

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "D", MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
AND SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA Nos. 4324, 4331 & 4345 to 4348/Mum/2024
Assessment Years: 2001-02 to 2006-07**

DCIT, CC-8(2) Room No.676, 6 th Floor, AayakarBhavan, M.K. Road, Mumbai – 400 020	Vs.	Late Shri Dhirubhai HirachandAmbani (Through Legal Heirs Shri Mukesh D Ambani& Shri Anil D Ambani) PAN: AAJPA0690H
(Appellant)		(Respondent)

**C.O. Nos. 215 to220/Mum/2024
Assessment Years: 2001-02 to 2006-07**

Mukesh D. Ambani (Legal Heir of late Mr. Dhirubhai H. Ambani) 39 Altamont Road, Mumbai – 400 026 PAN: AADPA3705F	Vs.	DCIT, CC-8(2) Room No.676, 6 th Floor, AayakarBhavan, M.K. Road, Mumbai – 400 020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri NimeshVora
Revenue by : Smt. SanyogitaNagpal, (CIT, DR)

Date of Hearing : 29.10.2024
Date of Pronouncement : 09.01.2025

ORDER

PER Bench:

The revenue has filed appeal against the orders of Ld. CIT(A)-50, Mumbai passed under Section 250 of the Act for the Assessment Years 2001-02 to 2006-07. The assessee has filed Cross Objection in all the 6 years of appeals filed by the revenue. Since, identical issue on similar facts are involved in these appeals, therefore, for the sake of convenience all these appeals are adjudicated by taking ITA No.4331/Mum/2024 for AY 2001-

02 and Cross Objection No. 215/Mum/2024 as lead case and its finding will be applied mutatis mutandis to the other appeals wherever it is applicable.

ITA No.4331/Mum/2024 AY: 2001-02

2. The grounds of appeal filed by the revenue are as under:-

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the substantive and protective additions made on account of initial deposit made by the assessee in the foreign bank account having BUP ID 5090260976 maintained in HSBC Bank, Geneva and maintenance cost incurred on such bank account by disregarding the fact that the foreign bank account was not disclosed in his Return of Income?"

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in not considering the BUP ID as account number, by placing reliance on the decision of the ITAT Mumbai in the case of DCIT vs Kumar Rasiklal Mehta [2022] ITA No. 438 to 442/Mum/2022; however in the case of Kumar Rasiklal (supra), the Hon'ble ITAT Mumbai had not deliberated on whether BUP ID is to be considered as a separate bank account number or not.

3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the substantive and protective addition made on account of initial deposit made by the assessee in the foreign bank account having BUP ID 5090260976 maintained in HSBC Bank, Geneva, by disregarding the fact that the assessee had refused to give consent to the HSBC Bank, Geneva in favour of the department, so that necessary record could be received from the HSBC Bank and the necessary additions would have been made in the hand of the assessee and his legal heir.

4. The appellant prays that the order of the CIT(A) on the above ground be set aside and that of the Assessing Officer be restored.

5. The appellant craves leave to amend or alter any ground or add a new ground which may be necessary."

3. Fact in brief is that original return of income declaring total income of Rs.517,40,430/- was filed on 30.07.2001. Subsequently, the case was reopened for assessment u/s 147 of the Act by issuance of notice u/s 148 of the Act on 23.03.2018. The reason recorded for reopening the case are reproduced below:

“The assessee filed his return of income for the A.Y.2002-03 on 29.07.2002 declaring total income of Rs.8,99,65,840 as an individual resident in India. The said return thus duly processed u/s.143(1)(a) of the Income Tax Act, 1961 on 28.02.2003. As per this return of income for AY 2002-03, the receipts of income was from Salary, Income from House Property, Short Term Capital Gains, Long Term Capital Gains and Income from Other Sources. No scrutiny proceedings were initiated for this particular AY under any section of the Income Tax Act, 1961.

2.Information available shows that a letter dated 08.08.2011, was submitted by AR Shri Rajesh Chaturvedi, CA (of both Shri Mukesh D. Ambani and Shri Anil D. Ambani) before DGIT(INV), Mumbai stating that Late Shri DhirubhaiHirachandAmbani instructed opening of foreign bank account with HSBC Private Bank, Geneva in the year 2000/2001. The record also shows a letter dated 25.07.2011 by Shri M K Shetty addressed to 'Dear Mukesh& Anil' stating inter alia that sometime during 2000 Shri Dhirubhai had instructed Mr Shetty to set up a separate bank account in the sum approximately of USS Five Million of which Mr. Shetty would be single, authorized signatory and would operate according to 'his' i.e. Shri Dhirubhai's instructions. The letter continues to state that following his conversation with Shri Dhirubhai, Mr. Shetty arranged one bank account to be opened in the name of Canbar Holdings Corporation with HSBC, bearing No. 1327690. Mr Shetty also mentions that Shri Dhirubhai's instruction to Mr. Shetty were to keep all facts strictly confidential between him and Mr.Shetty and to utilize the funds in this account as he (Shri Dhirubhai) directed.

3. However, as per copy of the 'Base Note' available with this office, in the case of Shri Mukesh D Ambani (BUP ID 5090160984) and Shri Anil D Ambani (BUP ID 5090160983) it is clear that there are two bank accounts in the name of Canbar Holding Corporation namely BUP ID 5090260976 and BUP ID 5091327690. Further as per the copy of the Base Note available with this office in the case of Shri Mukesh D Ambani (BUP ID 5090160984) and Shri Anil D Ambani (BUP ID 5090160983), there was HSBC Bank foreign account having

Client/Profile (BUP ID 5090260976) held in the name of Canbar Holdings Corporation also separate from the Account No. 1327290 mentioned by Shri M K Shetty. The previous year relating to the AY 2001-02 covers the period from 01.04.2000 to 31.03.2001. Thus during the AY 2001-02, the assessee held foreign bank account which is an asset located outside India as provided for in proviso 2 to section 147 of the Income Tax Act 1961. Perusal of the return of income filed by the assessee for the year under consideration reveals that the assessee had not disclosed said foreign bank account in his return of income. This initial deposits made to open the bank account or thereafter in the relevant previous year along with income generated due to holding of such foreign bank account should have been disclosed in the said return of income for AY 2001-02, which has not been done by the assessee. As per available information a deposit of USD 100000 (approx) is to be made to open such an account and cost of about USD 300 per year would be incurred, which information and the source thereof have not been disclosed by the assessee in the said return of income. These disclosures in respect of above stated information have not been made in return of income filed for AY 2001-02 by the assessee. In the context of deposit mentioned above, it may be stated that as per information available, Shri MK Shetty in his letter dated 25.07.2011 had mentioned that a separate account in the name of CanbarHoldignsCorporation (BUP ID 5091327690) was opened with some approximately of USD 5 Million on 27.06.2001.

4. On perusal of copy of the Base Note of Shri. Mukesh D. Ambani having BUP ID 5090160984 and Shri Anil D. Ambani having BUP ID 5090160983, it has also observed that the narration of people related to customer profile includes following:-

1) Flag Telecom Grp Ltd (BUP ID 5090281031) and;

2) First Corporate Director Inc. (BUP ID 5090248786) of which relevant customer profile is Canbar Holdings Corporations (BUP ID 5091327690).

Both these entities are located outside India. It follows that the assessee has links with and/or interests in these two foreign entities as well. As per the provisions of proviso 2 to Sec 147 of Income Tax Act, 1961, these are covered as asset including financial interest in any entity located outside India. The assessee has neither disclosed these assets located outside India nor Income therefrom in the return of income filed for AY 2001-02.

5. Thus, the case satisfies the conditions of proviso 2 of sec. 147 and provisions of clause (d) of Explanation 2 to Sec.147 of the Income Tax Act, 1961. In view of the above, I have reason to believe that income chargeable to tax has escaped assessment in this case for AY 2001-02. Therefore, the assessment needs to be reopened in order to bring to tax income which has escaped assessment. In view of the facts narrated supra, the conditions of sec. 149(1)(c) pertaining to time limit for issue of notice are also satisfied in this case for AY 2001-02".

3. The assessing officer stated that the assessee filed objection to the reopening the assessment and the same has been rejected vide order dated 22.11.2018. Subsequently, a show cause notice u/s 142(1) of the Act was issued on 19.12.2019 to the legal heirs of the assessee, the extract of the same is reproduced as under:

"You are required to show cause as to why addition should not be made in the hands of the assessee with regards to the undisclosed foreign bank accounts as mentioned in the reasons for reopening of the assessment provided to you, for the initial deposit of USD 1,00,000 required for opening each account and cost of USD 300 per year incurred for maintenance of each account".

4. In the assessment order the assessing officer mentioned that assessee filed reply to the show cause notice. However, the assessing officer had not discussed the contents of the reply filed by the assessee in the assessment order. The AO stated that information was received by the Government of India from the French Government that some Indian Nationals and residents have foreign bank accounts in the HSBC Bank, Geneva, Switzerland which were undisclosed to the Income Tax Department. The information was received in the form of Base Note document showing details of account holders as name, date of birth, place of birth, sex, residential address, nationality along with date of opening the bank accounts in HSBC Bank, Geneva and balance in certain years were mentioned.

4.1 The AO also stated that Base Note provide details of BUP IDs of Mukesh H. Ambani& Anil H. Ambani, Flag Telegram Group

Ltd. and Canbar Holdings Corporation. As per the details submitted by the authorized representative of the legal heirs of the assessee late Sh. Dhirubhai Hirachand Ambani had opened foreign bank account with HSBC Bank, Geneva in the year 2000/2001. As per the information available, Mr. M K Shetty Attorney at London in his letter dated 25.7.2011 mentioned that an account in the name of Canbar Holdings Corporation BUP ID 5091327690 was opened with sum approximately of USD 5 Million on 27.06.2001. Regarding existence of bank account in the name of Canbar Holding Corporation in HSBC Bank, Geneva (Client ID 5091327690), it is stated that Shri M.K. Shetty resident of London was the attorney holder of this account which was opened on the instructions of late Shri Dhirubhai H. Ambani in the year 2000-01 and after the death of Shri Dhirubhai H. Ambani the name of his two sons Shri Mukesh Ambani and Anil Ambani have been included as beneficiaries. This account was having peak balance of USD 55,44,646.99 as on November, 2005. The legal heirs of the the assessee had filed return of income on 09.08.2011 on behalf of the assessee i.e. Late Shri Dhirubhai H. Ambani for financial year 2005-06 and declared peak balance of USD 55,44,646.99 as an income of Rs.24,73,46,660/- and had paid taxes of Rs.14,09,59,731/-.

4.2 However, the AO opined that assessee was also the beneficiary owner of HSBC bank foreign account having BUP ID 5090260976 in the name of Canbar Holding Corporation which was opened in the year 2000 and this account had not been disclosed by the legal heirs. The AO was of the view that initial

deposit made to open the bank account along with the income generated should have been disclosed in the said return of income filed for the assessment year 2001-02. The AO opined that as per available information in the public domain, a deposit of USD 1,00000 was to be made to open such an account and also USD 300 per year required to be incurred for maintaining such account. On query, the legal heirs of the assessee submitted that they had filed return of income on 09.08.2011 on behalf of the assessee i.e. Late Shri Dhirubhai H. Ambani for financial year 2005-06 and declared an income of Rs.24,73,46,660/- and had paid taxes of Rs.14,09,59,731/-. The legal heirs had also submitted that there was only one account in the HSBC Bank Geneva linked to their father in the name of Canbar Holding Corporation a/c no. 5091327690. It is also submitted that legal heir had declared the aforesaid bank account and HSBC Bank Geneva in the hands of the late father Shri Dhirubhai H. Ambani for the financial year 2005-06 and offered to income in the hands of late Shri Dhirubhai H. Ambani. However, the AO stated that the assessee had not provided complete date wise details of transactions in the above mentioned account and also not offered any income in respect of the other account in the name of Canbar Holding Corporation having BUP ID 5090260976. The legal heir of the assessee had denied of any such BUP ID 5090260976 bank account maintained as alleged by the AO. However, the AO concluded that as per the Base Note available with his office, there were two bank account in the name of Canbar Holding Corporation namely, BUP ID 5090260976 and BUP ID 5091327690. The AO held that the a/c no. BUP ID 5090260976

was opened in the AY 2001-02, therefore, initial deposit of USD 1,00000 and maintenance charges of USD 300 on the basis of information available in the public domain were added to the total income of the assessee for the assessment year 2001-02. The AO also held that assessee along with his two sons were beneficial owner of this foreign account and accordingly 1/3 amount was added in the hands of 3 persons namely, Shri Dhirubhai H. Ambani, Shri, Mukesh Ambani and Shri Anil Ambani on substantial basis and the remaining 2/3 amount was added on protective basis in the hands of all the 3 assessee's. The details of the same is as under:

Sr. No.	Particulars	Reference amount	Substantive Additions	Protective Additions
			Deceased Assessee Share (1/3 rd)	Legal Heir's share (2/3 rd)
For the bank account with alleged BUP ID 50902 60976				
1.	Initial Deposit	USD 100,000 (Rs.46,64,000)	USD 33,333 (Rs.15,54,667)	USD 66,667 (Rs.31,09,333)
2.	Maintenance Charges	USD 300 (Rs.13,992)	USD 100 (Rs.4,664)	USD 200 (Rs.9,328)
Total Addition			USD 33,433 (Rs.15,59,331)	USD 66,867 (Rs.31,18,661)

5. The assessee filed appeal before the ld. CIT(A). The Ld.CIT(A) has allowed the appeal of the assessee. The relevant extract of the decision of CIT(A) is as under:

“7.1 I have considered the Assessment order, submission of the appellant and facts available on record. The AO has made additions in respect of the BUP ID 5090260976 by holding that it is separate account which was opened in FY 2000- 2001 and the same is not reflected in the letter of Mr. M.K Shetty. On the basis of information claimed to have been available with the AO, it was held that an initial deposit of USD 100,000 was required to be made to open an account with HSBC Bank, Geneva and a further amount of USD 300 was required to be spent to maintain the account. Whereas the appellant claims that no such account was in existence. The reference number in form of "BUP ID" would only indicate an identification number for CHC

as an entity. Thus the only dispute is regarding existence of two separate accounts in HSBC bank.

7.2 The base Note, is the only document available with the AO to contend

existence of the other account. The examination of this note reveals the following:

- I. The first page of the 'Base Note' shows basic details of the client profile code of Canbar Holding Corporation (CHC) and Flag. The relevant extract of the Base Note is as under:

Nom du profil client	CANBAR HOLDINGS CORPORATION	Patrimoine constaté en Décembre 2005 (en \$)	3,901.00
Code profil client	5091327690 ✓	Patrimoine constaté en Décembre 2006 (en \$)	(non référencé)
Date création du profil	6/27/2001	Patrimoine max constaté sur la période (en \$)	5,544,646.00 en 11/2005
Date de clôture du profil	1/9/2006 ✓		
Statut du profil	Ciblé		
Nature du profil	Nominal		
Type de client	Société domiciliée		
Lien personnel/profil client	Beneficial Owner	Détails du lien	CLOSED / BENEFICIAL OWNER
Info signatures	(non référencé)		
Correspondance	envoyée au client		
Liste des IBAN	IBAN : CH10 0668 9050 9111 1390 7		

The above extract shows details of client profile code, bearing no. 50913 27690, such as date of creation, date of closure, status, nature of profile, type of profile. Further, at the right side of the details of client profile code it also shows:

- “Patrimoine constaté en decembre 2005” meaning thereby “Assets (account balance) noted in December 2005”, the same for 2006; and
- “Patrimoine max constaté sur la periode”, meaning “Maximum assets observed over the period”, noting the same in November 2005.”

II. The above profile letter of Mr. MK Shetty which recorded the account number as 1327690. The Base Note also records the maximum balance in November 2005 over \$5 million.

III. On perusal of the entire Base Note, no such details are found for the other account, as alleged by the AO, bearing no. BUP ID 50901 60976. This number only appears in the base

note under the heading "AutresPersonnesLiees Aux Profils Clients", which in English would mean "Other people linked to Client Profiles". Just above the list, the client profiles referred were of CHC and Flag. Therefore, it can be inferred that this list shows people linked with client profile code of CHC and Flag. Extract of this list is as under:

CERTIFIED TRUE COPY	
Nom (code BUP) Profils clients concernés Première adresse	SUBRAMANIAM GOPALAKRISHNA (5090182152) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY H / GROUP B / SEE MANNER OF SIGN. IN THE FILE] [non référencé]
Nom (code BUP) Profils clients concernés Première adresse	JOSHI VISHWAS VINAYAK (5090182153) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY G / GROUP B / SEE MANNER OF SIGN. IN THE FILE] [non référencé]
Nom (code BUP) Profils clients concernés Première adresse	PANDA MADHUSUDANA SIVAPRASAD (5090182154) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [STRIKEN] [non référencé]
Nom (code BUP) Profils clients concernés Première adresse	KHURANA BHAGWAN DASS (5090182156) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY D / GROUP A / SEE MANNER OF SIGN. IN THE FILE] [non référencé]
Nom (code BUP) Profils clients concernés Première adresse	MATHRUBOOTHESWARAN SUNDAR (5090182157) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [STRIKEN] [non référencé]
Nom (code BUP)	MC CORMACK EDWARD (5090181034)
Profils clients concernés Première adresse	FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY B / GROUP A / SEE MANNER OF SIGN. IN THE FILE] [non référencé]
Nom (code BUP) Profils clients concernés Première adresse	GALLAGHER PATRICK TERENCE (5090181036) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY C / GROUP A / SEE MANNER OF SIGN. IN THE FILE] [non référencé]
Nom (code BUP) Profils clients concernés Première adresse	HSBC PRIVATE BANKING (GSAD) LONDON (5090271542) FLAG TELECOM GROUP LIMITED (5091426311) => Letter of authorisation [non référencé]
Nom (code BUP) Profils clients concernés Première adresse	FLAG TELECOM GROUP LIMITED (5090281031) ✓ FLAG TELECOM GROUP LIMITED (5091426311) => Account Holder ✓ FLAG TELECOM GROUP LIMITED 9 SOUTH STREET LONDON W1K 2XA UNITED KINGDOM [ADMINISTRATIVE ADDRESS]
Nom (code BUP) Profils clients concernés Première adresse	SHETTY MOODANIDAMBOOR KRISHNA (5090160979) CANBAR HOLDINGS CORPORATION (5091327690) => Attorney [CLOSED / ATTORNEY B] MR MOODANIDAMBOOR SHETTY 192 LAUDERDALE TOWER BARBICAN LONDON EC2Y 8BY UNITED KINGDOM [LEGAL ADDRESS]
Nom (code BUP) Profils clients concernés Première adresse	FIRST CORPORATE DIRECTOR INC. (5090248768) CANBAR HOLDINGS CORPORATION (5091327690) => Attorney [CLOSED / ATTORNEY A] FIRST CORPORATE DIRECTOR INC. P.O. BOX 813 8039 ZURICH SWITZERLAND [HEAD OFFICE]
Nom (code BUP) Profils clients concernés Première adresse	CANBAR HOLDINGS CORPORATION (5090260976) ✓ CANBAR HOLDINGS CORPORATION (5091327690) => Account Holder [CLOSED] ✓ CANBAR HOLDINGS CORPORATION 92 RUE DU RHONE C.P. 3580 1211 GENEVE 3 [ADMINISTRATIVE]

7.3 From the above, the Appellant's contention that BUP ID is only quoted into brackets next to the names of these people appears to be correct. In fact, as can be seen in the description field, just after "Nom" (name) "Code BUP" is written. For every item, the said BUP ID starts from '5090'. In the line next to the name field, "Client Profile Concerned is stated. Each of the "Client Profile Concerned starts with "5091". In the fourth last item in the above extract, the Name field and Client Profile Concerned field, both, describes "Flag Telecom Group Ltd." However, the numbers appearing against both the fields are different. Likewise, the last item in the above extract, is showing "Name" and "Client Profile Concerned" of Canbar Holdings Corporation with BUP ID 50902 60976

in the name field and Client Profile No. 50913 27690 in the Client Profile Concerned.

7.4 From the above, it is observed that for every person the BUP ID is only stated in the "Name" field. Nowhere in the "Client Profile Concerned" field, is there any reference of BUP ID. Most importantly, nowhere in the Base Note, the account like details such as date of creation, maximum balance, status, type, etc. is shown for any of the BUP ID. Had the BUP ID 50902 60976 been an account there is no reason for similar details, as given for the Client Profile No. 50913 27690, would not have been in the 'Base Note'. In fact, this is the reason that while the AO has made additions towards the peak balance and interest for the Client Profile No. 50913 27690 in the subsequent assessment years, he did not make any such addition for the BUP ID 50902 60976.

7.5 From the above facts, I am of the considered view that the BUP ID is like a Business Partner Identification No. which is akin to the Customer Relationship No. as referred to in India. The BUP ID could not be considered as a bank account and as such no addition could be made presuming some initial deposit is required to open such an account or that any maintenance charges is required to be incurred to maintain such an account.

7.6 A further reference can be made to the decision of Hon'ble Mumbai Tribunal in case of DCIT v. Kumar Rasiklal Mehta [2022] ITA No. 438 to 442/Mum/2022, wherein the Base Note showed BUP ID and Client Profile Code for entity in question. However, in that case the assessing officer had made addition u/s. 69A only for the client profile code and did not make any adjustment for the BUP ID. Therefore, the conclusion that the BUP ID is not a separate bank account is supported by this decision as well. Hence, such a presumption is fallacious.

7.7 Even otherwise, the AO does not appear to have given any specific basis for arriving at conclusion regarding requirement of initial deposit of \$1,00,000 and maintenance charges of \$300. Even it is assumed that it is a separate bank account opened with an initial deposit of \$1,00,000, in that case the initial deposit would have been reflected as a balance in the Base Note. However, no such details related to this BUP ID is reflected in the Base note. In such circumstances, I am of the view that the appellants contentions appears to be correct that no such separate bank account BUP ID 50901 60976" was in existence.

7.8 Further, any addition under section 69A requires the AO to record satisfaction that the explanation given by the assessee is not sufficient or true. The Appellant had explained before the AO that the BUP ID was not a separate bank account. There is no documentary evidence to suggest any initial deposit for opening such bank account. Therefore, Addition u/s. 69A cannot be made on the basis of conjectures and surmises. Accordingly, it is held that the addition made by the AO is incorrect and not sustainable in the eyes of law. Accordingly, the additions made by the AO, both, substantive and protective, are hereby deleted. Accordingly appeal on these grounds is ALLOWED."

6. During the course of appellate proceeding before us, the Id. DR submitted that case of the assessee was reopened on the basis of Base Note received from the French Government. The Id. DR referred the copy of Base Note placed at page 49-54 of the paper book and referred para 3 of the order of AO wherein reason for reopening the assessment was mentioned. She contended that in the letter submitted on 08.08.2011 by the authorized representative of the assessee only the information about the bank account having BUP ID 5091327690 in the name of Canbar Holdings Corporation was reported, however, as per information available with the AO on the basis of Base Note there were two bank account in the name of Canbar Holding Corporation namely, BUP ID 5090260976 and other account with BUP ID 5091327690. The Id. DR further submitted that Ld. CIT(A) was not justified in not considering the BUP ID 5090260976 as separate bank a/c in the name of Canbar Holdings Corporation in HSBC Bank Geneva. She also submitted that Id.CIT(A) was not justified in deleting the substantive and protective addition made on account of initial deposit, interest earned and maintenance cost in respect of alleged foreign bank a/c maintained with HSBC Bank Geneva having BUP ID 5091327690 on the ground that

peak balance of the said bank a/c was already offered by the legal heirs in AY 2006-07. The ld. DR also submitted that the assessee had not provided Consent Waiver Form in order to obtain further record from the said bank. The ld. DR also contended that ld. CIT(A) was not justified in holding that BUP ID 5090260976 was not the bank a/c no. but the business identification no. of the Canbar Holding Corporation. The ld. DR placed reliance on the decision of Renu T. Tharni Vs. DCIT of ITAT, Mumbai and stated that decision of ITAT Mumbai in the case of Kumar Rasikhlal Mehta is not applicable. The ld. DR also submitted that Ld. CIT(A) has ignored the fact that there was no rational in taxing the peak balance of the undisclosed bank a/c in assessment year 2006-07. The ld. DR also submitted that Base Note received from the French Government was never available with the AO at the time of earlier assessment proceedings and the foreign bank a/c with HSBC bank Geneva having BUP ID 5090260976 was undisclosed.

7. On the other hand, the ld. Counsel submitted that as per letter of Mr. M.K. Shetty there was only one a/c which was opened i.e. 5091137690 and this account was dormant and same was closed in 2006. The ld. Counsel further submitted that as alleged by the AO other account bearing no. BUP ID 5090260976 was not bank account and the same was only ID of the Canbar Holding Corporation relating to the a/c no. 509137690. The ld. Counsel also referred the different details mentioned on the copy of Base Note placed in the paper book showing that BUP ID 5090260976 was linked to name field and BUP ID 509137690

was related to client profile as account holder. The Id. Counsel has also placed reliance on the decision of ITAT Mumbai in the case of Kumar Rasikhlal Mehta. He also submitted that AO had not brought any material on record to establish that assessee had paid any initial deposit USD 100000 and maintenance charges USD 300 every year relating to bank account maintained by the assessee. The Ld.Counsel also submitted that assessment of peak balance of USD 55,44,640 by the AO in respect of the bank a/c 5091327690 had attained finality, therefore, the AO has made repetitive addition without any justification. The Ld. Counsel supported the order of the First Appellate Authority.

8. Heard both the sides and perused the material on record. Late Shri Dhirubhai H. Ambani passed away on 06.07.2002. One Mr. M.K. Shetty resident of London was the Attorney Holder of account with client ID 5091327690 in HSBC Geneva vide letter dated 25.07.2011 informed to Mr. Mukesh Ambani & Anil Ambani that sometime during 2000 Shri Dhirubhai H. Ambani had instructed him to set up a separate bank account in the sum approximately of USD 5 million, accordingly, Mr. M. K. Shetty has opened one account bearing no. 5091327690 in the name of Canbar Holding Corporation with HSBC Geneva. Thereafter vide letter dated 08.08.2011 the authorized representative of the assessee has brought to the notice of DGIT (Investigation), Mumbai that the Late Shri Dhirubhai H. Ambani instructed opening of foreign bank a/c with HSBC bank Geneva in the year 2000-01 bearing a/c no. 5091327690. The legal heirs of late Shri Dhirubhai H. Ambani have also filed return of income on

09.08.2011 for the assessment year 2006-07 declaring total income of Rs.24,73,46,660/- and paid taxes of Rs.14,03,59,731/-. In the return of income, the peak balance shown in the said bank account as on November 2005 of USD 55,44,646 has been offered as income from other sources. Thereafter the AO has reopened assessment for AY 2006-07 and passed order u/s 143(3) r.w.s 147 of the Act on 13.01.2012 accepting the income declared in the return filed on 09.08.2011. However, the AO subsequently, on the basis information received of Base Note alleged that assessee was having another bank a/c in the HSBC having BUP ID 5090260796 which has not been disclosed by the legal heirs. The AO opined on the basis of unspecified information of public domain that initial deposit USD 1,00000 and maintenance charges USD 300 were required for keeping such bank account. Accordingly, the AO has added the above referred deposit and maintenance charges amount to the total income of the assessee and assessed the same in the equal proportion in the name of Shri Dhirubhai H. Ambani, Shri Mukesh Ambani and Shri Anil Ambani on the substantive bases and assessed 2/3 amount on protective basis. The AO has completed the assessment u/s 143(3) r.w.s 147 of the Act for the assessment year 2001-02 to 2006-07. The detail of computation made by the assessee along with similar nature of addition made in all the years are reproduced as under:

I. AY 2001-02

Sr. No.	Description of item	BUP ID 5090260976 (Amount)
1.	Initial deposit	USD 100,000
2.	Maintenance Charges	USD 300
3.	Total	USD 100,300
4.	Substantive Additions (1/3 rd of Total amount)	Rs.15,59,331
5.	Protective Additions (2/3 rd of total	Rs.31,18,661

	amount)	
6.	Total Additions	46,77,992

II. AY 2002-03

Sr. No.	Description of item	Client Code No. 5091327690	BUP ID 5090260976
1.	Initial Deposit	USD 100,000	
2.	Deposit (Peak Balance)	USD 55,44,646	
3.	Maintenance Charges	USD 300	USD 300
4.	Interest	USD 114,358	
5.	Total	USD 57,59,304	USD 300
6.	Substantive Additions (1/3 rd of total amount)	Rs.9,22,24,662	Rs.4,880
7.	Protective Additions (2/3 rd of total amount)	Rs.18,73,69,357	Rs.9,760
8.	Total Additions	Rs.27,96,08,659	

III. AY 2003-04

Sr. No.	Description of item	Client Code No. 5091327690	BUP ID 5090260976
1.	Maintenance Charges	USD 300	USD 300
2.	Interest	USD 1,24,755	
3.	Total	USD 125,055	USD 300
4.	Substantive Additions (1/3 rd of total amount)	Rs.19,80,245	Rs.4,750
5.	Protective Additions (2/3 rd of total amount)	Rs.39,60,490	Rs.9,502
6.	Total Additions	Rs.59,69,239	

IV. AY 2004-05

Sr.No.	Description of item	Client Code No. 5091327690	BUP ID 5090260976
1.	Maintenance Charges	USD 300	USD 300
2.	Interest	USD 139,171	
3.	Total	USD 139,471	USD 300
4.	Substantive Additions (1/3 rd of total amount)	Rs.20,19,758	Rs.4,344
5.	Protective Additions (2/3 rd of total amount)	Rs.40,39,545	Rs.8,689
6.	Total Additions	Rs.60,72,336	

V. AY 2005-06

Sr. No.	Description of item	Client Code No. 5091327690	BUP ID 5090260976
1.	Maintenance Charges	USD 300	USD 300
2.	Interest	USD 1,39,725	
3.	Total	USD 140,025	USD 300
4.	Substantive Additions (1/3 rd of total amount)	Rs.20,42,264	RS.4,375
5.	Protective Additions (2/3 rd of total amount)	Rs.40,84,529	Rs.8,751
6.	Total Additions	Rs.61,39,919	

VI. AY 2006-07

Sr. No.	Description of item	Client Code No. 5091327690	BUP ID 5090260976
1.	Maintenance Charges	USD 300	USD 300

2.	Interest	USD 2,04,043	
3.	Total	USD 2,04,343	USD 300
4.	Substantive Additions (1/3 rd of total amount)	Rs. 30,38,224	Rs.4,460
5.	Protective Additions (2/3 rd of total amount)	Rs.60,76,480	Rs.8,921
6.	Total Additions	Rs. 91,28,085	

9. The AO in reopened assessment proceedings on the basis of Base Note opined that these were the two bank account in the name of Canbar Holding Corporation bearing BUP ID 5090260976 and 5091327610 as discussed.

10. The AO opined that aforesaid bank a/c bearing BUP ID 5090260976 was not disclosed by the assessee in the return of income filed. The AO was of the view that the initial deposit made to open these accounts along with maintenance charges and income generated on such account should have been disclosed in the return of income. In this regard the AO had neither disproved the submission of the assessee nor established that assessee had paid the alleged initial deposit amount to open the bank account along with maintenance charges. We have also gone through the Base note showing basic detail of client profile code of Canbar Holdings Corporation Ltd. The relevant extract of the base note is as under:

Nom Prénoms Date de naissance Lieu de naissance Profession		AMBANI MUKESH DHIRUBHAI AMBANI MUKESH / DHIRUBHAI 4/19/1957 MUMBAI Nationalité INDIA Sexe M Sit. Maritale		Evénements sur la personne Date création 7/18/2001 Dernière modification 2/27/2007 Date de clôture Motif de clôture		Identifiants internes BUP_SIFIG_PER_ID 5090160984 PER_ID 95384 PER_NO 180984	
Téléphones Personnel Portable Fax Professionnel				Pièce d'identité Numéro Nature Lieu d'établissement Pays Date			
ADRESSES POSTALES DE LA PERSONNE PHYSIQUE MR MUKESH AMBANI "SEA WIND" 39 CUFF PARADE 40021 MUMBAI INDIA [LEGAL ADDRESS] MR MUKESH AMBANI MAKER, CHAMBERS IV NARIMAN POINT MUMBAI INDIA [LEGAL ADDRESS]							
PROFILS CLIENT LIES A LA PERSONNE							
Nom du profil client Code profil client Date création du profil Date de clôture du profil Statut du profil Nature du profil Type de client Lien personne/profil client Info signatures Correspondance Liste des IBAN		FLAG TELECOM GROUP LIMITED 5091426311 12/28/2004 (non référencé) Incidil Nominal Société commerciale Atorney COLLECTIVE A 2 envoyée au client IBAN : CH08 0868 9050 9120 0319 6 / IBAN : CH03 0868 9050 9120 0318 8 / IBAN : CH85 0868 9050 9115 0644 5		Patrimoine constaté en Décembre 2005 (en \$) Patrimoine constaté en Décembre 2006 (en \$) Patrimoine max constaté sur la période (en \$)		507,910.00 4,312.00 21,110,345.00	
en 03/2005							
CANBAR HOLDINGS CORPORATION 5091327690 5/27/2001 1/5/2006 Cédure Nominal Société domiciliée Beneficial Owner (non référencé) envoyée au client IBAN : CH13 0868 9050 9111 1390 7		Détails du lien STRIKEN		Patrimoine constaté en Décembre 2005 (en \$) Patrimoine constaté en Décembre 2006 (en \$) Patrimoine max constaté sur la période (en \$)		3,901.00 (non référencé) 5,544,846.00	
en 11/2005							
AUTRES PERSONNES LIEES AUX PROFILS CLIENTS							
Nom (code BUP) Profils clients concernés		AMBANI ANIL (5090160983) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY A / GROUP A / SEE MANNER OF SIGN. IN THE FILE] CANBAR HOLDINGS CORPORATION (5091327690) => Beneficial Owner [CLOSED / BENEFICIAL OWNER]					

Première adresse Nom (code BUP) Profils clients concernés Première adresse	MR ANIL AMBANI "SEA WIND" 39 CUFF PARADE MUMBAI 400021 [DOMICILE]
Nom (code BUP) Profils clients concernés Première adresse	VANKAT RAMESH (5090185806) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY F / GROUP B / SEE MANNER OF SIGN. IN THE FILE] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	TANDON SANDEEP (5090181679) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [STRIKEN] MR SANDEEP TANDON 4A SHREE VIJAYA BHARAN 2B ALTMOUNT ROAD GAMDEVI 40026 MUMBAI INDIA [LEGAL ADDRESS]
Nom (code BUP) Profils clients concernés Première adresse	MALHOTRA HARSH KUMAR SATPAL (5090182141) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY I / GROUP B / SEE MANNER OF SIGN. IN THE FILE] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	DOST PARMINDER PAL SINGH (5090182142) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY E / GROUP B / SEE MANNER OF SIGN. IN THE FILE] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	MODI MANOJ HARJIVANDAS (5090182143) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [STRIKEN] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	RAMACHANDRAN RAJA KOLUMUM (5090182144) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [STRIKEN] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	SUBRAMANIAM GOPALAKRISHNA (5090182152) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY H / GROUP B / SEE MANNER OF SIGN. IN THE FILE] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	JOSHI VISHWAS VINAYAK (5090182153) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY G / GROUP B / SEE MANNER OF SIGN. IN THE FILE] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	PANDA MADHUSUDANA SIVAPRASAD (5090182154) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [STRIKEN] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	KHURANA BHAGWAN DASS (5090182156) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [ATTORNEY D / GROUP A / SEE MANNER OF SIGN. IN THE FILE] (non référencé)
Nom (code BUP) Profils clients concernés Première adresse	MATHRUBOOTHSWARAN SUNDAR (5090182157) FLAG TELECOM GROUP LIMITED (5091426311) => Attorney [STRIKEN] (non référencé)
Nom (code BUP)	MC CORMACK EDWARD (5090181034)

11. In the Base note pertaining to BUP ID 5091327690 there was also BUP ID 5090160976 appeared under the heading "Autres Personnes Liees Aux Profiles clients which in English mean that other people linked to client profile". On perusal of the base note it is noticed that there is one name (Code BUP)

mentioned against the name field which start with '5090' and there was another ID mentioned against client profile (as code profil client) which start with '5091', irrespective of the profile name. Further on perusal of the base note it is noticed that nowhere any information has been provided showing that there was requirement of making any initial deposit of USD1,00000 and maintenance charges of USD 300. The Base Note also described that profile client as 5091327690 is the bank A/c showing the maximum amount of balance in the bank A/c at USD 55,44,645/- as on 11/2005.

11.1 In the Base Note alongwith name of the account holder under the head profile client the name of related parties with code BUP has also been provided. Accordingly, in the case of Canbar Holding Corporation its name (code BUP) is 5090260976. Similarly, in the base note in the case of FLAG Telecom Group its account (profile code) is 509142631 and there are a number of name (code BUP) start with 5091 of the various connected parties i.e. Venkat Ramesh Sandeep Tandon, Harsh Kumar, Satpal Malhotra etc. We do not find any merit in the action of the assessing officer in treating the name id of 5090260976 as account and adding the amount of initial deposit and maintenance charges merely on presumption basis purely on the pretext that assessee had not signed consent waiver without controverting the various submission and relevant supporting material as discussed filed by the assessee. It is also evident from the Base Note that account (profile code) start with 5091 that is 5091327690 and connected name start with 5090 that is

5090260976 in respect of Canbar Holding Corporation. In respect of 5091327690 the AO had already assessed peak balance of USD 55,46,646 mentioned in the base note vide order dated 13.01.2012 passed u/s 143(3) r.w.s. 147 of the Act for the A.Y. 2006-07.

11.2 We have also perused the decision of ITAT in the case of DCIT Vs. Rasiklal Mehta (2022) (ITA No. 438 to 442/Mum/2022) wherein addition was only made u/s 69A in respect of client profile code without making any adjustment of name BUP ID as also discussed in the order of Ld. CIT(A). In the case of DCIT vs Kumar Rasiklal Mehta (2022) ITA No. 438 to 442/Mum/2022 as referred by the ld. CIT(A) in that case addition was only made for client profile irrespective of the similar other particulars like the case of the assessee available in the base note. In that case ITAT also held that addition of initial deposit was made on surmises which stand merged in the balances shown carried forward. It is clear from the facts and material discussed that (BUP id) 5090260976 was merely a business partner identification number for the entity and there existed no separate account.

11.3 We find the decision of ITAT, Mumbai in the case of Renu T Tharani vs DCIT (International Taxation) (2020) 117 taxmann.com 84 (Mumbai) relied upon by the ld. DR are distinguishable from the case of the assessee. In that case the assessee was clearly beneficial owner of deposit in foreign bank account showing Rs. 196 crores peak amount based on Base Note. In that case the assessee has not explained the contents of

the Base Note and claimed that assessee was a non-resident and was chargeable to tax only on income which accrues or arises in India. Whereas in the case of the assessee it was explained after referring the relevant material that customer profile 5091327690 for account holder Canbar Holding Corporation mentioned in the Base Note showing maximum peak balance of USD 55,46,646 has already been taxed in the A.Y. 2006-07 vide order dated 13.01.2012 u/s 143(3) r.w.s. 147 of the Act and the BUP ID 5090260976 was the name id of Canbar Holding Corporation linked to a/c no. 5091327690 and not another bank account as discussed supra in the order.

11.4 Looking to the above facts and finding we don't find any infirmity in the decision of Ld. CIT(A), therefore, ground of appeal 1 to 3 of the revenue are dismissed. In the result, the appeal of the Revenue is dismissed.

ITA No. 4324/Mum/2024 AY: 2002-03

12. The grounds of appeal filed by the Revenue are as under:

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in deleting the substantive and protective additions made on account of initial deposit made and interest earned by the assessee in the foreign bank account having BUP ID 5091327690 and the maintenance cost incurred on the foreign bank accounts having BUP IDs 5091327690 & 5090260976 maintained in HSBC Bank, Geneva by disregarding the fact that the foreign bank accounts were not disclosed in his Return of Income?"

2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified in not considering the BUP ID as account number, by placing reliance on the decision of the ITAT Mumbai in the case of DCIT vs Kumar Rasiklal Mehta [2022] ITA No. 438 to 442/Mum/2022; however in the case of Kumar Rasiklal (supra), the Hon'ble ITAT

Mumbai had not deliberated on whether BUP ID is to be considered as a separate bank account number or not."

3. Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) is justified in deleting the substantive and protective additions made on account of initial deposit in the foreign bank account having BUP ID 5091327690 and interest earned by the assessee in the foreign bank account having BUP ID 5091327690 and maintenance cost incurred on the foreign bank accounts having BUP IDs 5091327690 & 5090260976 maintained in HSBC Bank, Geneva by disregarding the fact that the assessee had refused to give consent to the HSBC Bank, Geneva in favour of the department, so that necessary record could be received from the HSBC Bank and the necessary additions would have been made in the hand of the assessee and his legal heir.

4. The appellant prays that the order of the CIT(A) on the above ground be set aside and that of the Assessing Officer be restored.

5. The appellant craves leave to amend or alter any ground or add a new ground which may be necessary."

13. The assessee has filed return of income declaring total income of Rs.8,99,65,840/- on 29.07.2002. The case of the assessee was reopened u/s 147 of the Act by issuing of notice u/s 148 of the act on 26.03.2019. In the reason recorded for reopening the AO has mentioned about the assessment year 2001-02 which has been reopened on the basis of information received as per Base Note that assessee was beneficiary of foreign bank account with HSBC bank. The AO was also of the view that there were two bank accounts in the name of Canbar Holding Corporation having BUPID 5090260976 and BUP ID 5091327690. The AO has also referred the submission made by the authorized representative before the DGIT (Inv) Mumbai that the assessee late Shri Dhirubhai H. Ambani had opened foreign bank account with HSBC Bank Geneva in the year 2001-02 with BUP ID 5091327690.

13.1 Similar to assessment year 2001-02 as discussed supra after referring unspecified information available in the public domain of initial deposit of USD 1,00000 and maintenance charges of USD 300 along with estimated interest earned in respect of account no.5091327690 were added to the total income of the assessee. The AO has also made double addition by adding the peak deposit of USD 55,44,646 mentioned in the base note in respect of bank account bearing no. 5091327690 without considering that same had already been taxed in the assessment year 2006-07 u/s 147 r.w.s 143 of the act as discussed. Similarly, as discussed while adjudicating the appeal for A.Y.2001-02 vide ITA 4331/M/2024 as supra after treating the name id of 5090260976 as account the assessing officer has added the amount of maintenance charges merely on presumption basis.

13.2 On similar issue and identical fact, we have dismissed the appeal filed by the assessee vide ITA No.4331/Mum/2024 AY: 2001-02 in respect of initial deposit and maintenance charges as discussed supra in this order, therefore, applying the finding of the same mutatis mutandis the grounds of appeal relating to initial deposit and maintenance charges of the Revenue are dismissed and other addition of deposit on the basis of peak balance of USD 5544646 along with estimated interest for client profile no. 509327690, we find that same amount has already been assessed on the basis of peak in the Assessment Year 2006-07 vide order dated 13.01.2012 u/s 143(3) r.w.s. 147 of the Act

as discussed, therefore, AO has made the same addition without any relevant reason is clearly amount to a double addition of the same amount and the interest amount has been estimated purely on assumption basis without substantiating with any relevant material. In the case DCIT vs Kumar Rasiklal Mehta (2022) ITA No. 438 to 442/Mum/2022 as referred by the ld. CIT(A) as discussed while adjudicating appeal for A.Y.2001-02 the ITAT also held that addition of initial deposit was made on surmises which stand merged in the balances shown carried forward. Therefore, we do not find any reason to interfere in the decision of Ld.CIT(A). In view of the facts and findings as discussed all the grounds of appeal filed by the Revenue 1 to 4 of the appeal are dismissed. Therefore, we do not find any merit in the appeal of the Revenue and the same is dismissed.

ITA No.4348/Mum/2024 AY: 2003-04

14. On similar issue on identical fact, we have dismissed the appeal filed by the assessee vide ITA No.4331/Mum/2024 AY: 2001-02 and vide ITA No. 4324/Mum/2024 AY: 2002-03 as discussed supra in this order, therefore, applying the finding of the same mutatis mutandis this appeal of the revenue is also dismissed.

ITA No.4347/Mum/2024 AY: 2004-05

15. On similar issue on identical fact, we have dismissed the appeal filed by the assessee vide ITA No.4331/Mum/2024 AY: 2001-02 and vide ITA No. 4324/Mum/2024 AY: 2002-03 as discussed supra in this order, therefore, applying the finding of

the same mutatis mutandis this appeal of the revenue is also dismissed.

ITA No.4346/Mum/2024 AY: 2005-06

16. On similar issue on identical fact, we have dismissed the appeal filed by the assessee vide ITA No.4331/Mum/2024 AY: 2001-02 and vide ITA No. 4324/Mum/2024 AY: 2002-03 as discussed supra in this order, therefore, applying the finding of the same mutatis mutandis this appeal of the revenue is also dismissed.

ITA No.4345/Mum/2024 AY: 2006-07

17. On similar issue on identical fact, we have dismissed the appeal filed by the assessee vide ITA No.4331/Mum/2024 AY: 2001-02 and vide ITA No. 4324/Mum/2024 AY: 2002-03 as discussed supra in this order, therefore, applying the finding of the same mutatis mutandis this appeal of the revenue is also dismissed.

18. In the result all the appeal of the Revenue as supra are dismissed.

Cross Objection Nos. 215/M/2024 to 220/Mum/2024

19. Since all the six cross objections filed by the assessee are based on identical issues on similar facts therefore these objections are adjudicated together by taking the cross objection no.215/M/215 as lead and its findings will be applied mutatis mutandis to the other cross objections.

Cross Objection No. 215/M/2024

20. The cross objection filed on the validity of reopening assessment is as under;

“1. Erred in not quashing the re-assessment order dated 29th September 2019 passed u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 ("the reassessment order").

2. Erred in not quashing the reassessment order by holding that the notice issued u/s. 148 was barred by limitation, as the period of limitation u/s. 149(1)(b) had expired on 31st March 2008, and as such clause (c) to section 149(1) of the Act could not be applied to the assessment year in question as the same was introduced prospectively, vide Finance Act, 2012.

3. Erred in not holding that the reassessment proceedings were ultra vires in absence of there being any new tangible material in the hands of the assessing officer.

4. erred in not holding that the reassessment proceedings were initiated without independent application of mind and without affording any opportunity to the Appellant for cross examination of the author of the information relied upon by him, rendering the entire proceedings void ab initio.

5. failed to appreciate that the re-assessment proceedings were void in absence of any income which escaped assessment as -

i) BUP ID 5090260976 was not a bank account; and

ii) the peak balance of A/c. no. 5091327690 (being Client Profile Code as per the base note) was already offered and assessed to tax in the hands of Late Ambani in AY 2006-07.

The respondent craves leave to add, to amend, vary or alter including by substitution any of the grounds of cross objections as they or their representatives may think fit and craves leave to consider all the grounds of cross objections as without prejudice to each other.”

21. Before us the ld. Counsel submitted that reopening of assessment from A.Y. 2001-02 to A.Y. 2005-06 was time barred

as section 149(1)(c) could not be applied to the assessment which had attained finality before the date of operation of clause (c) i.e. 01.07.2012. The ld. Counsel has also placed reliance on the various judicial pronouncement as per the copies of decision placed in the paper book. He also submitted that in respect of deposit in HSBC Bank A/c 5091327690 assessment has already been duly completed for the A.Y. 2006-07 and the observation of initial deposit and maintenance are merely based on assumption without any relevant material.

22. On the other hand, the ld. DR has referred the amended provision of section 149 of the Act, 1961 and contended that same shall be applicable for any assessment year beginning on or before the 1st day of April, 2012.

23. Heard both the sides and perused the materials on record. We have perused the provision of section 149 as amended vide Finance Act, 2012 through which reopening upto sixteen years is enabled in cases where income in relation to any asset located outside India chargeable to tax has escaped assessment. As per the clarification provided in the Explanation to section 149 the amended provision would also apply to any assessment year on or before 1st April, 2012.

The ld. Counsel by referring various judicial pronouncement contended that amended provision would apply to any assessment year on or before 1st April, 2012 provided the period of limitation under the pre-amended provision is not expired as

on 1st July, 2012. Based on the amended provisions of section 149(1) the AO reopened the assessment for the assessment year under consideration which had already attained finality on 31st March, 2008. It was contended that the assessment which has already attained finality cannot be reopened on the basis of subsequent amendment.

24. We have perused the decision of Hon'ble High Court to Delhi in the case of Brahm Dutt vs ACIT (2018) 100 taxmann.com 324 (Delhi) wherein it is held that amendment to section 149 by Finance Act, 2012 which extended limitation for reopening assessment to sixteen years could not be restored for reopening of concluded proceedings in respect of which limitation had already expired/lapsed before amendment became effective. In that decision the case of K.M. Sharma vs ITO (2002) 254 ITR 772 (SC) was also referred wherein the Hon'ble 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. Similarly, the ITAT Mumbai in the case of DCIT vs Smt. Deval D Thakkar also held that amendment to section 149 by Finance Act 2012 which extended limitation for reopening assessment to sixteen years could not be restored for reopening proceedings concluded before amendment came into effect. On the similar proposition the ITAT Mumbai in the case of DCIT vs

Sh. Suryakant C. Suchak vide ITA No. 965/M/2020 dated 06.04.2023 and in the case of DCIT vs Smt. Indira D. Thakkar vide ITA No. 969/M/2020 dated 14.02.2022 have taken the similar view after following the ratio laid by the Hon'ble Delhi High Court in Brhma Dutt case as discussed supra and SLP filed by the department before the Hon'ble Supreme Court was dismissed vide order dated 05.07.2019. Following the decision of the Hon'ble Delhi High Court and the decision of the ITAT Mumbai as discussed the cross objection no.2 that limitation period expired for reopening the assessment which had already attained finality before the amendment is allowed.

25. Therefore, following the settled judicial findings as discussed we consider that reopening of assessment for A.Y. 2001-02 to A.Y. 2005-06 are not valid. Therefore, cross objection no. 2 filed for A.Y. 2001-02 to A.Y. 2005-06 are allowed.

The assessee has filed identical cross objection in all the years on the ground that reassessment proceedings were void in absence of any income which escaped assessment as the peak balance of A/c No. 5091327690 (being client profile code as per base note) was already offered and assessed to tax in the hands of late Shri Dhirubhai Ambani in A.Y. 2006-07. In this regard, we find that reopening of assessment in respect of client code no. 5091327690 is not valid since the same has already been reopened and taxed in A.Y. 2006-07 vide order dated 13.01.2012 passed u/s 143(3) r.w.s. 147 of the Act, therefore, similar cross objection filed for A.Y. 2001-02 to A.Y. 2006-07 are allowed.

26. The cross objections filed for A.Y. 2001-02 to A.Y. 2006-07 are partly allowed as discussed and the other cross objections filed by the assessee become academic and not required adjudication.

27. In the result all the appeals of the revenue are dismissed and cross objections filed by the assessee for the assessment years 2001-02 to assessment years 2005-06 are partly allowed and cross objection for assessment year 2006-07 is also partly allowed.

Order pronounced in the open court on 09.01.2025

Sd/-
(Sunil Kumar Singh)
Judicial Member

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai
Date 09.01.2025
Rohit: PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति // True Copy //
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench, Mumbai.