

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH “SMC”, PUNE**

**BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER**

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1-3	1790/PUN/2019 1791/PUN/2019 1792/PUN/2019	Amit Kanhaiyalal Gidwani, City Survey No.341, Laxmi Bungalow, Revenue Colony, South Shivajinagar, Sangli- 416416. PAN : AEFPG7955P	ACIT, Circle-1, Sangli	2006-07 2009-10 2010-11
4-5	1793/PUN/2019 1795/PUN/2019	Kailash Kanhaiyalal Gidwani, City Survey No.341, Laxmi Bungalow, Revenue Colony, South Shivajinagar, Sangli- 416416. PAN : ADGPG5025J	ACIT, Circle-2, Sangli	2005-06 2007-08
5-9	1796/PUN/2019 1797/PUN/2019 1798/PUN/2019 1799/PUN/2019	Kailash Kanhaiyalal Gidwani, L/h of Late Kanhaiyalal V. Gidwani, City Survey No.341, Laxmi Bungalow, Revenue Colony, South Shivajinagar, Sangli- 416416. PAN : AEUPG1656G	ACIT, Circle-1, Sangli	2005-06 2007-08 2008-09 2010-11
10	1801/PUN/2019	Kailash Kanhaiyalal Gidwani, L/h of Late Devi K. Gidwani, City Survey No.341, Laxmi Bungalow, Revenue Colony, South Shivajinagar, Sangli- 416416. PAN : AIMPG9942Q	ACIT, Circle-2, Sangli	2007-08

11	1804/PUN/2019	Meghana Kailash Gidwani, City Survey No.341, Laxmi Bungalow, Revenue Colony, South Shivajinagar, Sangli- 416416. PAN : AEFPG7956Q	ACIT, Circle-2, Sangli	2007-08
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Assessee by : Shri Sunil Ganoo  
 Revenue by : Shri Arvind Desai  
 Date of hearing : 24.05.2022  
 Date of pronouncement : 30.05.2022

### आदेश / ORDER

#### PER S. S. GODARA, JM:

The instant batch of eleven cases pertains to five assessees herein i.e. S/Shri Amit Kanhaiyalal Gidwani, Kailash Kanhaiyalal Gidwani (self) as well as legal heir of Kanhaiyalal V. Gidwani and Smt. Devi K. Gidwani and Ms. Meghana Kailash Gidwani.

Relevant details thereof; appeal wise, read as under :-

Sr. No	AY	ITA No.	Appellant	Order appealed against	Proceeding under Section
1-3	2006-07 2009-10 2010-11	1790/PUN/2019 1791/PUN/2019 1792/PUN/2019	Amit Kanhaiyalal Gidwani	CIT(A)-1, Kolhapur order dated 28.08.2019 Case No.SLI/211/2013- 14, SLI/214/2013-14 & SLI/215/2013-14	143(3) r.ws. 147
4-5	2005-06 2007-08	1793/PUN/2019 1795/PUN/2019	Kailash Kanhaiyalal Gidwani	CIT(A)-1, Kolhapur order dated 28.08.2019 Case No.SLI/239/13-14 & SLI/240/13-14	143(3) r.ws. 147
5-9	2005-06 2007-08 2008-09 2010-11	1796/PUN/2019 1797/PUN/2019 1798/PUN/2019 1799/PUN/2019	Kailash Kanhaiyalal Gidwani, L/h of Late Kanhaiyalal V. Gidwani	CIT(A)-1, Kolhapur order dated 28.08.2019 Case No.SLI/225/13- 14, SLI/224/13-14	143(3) r.ws. 147

10	2007-08	1801/PUN/2019	Kailash Kanhaiyalal Gidwani, L/h of Late Devi K. Gidwani	CIT(A)-1, Kolhapur order dated 28.08.2019 Case No.SLI/246/13-14	143(3) r.ws. 147
11	2007-08	1804/PUN/2019	Meghana Kailash Gidwani	CIT(A)-1, Kolhapur order dated 28.08.2019 Case No.KOP/207/13- 14	143(3) r.ws. 147

Heard all assessees as well as the department through S/Shri Sunil Ganoo, AR and Arvind Desai, DR.

2. It emerges during the course of hearing that all these assessees challenge correctness of the Assessing Officer's reopening action itself involving identical reasons recorded. Learned counsel invited my attention to the Assessing Officer's reopening reasons recorded in ITA No.1790/PUN/2019 herein as follows :-

*“According to information gathered from informed sources, local enquiries and media reports, it has come to be known that Shri Kanhaiyalal Gidwani, owns three flats, one in his name and two in the names of his two sons - Kailash and Amit in the Adarsha Housing Society. Again, one flat is learned to be booked in the name of Shri Gajanan S. Koli, where apparently it is believed that Shri Sunil K. Gidwani, son of Kanhaiyalal Gidwani, has lent finance to purchase the same. All payments for the same were apparently made through Gidwani Family's various bank accounts in which apparently cash amounts were deposited and the same were transferred into the accounts of Gidwani's wife, son and daughter-in-law in HDFC Bank at Worli. Thereafter the said amounts were apparently transferred into the account of M/s Jay Maharashtra CPL, HFDC Bank, Worli, in which Gidwani's sons are directors for making payments towards cost of the flats. Shri Amit Kanhaiyalal Gidwani has been allotted flat in Adarsha CHS. He has paid an amount of Rs.56,08,878/- towards the above flat between the period Feb. 2003, to July, 2010.,*

*2. During the year under consideration, he has invested Rs.8,53,841/- out of his own funds. Source of this investment are said to be as deposits/ unsecured loans from family members. The genuineness of these loans are not proved. Therefore, in view of the above, I have*

*reasons to believe that the income chargeable to tax has escaped assessment within the meaning of Section 147 of the I.T. Act, 1961.”*

3. Mr. Desai could hardly rebut the clinching fact that the Assessing Officer has nowhere recorded the so-called “information gathered from informed sources local enquiries and media reports” before setting in motion section 148/147 mechanism; as the case may be. Even all of his assessments are very much silent on this basic aspect. The impugned reopening reasons turn out to be very much vague once only. The same could hardly be supported by tangible material in specific terms therefore. It is made clear that the factual position is very much identical in all these eleven cases wherein the Assessing Officer has not indicated the above local enquiries and media reports at all. Nor the assessing authority given the specific trail of deposits in issue. Hon’ble jurisdictional high court landmark decision in Hindustan Lever Limited vs. R.B. Wadkar, (2004) 268 ITR 332 (Bom.) holds that an Assessing Officer reopening reasons have to be very much specific without having any scope of addition, deletion or substitution even if some supportive material emerges at a latter stage. Case law (2017) 395 ITR 677 (Delhi) PCIT vs. Meenakshi Overseas (P.) Ltd. and (2017) 83 taxmann.com 348 (Delhi) PCIT vs. RMG Playing (I) Ltd. also holds that such

reopening reasons involving total non-application of mind and not sustainable in law. I adopt the very reasoning *mutatis mutandis* herein-as-well to quash all reopening(s) involved in these eleven cases. I also deem it to make it clear that the Assessing Officer had not given the list of the corresponding bank accounts as well wherein any alleged cash sum(s) had been deposited. The assessee succeeds in their respective legal ground(s) to this effect therefore.

All other pleadings on merits are rendered academic.

4. These assessee's eleven appeals are allowed in above terms.

A copy of this common order be placed in the respective case files.

Order pronounced on this 30<sup>th</sup> day of May, 2022.

Sd/-  
 (S. S. GODARA)  
 JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30<sup>th</sup> May, 2022.

*Sujeet (DOC)*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Kolhapur.
4. The Pr. CIT-1, Kolhapur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
 आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.