay Pratap Singh, CIT. D.R.

सुनवाई की तारीख / **Date of Hearing**	22/11/2021
घोषणा की तारीख /**Date of Pronouncement**	27/12/2021

ORDER

PER BENCH:

These twenty five appeals filed by different Assessees & Revenue (nine by assessee and sixteen by Revenue) are directed against the order of the Commissioner of Income Tax(Appeals)-13, Ahmedabad.

2. As facts and issues involved in all these appears are similar and identical, therefore, for the sake of convenience all these appeals are adjudicated together by taking the Revenue's appeal in ITA No. 112/Rjt/2020 for A.Y. 1998-99 (in case of Shri Balkrishna Ravichandra Mehta) as lead case and its findings will be applicable to all other appeals.

ITA No. 112/Rjt/2020 for A.Y. 1998-99 (Revenue's appeal)

3. The grounds of appeal raised by Revenue in ITA No.112/Rjt/2020 for A.Y. 1998-99 read as under:

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in quashing the proceedings u/s 147 of the Act in the case of the assessee.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in holding that the notice u/s 148 being issued beyond the period of four years from the end of the relevant assessment year was barred by limitation without appreciating that the Explanation below sec. 149(3), introduced w.e.f. 1.4.2012, clearly gave retrospective operation to section 149(1)(c) and therefore, the Assessing Officer was justified in issuing notice u/s 148 for A.Y. 1998-99.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in quashing the notice u/s 148 of the Act without appreciating that the facts found during the course of search proceedings showed that the members of the assessee group were holding undisclosed foreign bank account in various foreign banks including HSBC Geneva and ABN AMRO Bank, Zurich and, therefore, the ingredients of section 147 were clearly attracted.

4. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the A.O., considering the merits of this case, which has not been discussed."

4. The fact brief is that a search action under section 132 of the Act was carried out on 20th March, 2012 in the case of assessee and his family members, that they were found to be holding foreign accounts in various foreign banks outside India. That in their statements 132 subsection 4 record on 21st of March 2012 and on the basis of transactions in those foreign banks accounts, the assessee and his father, Shri Ravichandran V Mehta had admitted that the amount of Rs.80.11 Crore laying in the HSBC account as on February 2007 was not disclosed to the department, that the tune of Rs.39.60 crore was unaccounted and that they agreed to pay tax on the same. Thus the case of assessee was required to be reopened as the assessee had foreign banks account and substantial deposits in these accounts which represented assets located outside India within the meaning of explanation 2(d) to section 147 of the Act and the those assets were not disclosed under the Income Tax Act. Therefore, notice under section 148 of the act was issued on 27th February 2015. No return of income was filed. Detailed account statements was called from assessee in connection with income tax proceedings for assessment year 1996-97 assessment year to assessment year 2013- 2014 under section 147 and under section 153 A of the Act. However, no clear details were furnished. During the course of assessment proceedings for assessment years 1996-97, 1997- 98, 2005-06 (u/s.l47) and assessment years 2006 -2007 to 20 12-(u/s.l53A) a chart of working of interest income of Rs.1,78,82,389/- was offered by the assessee mentioned at page number five of the assessment order.

4.1 The assessing officer after examining various facts and details of such accounts as narrated in the assessment order came to the conclusion that the control over the said account was with Sh. Ravichandra Mehta and his sons Shri Balkrishna Mehta and Jawahir Mehta were added for the sake of convenience and far effective nomination, Shri Ravichandra Mehta gave

instructions to the bank about transfers and operations and that the funds laying in the said accounts belonged to Shree Ravichandra mehta and he was also controlling the funds in this account. Accordingly, as per the assessing officer interest income earned out of the said fund was taxable in the hands of Shir Ravichandra Mehta on substantive basis.

4.2 In view of the discussion made in the assessment order that the funds in the foreign accounts belonged to Shri Ravichandra mehta and therefore interest from the said the bank account are to be taxed in the hand of Shri Ravichandra Mehta on substantial basis and to be taxed in ththe hands of, Shir i Balkrishna Mehta on protective basis only. Accordingly for the assessment years 1998-99 the amount of Rs.l 7882389 was treated as total income on protective basis.

5. During the course of appellate proceeding before learned CIT(A), the assessee has made the detailed submission which has been incorporated at page numbers 23-29 of the order of the learned CIT(A). The assessee has stated that whatever investments made was not out of his escape income in India but there was his legitimate investments earned from business in Dubai. The funds were transferred from UAE to ABN AMR bank and HSBC Geneva at the later stage and in the year 1997, after the death of assessee's mother and according to family circumstance, the assessee's father had decided to distributes his all investment equally to his two sons and accordingly funds were transferred to two separate joint accounts with his sons, Balkrishna and his brother Jawahir. None of the family members had any source of income in India except investment income earned from the funds transferred from abroad. The assessee had not done any business activities in India and entries investments received on distribution in the family, the assessee's father takes their responsibility as father. It is easy to

manage investments in the better way to keep name jointly in investments. The first name was kept of father in order to exchange the nature of investments and renewal of FDRs etc. which is almost the managerial/ Guardian capacity. The assessee has also submitted that this could not establish assessee's father's rights on funds and this could better establish that assessee's father never utilise a single penny for his benefit and never tried to be a beneficiary of the funds since when the funds were distributed to his two sons.

5.1 The assessee has also submitted that on perusal of records it was ascertained that the case was reopened in view of newly inserted second proviso to section 147 of the act, inserted by the finance act 2012 with effect from first of July 2012. The assessee has contended that the reopening is bad in law and not tenable. It was also submitted that assessing officer was not clear and sure about the escapement. The assessee has also submitted that ruling by various courts held that no reopening can be done beyond a period of four years on the basis of any amendment in the law with a retrospective effect.

5.2 The learned CIT(A) after taking into consideration the decision of ITAT Rajkot held that notice issued under section 148 of the act was barred by limitation therefore notice issued under section 148 of the act was quashed. The relevant part of the decision of learned CIT(A) is reproduced as under:-

> *"6.* ***DECISION***
>
> *6.1 The submissions made by the learned AR of the appellant are almost identical for the AY 1998-99 to AY 2004-05. During the appeal proceedings the appellant has taken an additional ground that the notice u/s. 148 pursuant to which the impugned assessment order has been made is barred by limitation prescribed u/s. 149 of the Act and therefore the assessment framed pursuant to such invalid notice is void ab initio.*

6.2 In this regard it has been contented by the appellant that the above referred additional ground is purely legal in nature and therefore, requires admission and adjudication. It is case of the appellant that a search was conducted in his case on 20.3.2013, that Notice u/s 148 was issued for the captioned years on 27.02.2015 that the same has been issued in view of Section 149 (1)(c) of the Income Tax Act which was inserted by the Finance Act, 2012 with effect from 1.7.2012. As per provision of Section 149 as prevalent before the insertion of sub clause (c) to Sub section (1) of Section 149, it was provided that no Notice u/s 148 shall be issued for the relevant assessment year if not more than 4 or 6 years on the case may be, have elapsed from the end of the relevant Assessment Year. Therefore, prior to insertion of sub clause (c) to Section 149(1) the limitation period for issuance of Notice u/s 148 for the captioned years expired on 31.3.2005 for Assessment Year 1998-99 and on 31.03.2012 for Assessment Year 2005-06. Though sub-clause (c) to Section 149(1) provides that Notice u/s 148 can be issued if not more than 16 years have elapsed from the end of the relevant Assessment Year if the income in relation to any asset located outside India chargeable to tax has escaped assessment, however, said sub clause (c) of Section 149(1) cannot help to extend the time limit which has already expired before the insertion of sub clause (c) to Section 149(1) which is inserted with effect from 1.7.2012 only. The time limit for all the captioned years (Assessment Year 1998-99 to 2004-05) had already expired on 31.3.2012 which cannot be further extended in view of the amendment as carried out with effect from 1.7.2012. For the purpose reliance has been placed on the decision of Hon'ble Gujarat High Court in the case of ***Induprasad Bhatt Vs. J.P. Jani (ITO) (58 ITR 559)****. The Hon'ble High Court of Gujarat held that on proper construction of section 297(2)(d)(ii) of the Act the ITO cannot issue notice u/s. 148 to reopen the assessment of a assessee in the case where the right to reopen the assessment was barred under the old (pre-amended) Act at the date when new Act (new amendment) came into force. The said decision was confirmed by the Supreme Court in the case of* ***J.P. Jani Vs. Induprasad Devshankar Bhatt (72 ITR 595)****. Similar decisions were made by the Hon'ble High Court of Bombay in* ***B.C. Prashar Vs. Vasantsen Dwarkadas [1956] 29 ITR 857****, and by the Supreme Court in* ***S.S. Gadgil v. Lal & Company [1964].***

6.3 It is the argument of the Learned.AR that in view of these the reopening of cases for Assessment Years 1996-97 to 2005-06, which had become barred by limitation on 31st March 2012 (for Assessment Year 2005-06) and the Amending Act being Finance Act, 2012 inserting sub clause (c) to Section 149 (1) w.e.f. 01-07-2012 cannot give a fresh lease of life for reopening the same which has already become barred by limitation on 31.12.2012. Thus, the Notices issued u/s. 148 being beyond the limitation prescribed under the pre-amended section 149 are bad in law and hence consequential assessments framed pursuant to such invalid notices are also required to be quashed and set aside.

6.4 In addition to above the appellant has enclosed and brought to attention the judgement of ITAT Rajkot Dated 25-02-2019 in the case of Shri Ravichandra V Mehta for AY 1996-97 and AY 1997-98 (in ITA No.(s) 409/RJT/2017, 450/RJT/2017, 410/RJT/2017 and 451/RJT/2017) and also the subsequent order of ITAT Rajkot dated 25-06-2019 in the case of the assessee, Shri Balkrishna R Mehta himself for AY 1996-97 and AY 1997-98 (in ITA No.(s) 407/RJT/2017, and 408/RJT/2017) were the order dated 25-02-2019 in the case of Shri Ravichandra V Mehta has been followed.

6.5 In the case of Shri Ravichandra V Mehta the additional ground of the appellant was that notice u/s.148, pursuant to which impound assessment order is framed is barred by limitation u/s.149 of the act and therefore assessment framed pursuant to such a valid notice is void ab initio. The ground of the Revenue was that the Ld. CIT(A) has erred in law and/or on facts virtually setting aside the order of AO passed u/s.143 rws 147 of the

Act dated 27-02-2015, whereas no such power rests with him under the Act and the additional ground was that the Ld. CIT(A) had erred in holding that as per the provision section 5 of the Act the funds of the assesses outside India could not be taxable in the hands of appellant if his status was Resident but Not Ordinarily Resident, even though the section excludes only income accruing or rising outside India to such assesses from ambit of taxation.

*6.6 In the judgement dated 25-02-2019 in the case of Shri Ravichandra V Mehta, the Hon'ble ITAT has relied upon the decision of Hon'ble Delhi High Court in the case of **Braham Dutt Vs. ACIT 100 taxmann.com 324**, the decision of Hon'ble Supreme Court in the case of **S.S Gadgil Vs. Lal & Co. 53 ITR 231**, and in the matter of **K M Sharma v/s ITO 254 ITR 772** where in it has been held that when the time limit for issuing notice u/s. 148 has expired before any amendment in law from a prospective date will not revive. The decision of the Hon'ble ITAT in the case of Shri Ravichandra V Mehta is as under*

> *"10. Thus, in all above cases Courts have held that when the time limit for issuing notice u/s. 148 has expired before any amendment in law from a prospective date will not revive. The time limit for those years for which limitation has already expired on the date of amendment. There was no challenge to vires of the amendment but still the Courts had held the u/s. 148 is beyond limitation period. In the present case in our hand, prior to amendment in section 149 and the time limit for issued of notice under section 148 for Ay 7996-97 expired on 31-03-2003 and date for 1997-98 expired on 31-03-2004. The amendment of section 149 is with effect from 01-07-2012 and its not retroprospective in nature. Thus the time limit which has already in expired could not have been revived by subsequent amendment. For all these reasons and complying the ratio laid down above cited cases, we hold that notice issued u/s.148 on 25-03-2013 for both the above years is beyond jurisdiction and accordingly quashed. Since the notice is held to be invalid, subsequent assessment order pursuant to the said notice as are **also quashed and set aside**.*
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> *11. In the result appeals of the assessee are allowed. Since we have quashed the assessment for the both the years, appeals of the Revenue have become infructuous and hence Revenue's appeals are **dismissed**."*

*6.7 Similarly in the decision dated 25-06-2019 in the case of the appellant Shri Balkrishna R Mehta for AY 1996-97 and AY 1997-98 the grounds of the appellant were that the learned CIT (A) had erred in holding that notice of reopening u/s.148 of the Act is barred by limitation and that the learned CIT (A) erred in not distinguishing the judgements put forth by the appellant. The Hon'ble ITAT has followed its decision dated 25-02-2019 in the case of Shri Ravichandra V Mehta and has held that proceedings initiated u/s.147 of the Act werre not sustainable and accordingly the assessment orders were quashed and appeal of the assessee were **allowed**.*

6.8 These orders of jurisdictional ITAT are binding and the appeals for AY 1998-99 to AY 2004-05 under consideration are covered by the earlier decisions of the Hon'ble ITAT Rajkot as the notices u/s.148 were issued for these years on 27.02.2015 on the strength of the amended provisions w.e.f.01.07.2012 where on as per the pre-amended provision those notices could not have been issued after 31.03.2005 for Assessment Year 1998-99, 31.03.2006 for Assessment Year 1999-2000, 31.03.2007 for Assessment Year 2000-01, 31.03.2008 for Assessment Year 2001-02, 31.03.2009 for Assessment Year 2002-03, 31.03.2010 for Assessment Year 2003-04 and 31.03.2011 for Assessment Year 2004-05. Following there from the assessment orders u/s. 144 rws 147 made on 31-03-2015 for AY 1998-99 to AY 2004-05 on the strength of the notices u/s. 148 dated

27.02.2015, under consideration in the present appeals, are required to be quashed as notices u/s. 148 issued on 27-02-2015 for those years are void ab initio. Under the circumstances the submissions made on the merits of additions in the impugned assessment orders are not required to be adjudicated upon.

*The appeals for AY 1998-99 to 2004-05 are **allowed**."*

6. During the course of appellant proceeding before us the learned consul has contended that identical issue or similar facts has been adjudicated by the coordinate bench of the ITAT in favor of the assessee holding that notice under section 148 dated the 27th Feb., 2015 was time-barred vide order dated 25th of June, 2019. The assessee has placed the copy of the said order of the ITAT in the paper book at page no.8 to 15. On the other hand the learned DR that the case of the assessee is covered by the decision of the ITAT as referred by learned counsel.

7. With the assistance of learned representatives would have gone to the decision of the ITAT dated 25th June, 2019 and the letter relevant part of the decision is reproduced as under:-

"5. We have heard the rival contentions of both the parties and perused the materials available on record. There is no dispute to the fact that the assessment was framed in the case on hand on a protective basis under section 143(3) read with section 147 of the Act. The facts of the case in the case on hand are identical to the facts of the case as discussed in the case of the father of the assessee wherein the ITAT has quashed the proceedings initiated under section 147 of the Act. The relevant extract of the order is reproduced as under:

5. The facts in brief are that assessee is an individual whose status is 'not ordinarily resident'. Though status of assessee was subject matter of limitation, however, by the impugned order, the status is adopted as non-ordinarily resident which is now dispute before us. In this case, a search was conducted at the business premises of the assessee on 20/03/2013, wherein it was found that assessee has bank accounts overseas. The reasons recorded read as under:

Re-opening of assessment:-

5. The First ground of Appeal is against challenging the re-opening of Assessment u/s.147 of the Act. The Assessing Officer while re-opening the case recorded identical reasons for all these orders. For the sake of brevity, the reasons recorded for AY 1996-97 are extracted herein

"The assessee has not filed the return of income for A1996-97

On perusal of documents/records forwarded by the DDIT (Inv.)-I, Rajkot, it is noticed that the assessee has opened a bank account No.130756 on 3rd June, 1970 in the joint name of himself and Shri Balkrishna Ravichandra Mehta and Jawahar Ravichandra Mehta with HSBC Republic Bank, (Suisse), A.A. Geneva. The said account number was changed into account No.432541 on 04.07.2000. Therefore, it is clear that the assessee was holding the said bank account during the period F.Y. 1995-96 relevant to AY 1996-97.

3. During the course of statement recorded u/s.132(4) of the I.T.Act during the course of search from Shri Ravichandra V.Mehta in reply to question No.13 he has submitted that the return of income has not been filed by him from 1994 to 1997. In his statement Shri Ravichandra Mehta in reply to question No.12 has submitted that there was a balance of Rs.1 crore dollar in the said account in the year 1997.

4. As per second proviso to section 147 of the I.T.Act which has been inserted by the Finance Act, 2012 w.e.f.01.07.2012 nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India chargeable to tax has escaped assessment in any assessment year.

5. Since the assessee is having a bank account in HSBC Republic Bank, (Suisse), S.A. Geneva and having substantial amount deposited in the said account during the F.Y. 1995-96 relevant to A.Y. 1996-97, the same is asset located outside India with the meaning of explanation 2(d) to section 147 of the I.T.Act. Since these asset has not been disclosed to the Department, the income chargeable to tax has escaped assessment within the meaning of section 147 of the I.T. Act. Issue notice u/s.148 of the I.T.Act."

The Learned Counsel for the appellant in this regard has contended that the re-opening is on the basis of borrowed satisfaction or on the basis of finding of other authorities and not on the satisfaction of the AO initiating reassessment and hence bad in law. For this proposition various case laws are cited."

5.1. Accordingly, notice was issued on 25/03/2013 for the year under appeal as also subsequent years. The assessee by way of additional ground challenged the re-opening on the ground that notice is issue beyond jurisdiction. For this proposition, the Ld.AR cited a judgement of Hon'ble Gujarat High Court in the case of Induprasad Bhatt vs. J.P. Jani (58 ITR 559) as approved by the Hon'ble Supreme Court in the case of J.P.Jani vs. Induprasad Devshankerr Bhatt (72 ITR 595). The Ld.CIT(A) in the impugned order disposed of the ground by observing as under:

" I have carefully considered the contentions raised as also the case law cited. As per second proviso to section 147 of the I.T. Act. inserted by the Finance Act 2012 w.e.f.1.7.2012, nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India chargeable to tax has escaped assessment in any assessment year. Explanation 2(d) to section 147 reads as under:

Explanation 2- For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:-

Therefore, as the assessee is having a bank account with HSBC Republic Bank (Suisse) S.A., Geneva and having substantial amount deposited in the said account during the relevant previous financial year, the same represents asset located outside India, within the meaning of explanation 2(d) to section 147 of the I.T. Act. Since these asset has not been disclosed to the Department, the income chargeable to tax had escaped assessment within the meaning of section 147 of the I.T. Act. Again as per section 149(1)(c) of the I.T. Act, no notice shall be issued if more than 16 years have elapsed, as can be seen from the language of the Act, which is reproduced herein below:

"149(1) No notice under section 148 shall be issued for the relevant assessment year.-
(c) If your years, but not more than sixteen years, have elapsed from the end of the relevant assessment years unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment."

In the present case it is seen that provision of Section 147 has been amended by insertion of 2nd proviso to Section 147 and amending explanation 2 by inserting clause (b) to explanation 2 by Finance Act 2012 with effect from 1.7.2012. Clause (c) to Section 149(1) is also simultaneously inserted, which provides a time limit of 16 years for re-opening an assessment. There is no challenge to the vires of the aforesaid provision. It is not the contention of the appellant that the aforesaid amendments are beyond the law making powers of the government or that the same are contrary to the constitutional right granted to the appellant. Therefore the case law relied by the appellant in this regard are distinguishable on facts. Since the re-opening is within the statutory provision amended with effect from 1.7.2012 and since the Notice for re-opening has been issued on 25.3.2013, the same is valid in eye of law. Therefore, challenge to the validity of assumption of jurisdiction u/s.147 on both the counts fails and accordingly the grounds raised in this regard are dismissed.

6. The assessee is therefore by way of second appeal is before us.

7. The Ld.AR for the assessee reiterated the submissions made before the Ld.CIT(A) and also relied upon the decisions cited therein which are at page numbers 1 to 13 of the paper-book. He vehemently relied upon recent decision of Hon'ble Delhi High Court in the case of Brahm Datt vs. ACIT 100 taxmann.com 324 (Delhi). It was contended that identical issue arose before Hon'ble Delhi High Court in the case of Brahm Datt, wherein Court was quashed the notice issued u/s.148 of the Act for AY 1998-99 where the notice u/s.148 was issued on 24/03/2015 by applying amended provision of section 147, section 148 r.w.s. 149. The ratio laid down in the case relied upon by the assessee is that if before amendment in law, if the time limit for re-opening a case has expired, then by way of subsequent amendment from a prospective date the time limit has been expired will not revive. Relevant portion of the said judgment is reproduced hereunder:

"Section 149, read with section 148, of the Income-tax Act, 1961 – Income escaping assessment – Time-limit for issuance of notice

(General) – Assessment year 1998-99 – Assessee was a senior citizen who was non-resident for assessment year 1998-99 – Relying on assessee's statement during search that he had settled an offshore trust, Assessing Officer issued notice under section 148 in March, 2015 thereby proposing to tax amount of US $ 2-3 million contributed by assessee for settling a trust in foreign country – Whether assessment for subject assessment year could not have been reopened beyond 31-3-2005 in terms of provisions of section 149 as applicable at relevant time - Held, yes – Whether subsequent amendment to section 149, by Finance Act, 2012, which extended limitation for initiation of reassessment proceedings to sixteen years, could not be resorted for reopening concluded proceedings in respect of which limitation had already expired/lapsed before amendment became effective – Held, yes – Whether thus, impugned reassessment notice and all consequent proceedings were to be quashed and set aside – Held, year [Paras 14, 15, 16 an 19] [In favour of assessee]"

8. On the other hand, Ld.DR relied upon the finding of Ld.CIT(A) extracted hereinabove.

9. We have considered rival submissions and gone through the impugned order and the case-laws relied upon by the Ld.AR. The assessee has not challenged the vires of the amendment but has raised legal contention that for a concluded assessment, the subsequent amendment will not revive the time limit for issue of notice u/s.148. Therefore, Ld.CIT(A) misread the provisions to hold that since the time limit prescribed in law has been extended the notice is within the time. We are inclined to differ with the view of Ld.CIT(A). The issue is no more res integra. The issue has first came up before the Hon'ble Supreme Court in the case of S.S. Gadgil vs.Lal & Co. reported in 53 ITR 231(SC). Taking note of the said case, Hon'ble Gujarat High Court in the case of Induprasad Bhatt(supra) held as under:

"We are, therefore, of the view that on a true construction of s. 297(2)(d)(ii), the ITO cannot issue a notice under s. 148 in order to reopen the assessment of an assessee in cases where the right to reopen the assessment was barred under the old Act at the date when the new Act came into force. The right of the ITO to reopen the assessment of the petitioner in the present case was admittedly barred under s. 34(1)(a) at the commencement of the new Act and it was, therefore, not competent to the ITO to issue a notice under s. 148 in order to reopen the assessment of the petitioner and to reassess the income of the petitioner by relying on the provision enacted in s. 297(2)(d)(ii). The notice dt. 13th Nov., 1963, was, therefore, beyond jurisdiction and must be set aside. Along with that notice, the subsequent notice dt. 9th Jan., 1964, must also fail."
9.1. On further appeal by the Revenue against in quashing the notice u/s.148 of the Act, the Hon'ble Supreme Court approving the judgement of Hon'ble Gujarat High Court in the case of J.P. Jani vs. Induprasad Devshankar Bhatt (72 ITR 595) held as under:

"We considered that the language of the new section must be read as applicable only to those cases where the right of the ITO to reopen the assessment was not barred under the repealed section. In our view the new statute does not disclose in express terms or by necessary implication that there was a revival of the right of the ITO to reopen an assessment which was already barred under the old Act. This view is borne out by the decision of this Court in S.S. Gadgil vs. Lal & Co. (1964) 53 ITR 231 (SC). In that case, a

notice was issued against the assessee as an agent of a non-resident on 27th March, 1957, and that notice related to the asst. yr. 1954-55. Under cl. (iii) of the proviso to s. 34(1), as it stood prior to its amendment by the Finance Act, 1956, a notice of assessment or reassessment could not be issued against a person deemed to be an agent of a non-resident after the expiry of one year from the end of the year of assessment. The right to commence a proceeding for assessment against the assessee as agent of a non-resident for the asst. yr. 1954-55, therefore, ended on 31st March, 1956, under the new Act before its amendment in 1956. This provision was, however, amended by the Finance Act, 1956, and under the amended provision the period of limitation was extended to two years from the end of the assessment year. The amendment was made on 8th Sept., 1958, but was given effect to from 1st April, 1956. Since the time within which notice could be issued against a person deemed to be an agent of a non-resident was extended to two years from the end of the assessment year, it was contended on behalf of the ITO that the notice issued by him was within the terms of the amended provision and was, therefore, a valid notice. Now the notice issued on 27th March, 1957, was clearly within a period of two years from the end of the assessment year 1954-55 and if the amended provision applied, the notice would be a valid notice. It was, however, held by this Court that the notice was not a valid notice inasmuch as the right of the ITO to reopen the assessment of the assessee under the unamended provision became barred on 31st March, 1956, and the amended provision did not operate against him so as to authorise the ITO to commence proceedings for reopening the assessment of the assessee in a case where, before the amended provision came into force, the proceedings had become barred under the unamended provision. At page 240 of the report, Shah, J., speaking for the Court, observed as follows:

"As we have already pointed out, the right to commence a proceeding for assessment against the assessee as an agent of a non-resident party under the IT Act before it was amended, ended on 31st March, 1956. It is true that, under the amending Act, by s. 18 of the Finance Act, 1956, authority was conferred upon the ITO to assess a person as an agent of a foreign party under s. 43 within two years from the end of the year of assessment. But the authority of the ITO under the Act before it was amended by the Finance Act of 1956, having already come to an end, the amending provision will not assist him to commence a proceeding even though at the date when he issued the notice it is within the period provided by that amending Act. This will be so, notwithstanding the fact that there has been no determinable point of time between the expiry of the time provided under the old Act and the commencement of the amending Act. The legislature has given to s. 18 of the Finance Act, 1956, only a limited retrospective operation, i.e., up to 1st April, 1956, only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the legislature does not intend to attribute to the amending provision a greater retrospectivity than is expressly mentioned, nor to authorise the ITO to commence proceedings which before the new Act came into force had by the expiry of the period provided become barred."

***4.** In our opinion, the principle of this decision applies in the present case and it must be held that, on a proper construction of s. 297(2)(d)(ii) of the new Act, the ITO cannot issue a notice under s. 148 in order to reopen the assessment of an assessee in a case where the right to reopen the assessment was barred under the old Act at the date when the new Act came into force. It follows, therefore, that the notice dt. 13th Nov., 1963, and 9th Jan., 1964, issued by the*

ITO, Ahmedabad, were illegal and ultra vires and were rightly quashed by the Gujarat High Court by the grant of a writ.

For the reasons expressed, we hold that the judgment of the High Court of Gujarat dt. 14/15th Dec., 1964, is correct and this appeal must be dismissed with costs."

7. In view of the above decision, since the assessment could not have been reopened for Assessment Years 1996-97 to 2005-06, which has become barred by limitation on 31st March 2012, the Amending Act being Finance Act, 2012 inserting sub clause (c) Section 149 (1) w.e.f. 01-07-2012 cannot give a fresh lease of life for reopening the same which has already become barred by limitation on 31.12.2012.

In view of the above, the Notice issued u/s.148 being beyond the limitation prescribed u/s.149 is bad in law and hence consequential assessment framed pursuant to such invalid notice is also required to be quashed and set aside."

9.2. Once against that issue arose before the Hon'ble Supreme Court in the matter of K.M. Sharma vs. ITO 254 ITR 772 (SC), wherein the Hon'ble Court held as under:-

"13. In KM Sharma's case (supra) the assessee"s land was acquired under the Land Acquisition Act, 1894 and an award was passed in 1967 granting compensation in favour of the assessee. Thereafter, the Additional District Judge by judgment dated 20.05.1980 held the assessee to be entitled to 1/32th share of the compensation and the assessee was granted total compensation of Rs.1,18,810 in the year 1981. Subsequently, by another judgment dated 31.07.1991, the assessee was awarded sum of Rs.1,10,20,624, which was received by it between 15.10.1992 and 25.05.1993. The said amount comprised of principal compensation as well as interest up to 18.05.1992. As land acquired was agricultural land, principal amount was not chargeable to tax; however, interest amounting to Rs.76,84,829 was chargeable on year to year basis. The assessee claimed that proceedings till assessment year 1982-83 had already attained finality and therefore, filed letter requesting the assessing officer to initiate proceedings for subsequent assessment years for bringing to tax interest component relatable to the said assessment years. The assessee was, however, issued notices under section148 of the Act for fifteen assessment years, viz., assessment years 1968-69 to 1971-72 and assessment years 1981-82 to 1992-93 which were challenged on the ground of limitation. This court declined to exercise jurisdiction; on appeal, the Supreme Court held that the provision regulating period of limitation ought to receive strict construction. The Supreme Court held that the law of limitation was intended to give certainty and finality to legal proceedings and therefore, proceedings, which had attained finality under the existing law due to bar of limitation, could not be held to be open for revival unless the amended provision was clearly given retrospective operation so as to allow upsetting of proceedings, which had already been completed and attained finality. The observations of the Supreme Court are reproduced hereunder:

"10. The main question that has been raised on behalf of the learned counsels appearing for the parties is whether the provisions of sub-section (1) of section 150 as amended can be availed for reopening assessments, which have attained finality and could not be reopened due to bar of limitation, that was attracted at

the relevant time to the proposed reassessment proceedings under the provisions of section149.

11. The submission made on behalf of the appellant is that neither the provisions of sub-section (1) nor sub-section (2) can be read as giving more than intended operation to the said provision. The provisions, it is argued, do not permit the authorities to reopen assessments, which have become final and reassessment of which had become barred by time before 1.4.1989 when section 150(1) was amended Reliance is placed on the decision in S.S. Gadgil v. Lal & Co. [1964] 53 ITR 231.

12. The learned counsel appearing on behalf of the department has made an effort to persuade this Court to accept his construction of the provisions of section 150(1)and (2). It is argued that it is for the specific purpose of assessing income, which might accrue on the basis of any decision of any Court in any proceeding in any other law, that the provision has been amended to lift bar of limitation for reassessment.

13. Fiscal statute, more particularly a provision such as the present one regulating period of limitation must receive strict construction. The law of limitation is intended to give certainty and finality to legal proceedings and to avoid exposure to risk of litigation to litigant for indefinite period on future unforeseen events. Proceedings, which have attained finality under existing law due to bar of limitation cannot be held to be open for revival unless the amended provision is clearly given retrospective operation so as to allow upsetting of proceedings, which had already been concluded and attained finality. The amendment to subsection (1) of section 150 is not expressed to be retrospective and, therefore, has to be held as only prospective. The amendment made to sub-section (1) of section 150 which intends to lift embargo of period of limitation under section 149 to enable authorities to reopen assessments not only on the basis of orders passed in proceedings under the Act but also on order of a Court in any proceedings under any law, has to be applied prospectively on or after 1.4.1989 when the said amendment was introduced to sub-section (1). The provision in sub-section (1), therefore, can have only prospective operation to assessments, which have not become final due to expiry of period of limitation prescribed for assessment under section 149.

14. To hold that the amendment to sub-section (1) would enable the authorities to reopen assessments, which had already attained finality due to bar of limitation prescribed under section 149 as applicable prior to 1.4. 1989, would amount to give sub section (1) a retrospective operation which is neither expressly nor impliedly intended by the amended sub-section.

15. On behalf of the assessee before the High Court and in this Court reliance has been placed on the provisions contained in sub-section (2) of section 150. It is submitted that the provision contained in sub-section (2) of section150 is in the nature of clarification or Explanation to sub section(1).Sub-section (2) makes it clear that the embargo of period of limitation lifted under sub section (1) for proposed reassessments based on order in proceedings under appeal, reference or revision, as the case may be, would not apply to assessments which have attained finality due to bar of limitation applicable at the relevant time.

6. The High Court rejected the above contention of the assessee on the ground that on the amendment introduced with effect from 1.4.1989 in sub-section (1), which enables reopening of assessment based on any Order of 'Court in any

proceedings in any law', there is no corresponding amendment made in sub-section (2) of Section 150 to bar reassessment based on Order of Court passed in any proceedings in any law in cases where prescribed period of litigation for reassessment had already expired.

17. We do not find the above reasoning of the High Court is sound. The plain language of sub-section (2) of Section 150 clearly restricts application of sub-section (1) to enable the Authority to reopen assessments which have not already become final on the expiry of prescribed period of limitation under Section 149. As is sought to be done by the High Court, sub-section (2) of Section 150 cannot be held applicable only to reassessments based on Orders 'in proceedings under the Act' and not to Orders of Court 'in proceedings under any other law'. Such an interpretation would make the whole provision under Section 150 discriminatory in its application to assessments sought to be reopened on the basis of Orders under the IT Act and other assessments proposed to be reopened on the basis of Orders under any other law. Interpretation, which creates such unjust and discriminatory situation, has to be avoided. We do not find that sub-section (2) of section 150 has that result. Sub-section (2) intends to insulate all proceedings of assessments, which have attained finality due to the then existing bar of limitation. To achieve the desired result it was not necessary to make any amendment in sub-section (2) corresponding to sub-section (1), as is the reasoning adopted by the High Court.

18. Sub-section (2) aims at putting embargo on reopening assessments, which have attained finality on expiry of prescribed period of limitation. Sub-section (2) in putting such embargo refers to whole of sub-section (1) meaning thereby to insulate all assessments, which have become final and may have been found liable to reassessments or re-computation either on the basis of Orders in proceedings under the Act or Orders of Courts passed under any other law. The High Court, therefore, was in error in not reading whole of amended sub-section (1) into sub-section (2) and coming to the conclusion that reassessment proposed on the basis of order of Court in proceedings under Land Acquisition Act could be commenced even though the original assessments for the relevant years in question have attained finality on expiry of period of limitation under Section 149of the Act. On a combined reading of sub-section (1) as amended with effect from 1.4.1989 and sub-section (2) of Section 150 as it stands, in our view, a fair and just interpretation would be that the Authority under the Act has been empowered only to reopen assessments, which have not already been closed and attained finality due to the operation of the bar of limitation under Section
149.

19. This Court took similar view in the case of S.S. Gadgil (supra) in somewhat comparable situation arising from the retrospective operation given to Section 34(1) of Income Tax Act, 1922 as amended with retrospective effect from 1.4.1956 by the Finance Act of 1956. In the case of S.S. Gadgil (supra) admittedly under clause (iii) of the proviso to Section 34(1) of the Indian Income Tax Act, 1922, as it then stood, a notice of assessment or reassessment could not be issued against a person deemed to be an agent of a non-resident under Section 43, after the expiry of one year from the end of the year of assessment. The Section was amended by Section 18 of the Finance Act, 1956, extending this period of limitation to two years from the end of the assessment year. The amended was given retrospective effect from April 1, 1956. On March 12, 1957, the Income Tax Officer issued a notice calling upon

the assessee to show cause why, in respect of the assessment year 1954-55, the assessee should not be treated as an agent under Section 43 in respect of certain non- residents. The case of the assessee, inter alia, was that the proposed action was barred by limitation as right to commence proceedings of assessment against the assessee as an agent of non-resident for the assessment year 1954-55 ended on 31.3.1956, under the Act before it was amended in 1956. This Court in the case of S.S. Gadgil (supra) accepted the contention of the assessee and held as under:

". The legislature has given to section 18 of the Finance Act, 1956, only a limited retrospective operation, i.e., up to April 1, 1956, only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the legislature does not intend to attribute to the amending provision a greater retrospectivity than is expressly mentioned, nor to authorise the Income-tax Officer to commence proceedings which before the new Act came into force had by the expiry of the period provided become barred."

20. On a proper construction of the provisions of Section 150 (1) and the effect of its operation from 1.4.1989, we are clearly of the opinion that the provisions cannot be given retrospective effect prior to 1.4.1989 for assessments which have already become final due to bar of limitation prior to 1.4.1989. Taxing provision imposing a liability is governed by normal presumption that it is not retrospective and settled principle of law is that the law to be applied is that which is in force in the assessment year unless otherwise provided expressly or by necessary implication. Even a procedural provision cannot in the absence of clear contrary intendment expressed therein be given greater retrospectivity than is expressly mentioned so as to enable the Authorities to affect finality of tax assessments or to open up liabilities, which have become barred by lapse of time. Our conclusion, therefore, is that sub-section (1) of Section 150, as amended with effect from 1.4.1989, does not enable the Authorities to reopen assessments, which have become final due to bar of limitation prior to 1.4.1989 and this position is applicable equally to reassessments proposed on the basis of Orders passed under the Act or under any other law."

14. The ratio of K.M Sharma and S.S. Gadgil, in the opinion of this court covers the facts of this case. Reassessment for 1998-99 could not be reopened beyond 31.03.2005 in terms of provisions of Section 149 of the Act as applicable at the relevant time. The petitioner"s return for assessment year 1998-99 became barred by limitation on 31.03.2005. The question of revival of the period of limitation for reopening assessment for AY 1998-99 by taking recourse to the subsequent amendment made in Section 149 of the Act in the year 2012, i.e., more than 8 years after expiration of limitation on 31.03.2005, has been dealt with by the Supreme Court in K.M. Sharma (supra).

15. The AO has conceded in the order rejecting the petitioner's objection that "It is also found that the assessee was a non-resident as contended by him, in the AY 1998-99." In the circumstances, there can be no question about the applicability of the then existing provision- Section 149 (b), which stated that the normal time limit for reopening assessment was four years, "but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year."

16. It has been said that "the government in all its actions is bound by rules fixed and announced beforehand--rules which make it possible to foresee with

fair certainty how the authority will use its coercive powers in given circumstances, and to plan one's affairs on the basis of this knowledge" (Ref. FA Hayek, "Road to Serfdom", 1944). In this case, the interpretation proposed by the revenue has the potential of arming its authorities to re-open settled matters, in respect of issues where the citizen could genuinely be sanguine and had no obligation of the kind which the Revenue seeks to impose by the present amendment. All the more significant, is the fact that absent a clear indication, every statute is presumed to be prospective. The revenue had sought to contend that the amendment (to Section 149) is merely procedural and no one has a vested right to procedure; and that procedural amendments can be given effect any time, even in ongoing proceedings.

17. This court is of the opinion that there is no merit in the revenue"s contention. In Sri Prithvi Cotton Mills Vs Broach Borough Municipality, AIR 1970 SC 192, examined the validity of the retrospective amendment of a statute in light of Article 19(1)(g) of the Constitution of India, i.e. a fundamental right to practice any profession, or to carry on any occupation, trade or business. The court said:

"In testing whether a retrospective imposition of a tax operates so harshly as to violate fundamental rights under article 19(1)(g), the factors considered relevant include the context in which retroactivity was contemplated such as whether the law is one of validation of taxing statute struck-down by courts for certain defects; the period of such retroactivity, and the decree and extent of any unforeseen or unforeseeable financial burden imposed for the past period etc."

18. In Govinddas v Income Tax Officer AIR 1977 SC 552the Supreme Court held that Section 171 (6) of the Income Tax Act was prospective and inapplicable for any assessment year prior to 1st April, 1962, the date on which the Act came into force and observed that:

"11. Now it is a well settled rule of interpretation hallowed by time and sanctified by judicial decisions that, unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards matters of procedure. The general rule as stated by Halsbury in Vol. 36 of the Laws of England (3rd Edn.) and reiterated in several decisions of this Court as well as English courts is that all statutes other than those which are merely declaratory or which relate only to matters of procedure or of evidence are prima facie prospectively and retrospective operation should not be given to a statute so as to affect, alter or destroy an existing right or create a new liability or obligation unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only."

In Commissioner of Income Tax v Scindia Steam Navigation Co. Ltd AIR 1961 SC 1633, it was held that as the liability to pay tax is computed according to the law in force at the beginning of the assessment year, i.e., the first day of April, any change in law upsetting the position and imposing tax liability after that date, even if made during the currency of the assessment year, unless specifically made retrospective, does not apply to the assessment for that year. These principles were reiterated in Commissioner of Income Tax v Vatika

Township (P) Ltd [2014] 49 taxmann.com 249/227 Taxman 121/367 ITR 466(SC).

19. In view of the above discussion, it is held that the petition has to succeed; the impugned reassessment notice and all consequent proceedings are hereby quashed and set aside. The writ petition is allowed; however without order on costs."

10. Thus, in all above cases Courts have held that when the time limit for issuing notice u/s.148 has expired before any amendment in law from a prospective date will not revive. The time limit for those years for which limitation has already expired on the date of amendment. There was no challenge to vires of the amendment but still the Courts have held that notice issued u/s.148 is beyond limitation period. In the present case in our hand, prior to amendment in section 149 and the time limit for issuance of notice u/s.148 for AY 1996-97 expired on 31/03/2003 and that for 1997-98 expired on 31/03/2004. The amendment of section 149 is with effect from 01/07/2012 and is not retrospective in nature. Thus, the time limit which have already been expired could not have been revived by subsequent amendment. For all these reasons and complying the ratio laid down by above cited cases, we hold that notice issued u/s.148 on 25/03/2013 for both the above years is beyond jurisdiction and accordingly quashed. Since the notice is held to be invalid, subsequent assessment order pursuant to the said notices are also quashed and set aside.

11. In the result, appeals of the assessee are allowed. Since we have quashed the assessment for both the years, appeals of the Revenue have become infructuous and hence Revenue's appeals are dismissed.

6. Respectfully following the order above of the ITAT, we reverse the order of the authorities below and accordingly hold that the proceedings initiated under section 147 of the Act are not sustainable. Accordingly, we quash the same. Hence, the ground of appeal of the assessee is allowed.

In the result, the appeal of the assessee is allowed."

8. Thus, in parity with the decision of the coordinate bench of the ITAT as elaborated in the finding of thus learned CIT(A) and as reproduced above in this order we find that the notice issued in the case of the assessee is time-barred and same is not valid. Therefore we don't find any infirmity in the decision of learned CIT(A) and accordingly the appeal of the Revenue stand dismissed.

ITA Nos. 113 to 118/Rjt/2020- A.Ys. 1999-2000 to 2004-05 (Revenue's appeals)

9. In the identical issues on similar facts we have adjudicated the appeal of the Revenue vide ITA No. 112/Rjt/2020 for A.Y. 1998-99 as supra. In the absence of any changed circumstances after applying the findings of the ITA ITA 112/Rjt/2020 for A.Y. 1998-99 as elaborated above all the other appeals of the Revenue vide ITA Nos. 112 to 118/Rjt/2020 for A.Ys. 1999-2000 to A.Y. 2004-05 stand dismissed.

10. In the result all the appeals of the Revenue vide ITA Nos. 112-118/Rjt/2020 stand dismissed .

ITA No.86/Rjt/2020 by the assessee & ITA No. 119/Rjt/2020 for A.Y. 2005-06 by the Revenue in case of Sh. Balkrishna Ravichandra Mehta & ITA No.82/Rjt/2020 by the assessee and ITA 129/Rjt/ 2020 pertaining to A.Y. 2005-06 by the Revenue in the case of Shiri Ravichandra V.Mehta:-

11. During the course of assessment interest income of Rs.110,00000/- from account number 4432541 with HS BC bank Geneva owned up and shown by Shiri Jawahir Mehta (though not taxable in the hands of Jawahar Mehta being non resident) and of Rs.77,67,720/- from account number 44325331 with HSBC bank Geneva owned up and shown by Shri Balkrishna Mehta (and offered by Sh. Balkrishan Mehta being resident) were to be taxed in the hand of the assessee because the assessee was resident during the year and was liable to be taxed in India on a global income including the income from whatever sources derived which accrue or arises to him outside India as per section 5(l)(c) of the act. Similarly the

interest of Rs.4,71,207/- shown why Shiri Jawahir Mehta have to be added on substantive basis in the hands of the assessee.

12. ITA No.86/Rjt/2020 by the assessee & ITA No. 119/Rjt/2020 for A.Y. 2005-06 by the Revenue in case of Sh. Balkrishna Ravichandra Mehta:-

13. Both these appeal by the assessee and revenue are interconnected on similar facts therefore for the sake of convenience both these appeals are adjudicated together. During the course of assessment the assessing officer stated that the funds in the account number 4432533 with the HSBC Geneva belongs to Shiri Ravichandra Mehta therefore the interest from the said account shown by the assessee at Rs.77,55,720/- is taxable in the hands of Shri Ravichandra Mehta on substantive basis. In the case of the assessee not only the income offered tax being interest from foreign bank accounts and assessee being the resident has been treated as income on protective basis but also other addition of Rs.19,09,60,000/- and Rs. 23,76,000/- have also been added on protective basis in the hands of the assessee and all these amounts have been added to the total income on substantive l basis in the hands of assessee's father ITA No. 86/Rjt/2020 is filed by the assessee against the order of learned CIT(A) dated 11.02. 2020.

14. The assessee has not pressed ground number one pertaining to issuing of notice under section 148 of the Act.

15. Regarding confirming action of the assessing officer in making addition of Rs.23,76,000/- on account of interest income from HSBC Geneva account on protective basis, the assessee has submitted that interest income from this a bank account of Rs.77,55,720/- has been declared e in

the return of income filed in response to notice under section 148 of the act. The said the interest income has been taxed by the assessing officer on protective basis and on substantive basis in the case of father of the assessee. However as held by ITAT Rajkot in the own case of the assessee in ITA No. 120, 121/Rjt/ 2020 and 01, 02/Rjt/2021 for A.Y. 2006-07 and A.Y. 2007-08 the said bank account belongs to assessee and therefore any income arising therefore should be taxed in the hands of assessee on substantive basis and not on protective basis. It is also submitted that income offered to tax on which tax has been paid same cannot be made protective by the department.

16. Regarding addition of Rs.19,09,60,000/- the assessee submitted that it is not a fresh deposit of this year, it is a transferred amount from ABN Amro bank account number G208154A of assessee out of brought forward funds of earlier years, hence not an income of this year under section 68, 69A of the act. The assessee has also referred he flow of funds along with bank statement placed at page numbers 5-36 of the paper book.

17. Regarding addition of Rs.23,76,000/-, the assessee submitted that in the case of his father, the substantive addition has been set aside by the learned CIT(A) to the file of Assessing Officer for verification to see it is not double tax. The proceeding before the Assessing Officer are pending on date therefore pleaded that same may be set aside to the Assessing Officer in the case of the assessee also.

18. Herd both the sides and perused the material on record on this issue. With the assistance of learned representatives we have gone through the above referred decision of the coordinate bench of the ITAT. The relevant part of the decision is reproduced as under:-

"19. Thus, upon considering the entire aspect of the matter, in view of the above we do not find any case in favour of the Revenue holding that the assessee is the owner of the funds who has acted on the basis of the power of attorney for giving instructions to transfer of funds from one account to another that too to the accounts belong to his two sons in the absence of any clinching evidence in support of the said observation and conclusion thereon.

20. Further fault in making addition of income of the son Balkrishna Mehta is glaring on the face of the records since Balkrishna Mehta has already shown the said income in his personal return and paid tax thereon. We would like to refer the assessment order of Shri Balkrishna Mehta all dated 27.02.2015 for A.Y. 2006-07, 2007-08, 2008-09 and 2009-10 respectively under Section 153A r.w.s. 143(3) of the Act. It is evident that addition were made in the hands of the said assessee as appearing from Page 88 to 133 for A.Y. 2006-07 and 2007-08 and the returns so filed by the said assessee were accepted for A.Y. 2008-09 and 2009-10 as appearing from Page 137 to 143 of the Paper Book filed before us. It is relevant to mention that none of these orders of assessment speaks of protective assessment against him. The interest income from Account No. 4432533/10998573 and 10978565 held with the HSBC Geneva has been estimated @10% per annum and added in the hands of Shri Balkrishna Mehta on substantive basis. Similarly, the assessment orders all dated 27.02.2015 for A.Y. 2006-07, 2007-08, 2008-09 and 2009-10 under Section 153A r.w.s. 143(3) of the Act in respect of the other son namely Jawahir Mehta as appearing from Page 167 to 187 were made on the basis of the capital gain shown and interest on NRO Account and added in the hands of the said Jawahir Mehta. Nowhere it is reflecting that the said assessments were made on protective basis on him. Be that as it may, if the assessment in the case of the father Ravichandra Mehta is made to be substantive in respect of the said sons namely Jawahir Mehta and Balkrishna the original assessment orders all dated 27.02.2015 in respect of both the sons do not alter its nature from substantive to protective. Ld. AO knowing fully well the fact again made addition on the same alleged income on substantive basis in the hands of the assessee. This is nothing but a case on double taxation. In this respect the Ld. AR relied upon the judgment passed by the Hon'ble Jurisdictional High Court in the case of M. R. Shah Logistics Pvt. Ltd. vs. DCIT reported in (2019) 308 CTR 0493. The same has been carefully considered by us. In this particular case by taking the shelter of reopening the AO sought to tax in the hands of the petitioner company of that particular income which was declared by another particularly when such declaration was accepted by the competent authority and by three installments of the entire amount of tax with surcharge and penalty was deposited thereon. The same has been deleted on the ground of double taxation.

21. Another judgment passed by the Jurisdictional High Court in the case of B. Nanji Enterprise Ltd. vs. DCIT reported in (2017) 84 taxman.com 155 (Guj.) as relied upon by the Ld. AR has been carefully considered by us wherein the Ld. AO added the cash seized from the bank locker of the assessee company as undisclosed cash receipt of the assessee. Subsequently, tax was paid on such income by the Directors of the company upon filing settlement application owning up such amount as his undisclosed income. The addition made on the company was then held to be bad and deleted since the same was suffering from the principle of double taxation. The income which was taxed in the case of the partnership farm cannot be taxed in the hands of the partner again as has been held by the Hon'ble Gujarat High Court in the case of Kanubhai Maganlal Patel reported in (2017) 79 taxman.com 257 as relied upon by the Ld. AR has also been considered by us.

22. Thus, considering the above facts and proposition of law we do not hesitate to hold that the addition made in the hands of the assessee suffers from the principle of double taxation. Needless to mention that our view has been strengthened by the

principle laid down by the Hon'ble Jurisdictional High Court in the cases as discussed above. Hence, the addition is liable to be deleted."

19. Following the finding of the coordinate bench of the ITAT as above we allow l the ground of appeal of the assessee that the income already offered cannot be made protective again in the case of the assessee. Similarly the ITAT in the above referred case of the assessee has held that the interest income from the bank account which has already been shown by the son of Shri Ravichandra V. Mehta to whom the account belonged cannot be added in the income of Shri Ravichandra V. Mehta.

20. Regarding the appeal of the revenue vide ITA No. 129/Rjt/2020 the learned CIT(A) has deleted the addition holding that the said account was not belonging to Shri Ravichandra V. Mehta but it was belonging to Shri Balakrishnan. Following the decision of the ITAT as referred above we do not find any infirmity in the decision of learned CIT(A).

21. Regarding ground appeal of the revenue vide ITA No. 119/Rjt/2020 after taking into consideration the flow of funds supported by bank statement placed in the paper book from page nos. 5 to 36, we considered that the learned CIT(A) has rightly deleted of Rs.19,09,60,000/- holding that amount was pertained to earlier years and not a falling under section 68/69A during A.Y. 2005-06. Therefore this ground of appeal of the Revenue stands dismissed.

22. Regarding addition of Rs.23,76,000/- both in the case of Ravichandra V. Mehta and in the case of Shri Balkrishna R. Mehta we restore these additions to the file of assessing officer for verification as directed above as already directed by the learned CIT(A). Therefore, this ground of appeal is allowed for statistical purpose.

23. In the result ground of appeal by the Revenue vide ITA No. 119 and ITA No.129 as above are partly allowed for statistical purposes.

24. The appeal of the assessee vide ITA No.86/Rjt/2020 and ITA No. 82/Rjt/2020 are allowed.

ITA Nos. 83 to 85/Rjt/2020-A.Y. 2010-11 to 2012-13- Assessee's appeal (in case of Shri Ravichandra Vadilal Mehta)

25. The facts and issues involved in all these three appeals filed by the assessing for A.Ys. 2010-11 to 2012-13 in the case of Shiri Ravichandra V. Mehta are similar and identical therefore for the sake of convenience all these three appeals are adjudicated together by taking the ITA No. 83/Rjt/2020 for A.Y. 2010-11 as lead case and its finding will be applied to the other two appeals filed by the assessee as referred above.

26. In the course of assessment interest on funds in the account number 4432533(held with Balakrishnan Mehta and account number 4432541 (held with Jawahir Mehta) with HSBC Geneva , the Assessing Officer assessed these interest on substantive basis in the hands of Ravichandra V Mehta and also taxed on protective basis in the hands of Sh.Balkrishna R.Mehta. The Assessing officer has also estimated the interest income at the rate of 10% and added the same on substantive basis in the hands of Shiri Ravichandra V. Mehta and on protective basis in the hands of Balakrishnan Mehta.

27. The learned CIT(A) has dismissed the appeal of the assessee.

28. In the course of appellant proceeding before us the learned counsel contended that the identical issue on similar facts has been adjudicated by the ITAT as referred above in the cases of the assessee vide ITAT order in own case in IT(SS)A Nos.10 to 13/Rjt/2018 for A.Y.2006-07 to 2009-10. On the other side the learned departmental representative is fair enough to could not controvert these undisputed fact that identical issue on similar facts is covered by the decision of the ITAT in the own case of the assessee.

29. With the assistance of learned representatives we have gone through the decision of the ITAT. The relevant part of the decision is already reproduced in para 18 of this order.

30. Thus, in parity with the decision of the ITAT in the case of the assessee as supra holding that interest income belonged to the sons of the assessee therefore this of appeal of the assessee is allowed.

31. ITA No. 84 & 85/Rjt/2020 after applying the findings of the ITA No. 83/Rjt/2020 these similar appeals of the assessee are also allowed.

ITA Nos. 87/Rjt/2020 to ITA No. 89/Rjt/2020 – A.Ys. 2010- 2011 to 2012- 2013 – Assessee's case (in the case of Shri Balkrishna R.Mehta)

32. Since facts and issues involved in these three appeal of the assessee are similar and identical, therefor for the sake of convenience , these three appeals are adjudicated together by taking the ITA No.87/Rjt/2020 for A.Y. 2010-11 as lead case and its finding will be applicable to the other two appeals of the assessee.

33. During the course of assessment, the AO noticed that as part of balance sheet of the assessee there was investment in at HSBC account number 4432533 of Rs.5,72,18,068/- and stated that in absence of the detail estimated the interest income at the rate of 10% per annum worked out to Rs.57,21,806/- which was added in the hands of the assessee on protective basis as substantive addition has been made in the hands of the father of the assessee Shiri Ravichandra V. Mehta. The learned CIT(A) has sustained audition.

34. During the course of appellant proceeding before us the learned counsel has contended that assessee has already declared interest income in his return of income earned in a foreign bank account and paid the taxes. He further submitted that the assessing officer has incorrectly on estimated bases added 10% of the amount of bank balance as interest income without taking into consideration the relevant supporting details furnished t during the course of assessment proceedings and the Ld. CIT(A) has not given any specific reason. In this regard, the learned consul has filed paper book comprising acknowledgment of return of income, along with computation of income, flow chart of transfer of funds from the assessee's bank account, summary of bank account statement etc. The learned counsel has also placed reliance on the decision of the ITAT rajkot in own case of the assessee vide ITA No. 120, 121/Rjt/-2020 dated 22nd of June 2020 at paragraph 40 page number 49 of the order. On the other hand the learned departmental representative has relied on the order of lower authorities.

35. Heard both the sides and perused the material on record on this issue. The Assessing Officer had made addition of interest income of the foreign bank on estimated bases at the rate of 10% Rs.57,21,806/- on protective basis and substantive addition was made in the hand of father of the

assessee Shiri Ravichandra V. Mehta. During the course of assessment as per the material placed in the paper book the assessee had filed the sporting documents and details and the learned CIT(A) in his finding made at para 7.3 of the appellant order has commented that the submission made by the assessee was referred to the assessing officer for examination and his comments but no proper remand report was submitted by the assessing officer. The learned CIT(A) has also mentioned that reasoning of the assessing does not hold water because it is a settled principal in law that a plausible and reasonable explanation submitted by a taxpayer should be accepted and such explanation cannot be rejected without bringing on record any cogent material to refute the reasonable explanation of the assessee. The learned CIT(A) has further stated in these observation that to this extent the action of the assessing is not legally tenable. It is observed that the learned CIT (A) at the last sustained the impugned additions without substantiating his decision with relevant reasoning and also did not disprove the relevant supporting material filed by the assessee .

35.1 With the assistance of learned representatives who have also gone through the decision of the ITAT Rajkot in assesse's own case vide ITA 120, 121 /Rajkot/2020 dated 22nd June, 2021 and the relevant para 40 at page number 19 is reproduced as under:-

> *" 40. Deleting of addition of Rs. 43,99,544/- by way of interest income from HSBC Account No. 4432533 has been challenged before us by the Revenue.*
>
> *While deleting the addition the Ld. CIT(A) has been pleased to pass orders in the following manner:-*
>
> > *"5.12 In this submissions the Ld. AR has alleged that the AO has wrongly arrived that the interest income during A.Y. 2006-07 of Rs. 1m76,94,093/- as against interest income shown of Rs. 1,32,94,549/- in the P&L account and the computation of income. Along with the submission dated 20.01.2016, the Ld. A.R. has filed the print out of the computerized books of account of the appellant as paper book which has been claimed to have been produced before the AO also during the*

assessment proceedings. At page 25 of the paper book, the FD HSBC SA interest has been shown at Rs. 1,32,94,549/- and same has been offered to tax. In the balance sheet at page 24 of the paper book the investments in HSBC 4432533/10998565 and 4432533/10998573 are Rs. 1,36,55,531/- and Rs. 74,06,740/- respectively. During the appeal proceeding it was orally explained by the Ld. AR that amount of interest Rs. 1,76,94,093/- adopted by the AO in the impugned assessment order has been arrived at by the AO by applying exchange rate as on 31st March of the year, whereas the appellant has applied the exchange rates on the dates the respective interests were credited by the bank. The contention of Ld. AR in context of interest income of Rs. 1,32,94,549/- is found correct as per the respective ledger furnished in the paper book. Thus it has to be held that the AO had no basis to reject the amount shown by the appellant and to vary the amount adopting a different exchange rate and make further addition to the total income on account of such difference. The addition of Rs. 43,99,544/- (on account of diff of Rs. 1,32,94,549/- and Rs. 1,76,94,093/-) is directed to be deleted. The related ground succeeds."

The appellant has applied the exchange rate on the dates the respective interests were credited by the bank and as per the respective ledger furnished before the Revenue. The interest income of Rs. 1,32,94,549/- has been found correct. Thus, the interest income of Rs. 1,76,94,093/- as admitted by the Ld. AO by applying the exchange rate as on 31st March of that year has been rightly rejected by the Ld. CIT(A) and consequently deletion of addition of the difference amount of Rs. 43,99,544/- is in our considered opinion just and proper and without any ambiguity so as to warrant interference. Hence, the ground of appeal preferred by Revenue is found to be devoid of any merit and, thus, dismissed."

35.2 After taking into consideration the aforesaid facts and finding of the ITAT, it is observed that the AO has not given any basis to compute the interest income on estimated bases at the rate of 10% is without disproving the facts and material furnished by the assessee, therefore the action of the learned CIT(A) is not justified which is also demonstrated from the dissatisfaction of the learned CIT(A) shown on the action of the assessing officer as elaborated above in this order. Therefore this appeal of the assessee is allowed.

ITA Nos. 88/Rjt/2020 & ITA No. 89/Rjt/2020 – A.Ys. 2011- 2012 & 2012-2013

36. After applying the finding of the ITA No. 87/Rjt/2020 as elaborated above both these appeals of the assessee are also allowed.

37. In the result all these three appeals of the assessee's vide ITA Nos. 87/Rjt/2020 to ITA No. 89/Rjt/2020 are allowed.

ITA Nos. 122 to 128/Rjt/2020- A.Ys. 1998-99 to 2004-05- Revenue's appeal (in case of Shri Ravichandra V. Mehta)

38. All these appeals filed by the revenue are directed against the combined order of learned CIT(A) dated 13-01- 2020.

39. At the outset the learned consul submitted that the issue common to all the appeal are covered in favour of the assessee by the decision of ITAT Rajkot in assessee's case dated 25-02-2019 in the case of Shri Ravichandra V. Mehta for A.Y. 1996-97 and assessment year 1997- 1998 (in ITA No. 409/ RJT 201,450/ RJT/ 2017, 410/ RJT/ 2017 and 451 RJT/ 2017 and also the subsequent order of ITAT Rajkot dated 25th June, 2019 in the case of the assessee.

40. On the other hand, learned departmental representative is fair enough to not controvert this undisputed fact that impugned issues in the appeal are covered by the decision of ITAT as referred in the decision of learned CIT appeal

41. With the assistance of learned representatives who have gone through the decision of learned CIT(A). The learned CIT(A) has held that issues under section 148 in respect all the above-mentioned years a being beyond the limitation prescribed under the pre-amended section 149 of the Act are bad in law and hence consequential assessment framed pursuant to such invalid notices are also required to be quashed and set aside. The learned CIT(A) has also placed reliance on the decision of on the Hon'ble Gujarat High Court in the case of *Induprasad Bhatt Vs J.P. Jani (ITO) (58 ITR 559)* wherein the Hon'ble High Court of Gujarat held that on proper construction of section 297(2)(d)(ii) of the act the ITO cannot issue notice under section 148 to reopen the assessment of an assessee in the case where the right to reopen the assessment was barred under the old (pre-amended) act and the date when new act (new amendment) came into force. The learned CIT(A) has also placed reliance on the decision of ITAT Rajkot in assessee's case dated 25-02-2019 in the case of Shri Ravichandra V. Mehta for assessment year 1996-97 and assessment year 1997- 1998 (in ITA No. 409/ RJT/ 2017, 450/ RJT/ 2017, 410/ RJT/ 2017 and 451/RJT/ 2017 and also the subsequent order of ITAT Rajkot dated 25th June, 2019 in the case of the assessee.

42. The relevant Part of the decision of learned CIT appeal is reproduced as under:-

> *"5.2 It has already been mentioned before that during the appeal proceedings, the appellant has taken two additional grounds separately - one related to the residential status of the appellant and other related to the legality of the notices u/s.148 which led to the assessment order(s) impugned in these appeals under consideration and has made submission praying for admission of these grounds and also submission for admission of additional evidences (related to the appellant's case that the funds were earned outside India and were of 1970s). They were sent to the AO for comments & verification. It may be mentioned that in the remand reports the AO has stated that the additional grounds and additional evidences should not be admitted and on merits it has been contended that the additional evidences cannot be considered for few defects pointed out by him.*

It may also be mentioned that the predecessor Ld.CIT(A) in the appeal for AY 1995-96 and AY 1996-97 held the appellant to be R but NOR and accordingly that the amounts added by the AO couldn't have been treated taxable in India. The said appellate orders were challenged by the Department before the ITAT and the Tribunal also has quashed the assessment orders on the ground of legality of the notices u/s. 148.

I find that the remand reports of the AO demonstrate the adamancy and non-application of mind as to the well-established principles of law and that the additional grounds and the additional evidences have to be admitted for fairness and justice in view of the related decisions of the Hon'ble Courts in favour of tax payers.

5.3 In relation to the legality of the notice(s) u/s.148 it has been contented by the appellant that the above referred additional ground is purely legal in nature and therefore, requires admission and adjudication. It is case of the appellant that a search was conducted in his case on 20.3.2012, that Notice u/s 148 was issued for the captioned years on 27.02.2015 and that the same has been issued in view of Section 149 (l)(c) of the Income Tax Act which was inserted by the Finance Act, 2012 with effect from 1.7.2012. As per provision of Section 149 as prevalent before the insertion of sub clause (c) to Sub section (1) of Section 149, it was provided that no Notice u/s 148 shall be issued for the relevant assessment year if not more than 4 or 6 years on the case may be, have elapsed from the end of the relevant Assessment Year. Therefore, prior to insertion of sub clause (c) to Section 149(1), the limitation period for issuance of Notice u/s 148 for the captioned years expired on 31.3.2005 for Assessment Year 1998-99 and on 31.03.2011 for Assessment Year 2004-05. Though sub-clause (c) to Section 149(1) provides that Notice u/s 148 can be issued if not more than 16 years have elapsed from the end of the relevant Assessment Year if the income in relation to any asset located outside India chargeable to tax has escaped assessment, however, said sub clause (c) of Section 149(1) cannot help to extend the time limit which has already expired before the insertion of sub clause (c) to Section 149(1) which is inserted with effect from 1.7.2012 only. The time limit for all the captioned years (Assessment Year 1998-99 to 2004-05) had already expired on 31.3.2011 which cannot be further extended in view of the amendment as carried out with effect from 1.7.2012. For the purpose reliance has been placed on the decision of Hon'ble Gujarat High Court in the case of ***Induprasad Bhatt Vs. J.P. Jani (ITO) (58 ITR 559)*** *where the Hon'ble High Court of Gujarat held that on proper construction of section 297(2)(d)(ii) of the Act the ITO cannot issue notice u/s. 148 to reopen the assessment of an assessee in the case where the right to reopen the assessment was barred under the old (pre-amended) Act at the date when new Act (new amendment) came into force. The said decision was confirmed by the Supreme Court in the case of* ***J.P. Jani Vs. Induprasad Devshankar Bhatt (72 ITR 595)****. Similar decisions were made by the Hon'ble High Court of Bombay in* ***S.C. Prashar Vs. Vasantsen Dwarkadas [1956] 29 ITR 857****, and by the Supreme Court in* ***S.S. Gadgil v. Lal & Company [1964]****.*

5.4 It is the argument of the Learned.AR that in view of these the reopening of cases for Assessment Years 1996-97 to 2004-05, which had become barred by limitation on 31st March 2011 (for Assessment Year 2004-05) and the Amending Act being Finance Act, 2012 inserting sub clause (c) to Section 149 (1) w.e.f. 01.07.2012 only cannot give a fresh lease of life for reopening the same which has already become barred by limitation on 31.03.2011 under the pre-amended provisions of the Act. Thus, the Notices issued u/s. 148 being beyond the limitation prescribed under the pre-amended section 149 are bad in law and hence consequential assessments framed pursuant to such invalid notices are also required to be quashed and set aside.

5.5 In addition to above the appellant has enclosed and brought to attention the judgement of ITAT Rajkot Dated 25-02-2019 in the case of Shri Ravichandra V Mehta

for AY 1996-97 and AY 1997-98 (in ITA No.(s) 409/RJT/2017, 450/RJT/2017, 410/RJT/2017 and 451/RJT/2017) and also the subsequent order of ITAT Rajkot dated 25-06-2019 in the case of the assesse.e, Shri Balkrishna R Mehta himself for AY 1996-97 and AY 1997-98 (in ITA No.(s) 407/RJT/2017, and 408/RJT/2017) were the order dated 25-02-2019 iri the case of Shri Ravichandra V Mehta has been followed.

5.6 In the case of Shri Ravichandra V Mehta the additional ground of the appellant was that notice u/s. 148, pursuant to which impound assessment order is framed is barred by limitation u/s. 149 of the act and therefore assessment framed pursuant to such a valid notice is void ab initio. The ground of the Revenue was that the Ld. CIT(A) has erred in law and/or on facts virtually setting aside the order of AO passed u/s. 143 rws 147 of the Act dated 27-02-2015, whereas no such power rests with him under the Act and the additional ground was that the Ld. C1T(A) had erred in holding that as per the provision section 5 of the Act the funds of the assesses outside India could not be taxable in the hands of appellant if his status was Resident but Not Ordinarily Resident, even though the section excludes only income accruing or rising outside India to such assesses from ambit of taxation.

*5.7 In the judgement dated 25-02-2019 in the case of Shri Ravichandra V Mehta, the Hon'ble ITAT has relied upon the decision of Hon'ble Delhi High Court in the case of **Braham Dutt Vs. ACIT 100 taxmann.com 324**, the decision of Hon'ble Supreme Court in the case of **S.S Gadgil Vs. Lal & Co. 53 ITR 231**, and in the matter of **K M Sharma v/s ITO 254 ITR 772** where in it has been held that when the time limit for issuing notice u/s. 148 has expired before any amendment in law from a prospective date will not revive. The decision of the Hon'ble ITAT in the case of Shri Ravichandra V Mehta is as under*

> *"10. Thus, in all above cases Courts have held that when the time limit for issuing notice u/s. 148 has expired before any amendment in law from a prospective date will not revive. The time limit for those years for which limitation has already expired on the date of amendment. There was no challenge to vires of the amendment but still the Courts had held the u/s. 148 is beyond limitation period. In the present case in our hand, prior to amendment in section 149 and the time limit for issued of notice under section 148 for Ay 1996-97 expired on 31-03-2003 and date for 1997-98 expired on 31-03-2004. The amendment of section 149 is with effect from 01-07-2012 and its not retrospective in nature. Thus the time limit which has already in expired could not have been revived by subsequent amendment. For all these reasons and complying the ratio laid down above cited cases, we hold that notice issued u/s. 148 on 25-03-2013 for both the above years is beyond jurisdiction and accordingly quashed. Since the notice is held to be invalid, subsequent assessment order pursuant to the said notice as are also quashed and set aside.*
>
> *11. In the result appeals of the assessee are allowed. Since we have quashed the assessment for the both the years, appeals of the Revenue have become infructuous and hence Revenue's appeals are dismissed."*

5.8 These orders of jurisdictional ITAT are binding and the appeals for AY 1998-99 to AY 2004-05 under consideration are covered by the earlier decisions of the Hon'ble ITAT Rajkot as the notices u/s. 148 were issued for these years on 27.02.2015 on the strength of the amended provisions w.e.f. 01.07.2012 whereas as per the pre-amended provision those notices- could not have been issued after 31.03.2005 for AY 1998-99, 31.03.2006 for AY 1999-2000, 31.03.2007 for AY 2000-01, 31.03.2008 for AY 2001-02, 31.03.2009 for AY 2002-03, 3103.2010 for AY 2003-04 and 31.03.2011 for AY 2004-05. Following there from the assessment orders u/s. 143(3) rws 147 made on 31.03.2015

for AY 1998-99 to AY 2004-05 on the strength of the notices u/s. 148 dated 27.02.2015 for respective AYs, under consideration in the present appeals, are required to be quashed as notices u/s. 148 issued on 27.02.2015 for those years are void ab initio. Under the circumstances the submissions made on the merits of additions in the impugned assessment orders and the additional evidences related to funds are not required to be adjudicated upon.

6. The appeals for AY 1998-99 to AY 2004-05 are allowed."

43. The relevant part of the decision of ITAT Rajkot vide ITA Nos. 409, 410, 450 & 451/ RJT/ 2017 for A.Ys. 1996 -1997 and 1997- 1998 dated 25th February, 2019 is reproduced as under:-

" 9. We have considered rival submissions and gone through the impugned order and the case-laws relied upon by the Ld.AR. The assessee has not challenged the vires of the amendment but has raised legal contention that for a concluded assessment, the subsequent amendment will not revive the time limit for issue of notice u/s.148. Therefore, Ld.CIT(A) misread the provisions to hold that since the time limit prescribed in law has been extended the notice is within the time. We are inclined to differ with the view of Ld.CIT(A). The issue is no more res integra. The issue has first came up before the Hon'ble Supreme Court in the case of S.S. Gadgil vs.Lal & Co. reported in 53 ITR 231(SC). Taking note of the said case, Hon'ble Gujarat High Court in the case of Induprasad Bhatt(supra) held as under:

"We are, therefore, of the view that on a true construction of s. 297(2)(d)(ii), the ITO cannot issue a notice under s. 148 in order to reopen the assessment of an assessee in cases where the right to reopen the assessment was barred under the old Act at the date when the new Act came into force. The right of the ITO to reopen the assessment of the petitioner in the present case was admittedly barred under s. 34(1)(a) at the commencement of the new Act and it was, therefore, not competent to the ITO to issue a notice under s. 148 in order to reopen the assessment of the petitioner and to reassess the income of the petitioner by relying on the provision enacted in s. 297(2)(d)(ii). The notice dt. 13th Nov., 1963, was, therefore, beyond jurisdiction and must be set aside. Along with that notice, the subsequent notice dt. 9th Jan., 1964, must also fail."

9.1. On further appeal by the Revenue against in quashing the notice u/s.148 of the Act, the Hon'ble Supreme Court approving the judgement of Hon'ble Gujarat High Court in the case of J.P. Jani vs. Induprasad Devshankar Bhatt (72 ITR 595) held as under:

"We considered that the language of the new section must be read as applicable only to those cases where the right of the ITO to reopen the assessment was not barred under the repealed section. In our view the new statute does not disclose in express terms or by necessary implication that there was a revival of the right of the ITO to reopen an assessment which was already barred under the old Act. This view is borne out by the decision of this Court in S.S. Gadgil vs. Lal & Co. (1964) 53 ITR 231 (SC). In that case, a notice was issued against the assessee as an agent of a non-resident on 27th March, 1957, and that notice related to the asst. yr. 1954-55. Under cl. (iii) of the proviso to s. 34(1), as it stood prior to its amendment by the Finance Act, 1956, a notice of assessment or reassessment could not be issued against a person deemed to be an agent of a non-resident after the expiry of one year from the end of the year of assessment. The right to commence a proceeding for assessment against the assessee as agent of a

non-resident for the asst. yr. 1954-55, therefore, ended on 31st March, 1956, under the new Act before its amendment in 1956. This provision was, however, amended by the Finance Act, 1956, and under the amended provision the period of limitation was extended to two years from the end of the assessment year. The amendment was made on 8th Sept., 1958, but was given effect to from 1st April, 1956. Since the time within which notice could be issued against a person deemed to be an agent of a non-resident was extended to two years from the end of the assessment year, it was contended on behalf of the ITO that the notice issued by him was within the terms of the amended provision and was, therefore, a valid notice. Now the notice issued on 27th March, 1957, was clearly within a period of two years from the end of the assessment year 1954-55 and if the amended provision applied, the notice would be a valid notice. It was, however, held by this Court that the notice was not a valid notice inasmuch as the right of the ITO to reopen the assessment of the assessee under the unamended provision became barred on 31st March, 1956, and the amended provision did not operate against him so as to authorise the ITO to commence proceedings for reopening the assessment of the assessee in a case where, before the amended provision came into force, the proceedings had become barred under the unamended provision. At page 240 of the report, Shah, J., speaking for the Court, observed as follows :

"As we have already pointed out, the right to commence a proceeding for assessment against the assessee as an agent of a non-resident party under the IT Act before it was amended, ended on 31st March, 1956. It is true that, under the amending Act, by s. 18 of the Finance Act, 1956, authority was conferred upon the ITO to assess a person as an agent of a foreign party under s. 43 within two years from the end of the year of assessment. But the authority of the ITO under the Act before it was amended by the Finance Act of 1956, having already come to an end, the amending provision will not assist him to commence a proceeding even though at the date when he issued the notice it is within the period provided by that amending Act. This will be so, notwithstanding the fact that there has been no determinable point of time between the expiry of the time provided under the old Act and the commencement of the amending Act. The legislature has given to s. 18 of the Finance Act, 1956, only a limited retrospective operation, i.e., up to 1st April, 1956, only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the legislature does not intend to attribute to the amending provision a greater retrospectively than is expressly mentioned, nor to authorise the ITO to commence proceedings which before the new Act came into force had by the expiry of the period provided become barred."

4. In our opinion, the principle of this decision applies in the present case and it must be held that, on a proper construction of s. 297(2)(d)(ii) of the new Act, the ITO cannot issue a notice under s. 148 in order to reopen the assessment of an assessee in a case where the right to reopen the assessment was barred under the old Act at the date when the new Act came into force. It follows, therefore, that the notice dt. 13th Nov., 1963, and 9th Jan., 1964, issued by the ITO, Ahmedabad, were illegal and ultra vires and were rightly quashed by the Gujarat High Court by the grant of a writ.

For the reasons expressed, we hold that the judgment of the High Court of Gujarat dt. 14/15th Dec., 1964, is correct and this appeal must be dismissed with costs."

7. In view of the above decision, since the assessment could not have been reopened for Assessment Years 1996-97 to 2005-06, which has become barred by limitation on 31st March 2012, the Amending Act being Finance Act, 2012 inserting sub clause (c) Section 149 (1) w.e.f. 01-07-2012 cannot give a fresh lease of life for reopening the same which has already become barred by limitation on 31.12.2012.

In view of the above, the Notice issued u/s.148 being beyond the limitation prescribed u/s.149 is bad in law and hence consequential assessment framed pursuant to such invalid notice is also required to be quashed and set aside."

9.2. Once against that issue arose before the Hon'ble Supreme Court in the matter of K.M. Sharma vs. ITO 254 ITR 772 (SC), wherein the Hon'ble Court held as under:-

"13. In KM Sharma's case (supra) the assessee"s land was acquired under the Land Acquisition Act, 1894 and an award was passed in 1967 granting compensation in favour of the assessee. Thereafter, the Additional District Judge by judgment dated 20.05.1980 held the assessee to be entitled to 1/32th share of the compensation and the assessee was granted total compensation of Rs.1,18,810 in the year 1981. Subsequently, by another judgment dated 31.07.1991, the assessee was awarded sum of Rs.1,10,20,624, which was received by it between 15.10.1992 and 25.05.1993. The said amount comprised of principal compensation as well as interest up to 18.05.1992. As land acquired was agricultural land, principal amount was not chargeable to tax; however, interest amounting to Rs.76,84,829 was chargeable on year to year basis. The assessee claimed that proceedings till assessment year 1982-83 had already attained finality and therefore, filed letter requesting the assessing officer to initiate proceedings for subsequent assessment years for bringing to tax interest component relatable to the said assessment years. The assessee was, however, issued notices under section148 of the Act for fifteen assessment years, viz., assessment years 1968-69 to 1971-72 and assessment years 1981-82 to 1992-93 which were challenged on the ground of limitation. This court declined to exercise jurisdiction; on appeal, the Supreme Court held that the provision regulating period of limitation ought to receive strict construction. The Supreme Court held that the law of limitation was intended to give certainty and finality to legal proceedings and therefore, proceedings, which had attained finality under the existing law due to bar of limitation, could not be held to be open for revival unless the amended provision was clearly given retrospective operation so as to allow upsetting of proceedings, which had already been completed and attained finality. The observations of the Supreme Court are reproduced hereunder:

"10. The main question that has been raised on behalf of the learned counsels appearing for the parties is whether the provisions of sub-section (1) of section 150 as amended can be availed for reopening assessments, which have attained finality and could not be reopened due to bar of limitation, that was attracted at the relevant time to the proposed reassessment proceedings under the provisions of section 149.

11. The submission made on behalf of the appellant is that neither the provisions of sub-section (1) nor sub-section (2) can be read as giving more than intended operation to the said provision. The provisions, it is argued, do not permit the authorities to reopen assessments, which have become final and reassessment of which had become barred by time before 1.4.1989 when section 150(1) was amended Reliance is placed on the decision in S.S. Gadgil v. Lal & Co. [1964] 53 ITR 231.

12. The learned counsel appearing on behalf of the department has made an effort to persuade this Court to accept his construction of the provisions of section 150(1)and (2). It is argued that it is for the specific purpose of assessing income, which might accrue on the basis of any decision of any Court in any proceeding in any other law, that the provision has been amended to lift bar of limitation for reassessment.

13. Fiscal statute, more particularly a provision such as the present one regulating period of limitation must receive strict construction. The law of limitation is intended to give certainty and finality to legal proceedings and to avoid exposure to risk of litigation to litigant for indefinite period on future unforeseen events. Proceedings,

which have attained finality under existing law due to bar of limitation cannot be held to be open for revival unless the amended provision is clearly given retrospective operation so as to allow upsetting of proceedings, which had already been concluded and attained finality. The amendment to subsection (1) of section 150 is not expressed to be retrospective and, therefore, has to be held as only prospective. The amendment made to sub- section (1) of section 150 which intends to lift embargo of period of limitation under section 149 to enable authorities to reopen assessments not only on the basis of orders passed in proceedings under the Act but also on order of a Court in any proceedings under any law, has to be applied prospectively on or after 1.4.1989 when the said amendment was introduced to sub-section (1). The provision in sub-section (1), therefore, can have only prospective operation to assessments, which have not become final due to expiry of period of limitation prescribed for assessment under section 149.

14. To hold that the amendment to sub-section (1) would enable the authorities to reopen assessments, which had already attained finality due to bar of limitation prescribed under section 149 as applicable prior to 1.4. 1989, would amount to give sub section (1) a retrospective operation which is neither expressly nor impliedly intended by the amended sub-section.

15. On behalf of the assessee before the High Court and in this Court reliance has been placed on the provisions contained in sub-section (2) of section 150. It is submitted that the provision contained in sub-section (2) of section150 is in the nature of clarification or Explanation to sub section(1).Sub-section (2) makes it clear that the embargo of period of limitation lifted under sub section (1) for proposed reassessments based on order in proceedings under appeal, reference or revision, as the case may be, would not apply to assessments which have attained finality due to bar of limitation applicable at the relevant time.

6. The High Court rejected the above contention of the assessee on the ground that on the amendment introduced with effect from 1.4.1989 in sub-section (1), which enables reopening of assessment based on any Order of 'Court in any proceedings in any law', there is no corresponding amendment made in sub- section (2) of Section 150 to bar reassessment based on Order of Court passed in any proceedings in any law in cases where prescribed period of litigation for reassessment had already expired.

17. We do not find the above reasoning of the High Court is sound. The plain language of sub-section (2) of Section 150 clearly restricts application of sub- section (1) to enable the Authority to reopen assessments which have not already become final on the expiry of prescribed period of limitation under Section 149. As is sought to be done by the High Court, sub-section (2) of Section 150 cannot be held applicable only to reassessments based on Orders 'in proceedings under the Act' and not to Orders of Court 'in proceedings under any other law'. Such an interpretation would make the whole provision under Section 150 discriminatory in its application to assessments sought to be reopened on the basis of Orders under the IT Act and other assessments proposed to be reopened on the basis of Orders under any other law. Interpretation, which creates such unjust and discriminatory situation, has to be avoided. We do not find that sub-section (2) of section 150 has that result. Sub-section (2) intends to insulate all proceedings of assessments, which have attained finality due to the then existing bar of limitation. To achieve the desired result it was not necessary to make any amendment in sub-section (2) corresponding to sub-section (1), as is the reasoning adopted by the High Court.

18. Sub-section (2) aims at putting embargo on reopening assessments, which have attained finality on expiry of prescribed period of limitation. Sub-section (2) in putting such embargo refers to whole of sub-section (1) meaning thereby to insulate all

assessments, which have become final and may have been found liable to reassessments or re-computation either on the basis of Orders in proceedings under the Act or Orders of Courts passed under any other law. The High Court, therefore, was in error in not reading whole of amended sub-section (1) into sub- section (2) and coming to the conclusion that reassessment proposed on the basis of order of Court in proceedings under Land Acquisition Act could be commenced even though the original assessments for the relevant years in question have attained finality on expiry of period of limitation under Section 149of the Act. On a combined reading of sub-section (1) as amended with effect from 1.4.1989 and sub-section (2) of Section 150 as it stands, in our view, a fair and just interpretation would be that the Authority under the Act has been empowered only to reopen assessments, which have not already been closed and attained finality due to the operation of the bar of limitation under Section 149.

19. This Court took similar view in the case of S.S. Gadgil (supra) in somewhat comparable situation arising from the retrospective operation given to Section 34(1) of Income Tax Act, 1922 as amended with retrospective effect from 1.4.1956 by the Finance Act of 1956. In the case of S.S. Gadgil (supra) admittedly under clause (iii) of the proviso to Section 34(1) of the Indian Income Tax Act, 1922, as it then stood, a notice of assessment or reassessment could not be issued against a person deemed to be an agent of a non-resident under Section 43, after the expiry of one year from the end of the year of assessment. The Section was amended by Section 18 of the Finance Act, 1956, extending this period of limitation to two years from the end of the assessment year. The amended was given retrospective effect from April 1, 1956. On March 12, 1957, the Income Tax Officer issued a notice calling upon the assessee to show cause why, in respect of the assessment year 1954-55, the assessee should not be treated as an agent under Section 43 in respect of certain non- residents. The case of the assessee, inter alia, was that the proposed action was barred by limitation as right to commence proceedings of assessment against the assessee as an agent of non-resident for the assessment year 1954-55 ended on 31.3.1956, under the Act before it was amended in 1956. This Court in the case of S.S. Gadgil (supra) accepted the contention of the assessee and held as under:

". The legislature has given to section 18 of the Finance Act, 1956, only a limited retrospective operation, i.e., up to April 1, 1956, only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the legislature does not intend to attribute to the amending provision a greater retrospectivity than is expressly mentioned, nor to authorise the Income- tax Officer to commence proceedings which before the new Act came into force had by the expiry of the period provided become barred."

20. On a proper construction of the provisions of Section 150 (1) and the effect of its operation from 1.4.1989, we are clearly of the opinion that the provisions cannot be given retrospective effect prior to 1.4.1989 for assessments which have already become final due to bar of limitation prior to 1.4.1989. Taxing provision imposing a liability is governed by normal presumption that it is not retrospective and settled principle of law is that the law to be applied is that which is in force in the assessment year unless otherwise provided expressly or by necessary implication. Even a procedural provision cannot in the absence of clear contrary intendment expressed therein be given greater retrospectivity than is expressly mentioned so as to enable the Authorities to affect finality of tax assessments or to open up liabilities, which have become barred by lapse of time. Our conclusion, therefore, is that sub-section (1) of Section 150, as amended with effect from 1.4.1989, does not enable the Authorities to reopen assessments, which have become final due to bar of limitation prior to 1.4.1989 and this position is applicable equally to reassessments proposed on the basis of Orders passed under the Act or under any other law."

14. The ratio of K.M Sharma and S.S. Gadgil, in the opinion of this court covers the facts of this case. Reassessment for 1998-99 could not be reopened beyond 31.03.2005 in terms of provisions of Section 149 of the Act as applicable at the relevant time. The petitioner"s return for assessment year 1998-99 became barred by limitation on 31.03.2005. The question of revival of the period of limitation for reopening assessment for AY 1998-99 by taking recourse to the subsequent amendment made in Section 149 of the Act in the year 2012, i.e., more than 8 years after expiration of limitation on 31.03.2005, has been dealt with by the Supreme Court in K.M. Sharma (supra).

15. The AO has conceded in the order rejecting the petitioner's objection that "It is also found that the assessee was a non-resident as contended by him, in the AY 1998-99." In the circumstances, there can be no question about the applicability of the then existing provision- Section 149 (b), which stated that the normal time limit for reopening assessment was four years, "but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year."

16. It has been said that "the government in all its actions is bound by rules fixed and announced beforehand--rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances, and to plan one's affairs on the basis of this knowledge" (Ref. FA Hayek, "Road to Serfdom", 1944). In this case, the interpretation proposed by the revenue has the potential of arming its authorities to re-open settled matters, in respect of issues where the citizen could genuinely be sanguine and had no obligation of the kind which the Revenue seeks to impose by the present amendment. All the more significant, is the fact that absent a clear indication, every statute is presumed to be prospective. The revenue had sought to contend that the amendment (to Section 149) is merely procedural and no one has a vested right to procedure; and that procedural amendments can be given effect any time, even in ongoing proceedings.

17. This court is of the opinion that there is no merit in the revenue"s contention. In Sri Prithvi Cotton Mills Vs Broach Borough Municipality, AIR 1970 SC 192, examined the validity of the retrospective amendment of a statute in light of Article 19(1)(g) of the Constitution of India, i.e. a fundamental right to practice any profession, or to carry on any occupation, trade or business. The court said:

"In testing whether a retrospective imposition of a tax operates so harshly as to violate fundamental rights under article 19(1)(g), the factors considered relevant include the context in which retroactivity was contemplated such as whether the law is one of validation of taxing statute struck-down by courts for certain defects; the period of such retroactivity, and the decree and extent of any unforeseen or unforeseeable financial burden imposed for the past period etc."

18. In Govinddas v Income Tax Officer AIR 1977 SC 552the Supreme Court held that Section 171 (6) of the Income Tax Act was prospective and inapplicable for any assessment year prior to 1st April, 1962, the date on which the Act came into force and observed that:

"11. Now it is a well settled rule of interpretation hallowed by time and sanctified by judicial decisions that, unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards matters of procedure. The general rule as stated by Halsbury in Vol. 36 of the Laws of England (3rd Edn.) and reiterated in several decisions of this Court as

well as English courts is that all statutes other than those which are merely declaratory or which relate only to matters of procedure or of evidence are prima facie prospectively and retrospective operation should not be given to a statute so as to affect, alter or destroy an existing right or create a new liability or obligation unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only."

In Commissioner of Income Tax v Scindia Steam Navigation Co. Ltd AIR 1961 SC 1633, it was held that as the liability to pay tax is computed according to the law in force at the beginning of the assessment year, i.e., the first day of April, any change in law upsetting the position and imposing tax liability after that date, even if made during the currency of the assessment year, unless specifically made retrospective, does not apply to the assessment for that year. These principles were reiterated in Commissioner of Income Tax v Vatika Township (P) Ltd [2014] 49 taxmann.com 249/227 Taxman 121/367 ITR 466(SC).

19. In view of the above discussion, it is held that the petition has to succeed; the impugned reassessment notice and all consequent proceedings are hereby quashed and set aside. The writ petition is allowed; however without order on costs."

10. Thus, in all above cases Courts have held that when the time limit for issuing notice u/s.148 has expired before any amendment in law from a prospective date will not revive. The time limit for those years for which limitation has already expired on the date of amendment. There was no challenge to vires of the amendment but still the Courts have held that notice issued u/s.148 is beyond limitation period. In the present case in our hand, prior to amendment in section 149 and the time limit for issuance of notice u/s.148 for AY 1996-97 expired on 31/03/2003 and that for 1997-98 expired on 31/03/2004. The amendment of section 149 is with effect from 01/07/2012 and is not retrospective in nature. Thus, the time limit which have already been expired could not have been revived by subsequent amendment. For all these reasons and complying the ratio laid down by above cited cases, we hold that notice issued u/s.148 on 25/03/2013 for both the above years is beyond jurisdiction and accordingly quashed. Since the notice is held to be invalid, subsequent assessment order pursuant to the said notices are also quashed and set aside."

44. We find that issues raised before the tribunal in these years are similar to proceeding assessment years. It would not be appropriate for us to deviate from the view taken in earlier years without pointing out any material change in the facts and circumstances in subsequent years. The learned departmental representative has not disputed about the decision of the tribunal in the earlier years on the similar nor able to state how the facts in the earlier assessment years are different from the year under consideration. Since identical issues were dealt by the tribunal in earlier years as cited (supra) in the assessee own cases, following the principle of consistency we don't find any force in the appeal of the revenue, therefore

all the appeal of the Revenue vide ITA Nos. 112 to 128 /Rjt/2020 for assessment year 1998-99 to 2004-05 are dismissed.

45. In the result appeals of the Revenue vide ITA Nos. 112 to 128 /Rjt/2020 are dismissed.

ITA No. 81/Rjt/2020 – A.Y. 2005-06 – Assessee's appeal (in case of Shri Jawahir Ravichandra Mehta)

46. The solitary appeal of the assessee is directed against the decision of learned CIT(A) dated 11-02-2020 in confirming action of the Assessing Officer in making addition of Rs.3,15,418/- on account of interest income from NRO account with HSBC account on protective basis.

47. The assessing officer has completed assessment under section 143 (3) r.w.s.147 of the act for assessment year 2000 -506 on 19 March 2014 with addition of Rs.3,15,418/- being interest income from NRO account with HSBC Bank Mumbai in the hands of the assessee on protective basis.

47.1 The learned CIT(A) stated that for the assessment year 2005-2006 under consideration, the notice under section 147 of the act was issued on 29th of March 2012 which was within the six years of the end of the assessment year as per the pre-amended provisions and therefore the assessee is not protected by the orders of the ITAT. The learned CIT(A) has deleted all the other addition except the interest income from NRO account as the assessee was non resident.

47.2 During the course of appellant proceeding before us neither the assessee has made any discussion on this issue nor pointed out any

material to controvert the decision of learned CIT(A), therefore, this ground of appeal of the assessee stands dismissed .

48. In the result appeal of the assessee vide ITA/81/Rjt/2020 stands dismissed.

49. In the combined result, all the appeals of the Revenue vide ITA Nos. 112 to 118/Rjt/2020 & 122 to 128/Rjt/2020 stand dismissed. Revenue's appeal in ITA Nos. 119/Rjt/2020 and 129/Rjt/2020 are partly allowed for statistical purposes. The appeal of the assessee vide ITA Nos.86/Rjt/2020 and 82/Rjt/2020 are allowed. ITA No. 85/Rjt/2020 and after applying the findings of the ITA No. 83/Rjt/2020 the other similar appeal of the assessee vide ITA 84/Rjt/2020 are also allowed. All three appeal of the assessee's vide ITA Nos. 87/Rjt/2020 to ITA No. 89/Rjt/2020 are allowed. Appeal of the assessee vide ITA No. 81/Rjt/2020 stands dismissed.

This Order pronounced in Open Court on 27/12/2021

Sd/-	Sd/-
(AMARJIT SINGH)	(MAHAVIR PRASAD)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Ahmedabad: Dated 27/12/2021

S.K.SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

Deputy/Asstt. Registrar
ITAT, Rajkot

1.Date of dictation on 14 & 15-12-2021 on computer
2.Date on which the typed draft is placed before the Dictating Member 16.12.2021
3.Date on which the approved draft comes to the Sr.P.S./P.S.
4.Date on which the fair order is placed before the Dictating Member for pronouncement
5.Date on which the fair order comes back to the Sr.P.S./P.S
6.Date on which the file goes to the Bench Clerk
7.Date on which the file goes to the Head Clerk
8.The date on which the file goes to the Asstt. Registrar for signature on the order
9.Date of Despatch of the Order