

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH MUMBAI

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA Nos. 5141, 5140, 5123, 5121, 5118 and 5117/MUM/2024
Assessment Years: 2001-02 to 2006-07**

Deputy Commissioner of Income Tax, Central Circle – 8(2), Mumbai	Vs.	Mukesh D. Ambani 39, Altamount Road, Cumbala Hill, SO, Mumbai – 400 026 (PAN : AADPA3705F)
(Appellant)		(Respondent)

**C.O. Nos. 233, 235, 234, 236, 237 and 238/MUM/2024
(In ITA Nos. 5141, 5140, 5123, 5121, 5118 and
5117/MUM/2024)
Assessment Years: 2001-02 to 2006-07**

Mukesh D. Ambani 39, Altamount Road, Cumbala Hill, SO, Mumbai – 400 026 (PAN : AADPA3705F)	Vs.	Deputy Commissioner of Income Tax, Central Circle – 8(2), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri Nimesh Vora and
Ms. Moksha Mehta, ARs
Revenue : Smt. Sanyogita Nagpal, CIT DR

Date of Hearing : 21.01.2025
Date of Pronouncement : 31.01.2025

ORDER

PER BENCH:

These six appeals filed by the Revenue and corresponding six Cross Objections filed by the assessee are against the order of Ld. CIT(A)-50, Mumbai, dated 02.08.2024 passed against the assessment order of DCIT-3(3)(1)/DCIT-Central Circle – 8(2), Mumbai, u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) for AYs 2001-02 to 2006-07. Since identical issue on similar facts are involved in these appeals and cross objections, therefore, for sake of convenience all these appeals are adjudicated by taking ITA No.5141/Mum/2024 for Assessment Year 2001-02 and Cross Objection No.233/Mum/2024 as lead case and its finding will be applied *mutatis mutandis* to the other appeals and cross objections, as applicable.

ITA No. 5141/Mum/2024

2. Grounds taken by the Revenue are reproduced 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 addition made on account of deposits made by the assessee and on account of interest received by the assessee in the foreign bank account in HSBC Bank Geneva, by disregarding the fact that the assessee had opened foreign bank accounts and had not disclosed the same 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 IDs as account numbers, by disregarding the fact that the same information received in the base note received from the Government of France under Indo France DTAA?"

"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 deposits made by the assessee and on account of interest received by the assessee in the foreign bank account 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."

3. For Assessment Year 2001-02, assessee filed his return of income on 30.07.2001, reporting total income at Rs. 4,53,93,440/-. Notice u/s 148 was issued on 23.03.2018. Reasons for reopening of the assessment u/s. 147 of the Act as mentioned by the ld. Assessing Officer is extracted below:

“The assessee, Shri Mukesh D. Ambani filed his return of income for the A.Y.2001-02 on 30.07.2001 declaring total income of Ra 4,53,93,440 as an individual resident in India. The said return was duly processed u/s 143(1)(a) of the Income Tax Act, 1961 on 19.03.2002. As per this return of income for AY 2001-02 the receipt of Income was from Salary, House Property income, Income from Other Sources and Short Term Capital Gains. No scrutiny proceeding was 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 before DGIT(INV), Mumbai stating that late Shri Dhirubhai irachand Ambani had opened 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 MK 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 US \$ 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 number 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, of Shri. Mukesh D. Ambani (BUP ID 5090160984) it is clear that there are two bank accounts in the name of Canbar Holdings Corporation namely BUP ID 5090260976 and BUP ID 5091327690. Assessee the beneficial owner of HSBC Bank Foreign Account having Client / Profile (BUP ID 090260976) held in the name of Canbar Holdings Corporation. The previous year relating to the AY 2001-02 covers the period from 01/04/2000 to 31/03/2001. Thus, during the A.Y 2001-02, the assessee held foreign bank account which is an asset located outside India as provided for in proviso 2 to sec. 147 of 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. The initial deposits made to open the bank account or thereafter in the relevant previous year along with income generated due to being the beneficial owner 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 1,00,000 (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 sources 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 the 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 M K Shetty in his letter dated 25/07/2011 had mentioned that a separate account in the name Carbar Holding Corporation (BUP ID 5091327690) was opened with sum 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, it is seen 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.*

3.1. As per reasons to believe extracted above, on the basis of the aforesaid letter of Mr. M.K. Shetty and a 'Base Note' of assessee as available with the ld. Assessing Officer (hereinafter referred to as the 'Base Note'), it was found that there were two bank accounts in the name of Canbar Holdings Corporation (CHC) having BUP ID 5090260976 and BUP ID 5091327690 (even though, as per base note, 5091327690' is not BUP ID but it is client profile code), held in the name of CHC. According to ld. Assessing Officer, a deposit of USD 1,00,000 (approx.) is to be made to open such an account and cost of about USD 300 per year is incurred for maintenance. It was further observed from the Base Note of the assessee that customer profiles of Flag Telecom Grp Ltd ("Flag Telecom") and First Corporate Director Inc. ("FCDI") were

related to the assessee. Since, the assessee did not disclose these bank accounts in his return of income for AY 2001-02, income therefrom escaped assessment.

3.2. Assessee objected to the re-opening of the assessment, vide letter dated 06.08.2018, on the following grounds:

a) Assessee did not hold any bank account in HSBC Bank, Geneva, in his name.

b) Assessee was not aware of any understanding between his deceased father and Mr. M.K Shetty

c) Copy of Base Note, its source and authenticity were not provided by the Id. Assessing Officer

d) In order to avoid undue adverse publicity of the deceased, Shri Dhirubhai H Ambani (Shri DHA), legal heirs (i.e. the assessee and his brother Shri Anil D. Ambani) voluntarily paid taxes together with interest for the peak balance in bank account, with ID 50913 27690 in HSBC Bank, in AY 2006-07. Assessment u/s. 143(3) r.w.s. 147 was duly completed for the said assessment year 2006-07, wherein peak balance was taxed

e) HSBC Bank, Geneva, vide its letter dated 30.06.2011, confirmed that the assessee did not have any account or beneficial interest in any account with HSBC Bank, Geneva. Copy of this letter was furnished before the Id. Assessing Officer

f) As per international banking practice, every entity is required to have a personal ID which would be BUP ID which is similar to the

practice by Indian Banks which have Customer Relationship Number (CRN). The BUP ID 50902 60976 is a personal ID and other ID 50913 27690 is the ID of the Bank account

g) The information about the initial deposit and annual expenditure requirement for account maintenance, is mere a conjecture and surmise (Assessee also requested to provide such a source of information)

h) There is no documentary evidence that the bank account was opened in financial year relevant to assessment year 2001-02

3.3. Ld. Assessing Officer concluded the reassessment proceedings by issuing a disposal order on 22nd November 2018, rejecting the objections to reopening of assessment. He then, proceeded to assess alleged initial deposit of USD 100,000 and USD 300 for alleged maintenance expenses u/s 69A of the Act as unexplained money for the captioned assessment year, in respect of bank account in HSBC Bank, Geneva, in the name of CHC, having BUP ID 5090260976, on alleged ground that the legal heirs failed to discharge their onus and it is proved that the legal heirs were beneficial owners of the said bank account. Ld. Assessing Officer further alleged that assessee failed to discharge his onus either by submitting the complete bank statement or the Consent Waiver Form, thus, it is proved that he was beneficial owner of undisclosed foreign bank accounts, having BUP ID 5090260976, Client and Profile No. 5091327090. He further, stated that initial deposit of USD 100,000 was required to open an account and cost of USD 300 would be incurred per year for maintenance.

3.4. Ld. Assessing Officer presumed share of interest in the bank accounts in question as equal amongst Late Shri DHA and the two legal heirs. Accordingly, he considered one third proportion to assess income in respect of the said bank accounts, in the year under consideration. Accordingly, he made additions u/s. 69A of the Act as unexplained money for the captioned Assessment Year, to the total income of the assessee, as under:

Sr .N o.	Particulars	Reference Amount	Substantive Additions	Protective Additions
			Assessee's share (1/3rd)	Others' share (2/3rd)
For the bank account with allèged BUP ID 50902 60976				
1.	Maintenance Charges	USD 300 (Rs.13,992)	USD 100 (Rs.4664)	USD 200 (Rs. 9328)
2.	Initial Deposit	USD 100,000 (Rs. 46,64,000)	USD 33,333 (Rs. 15,54,667)	USD 66,667 (Rs. 31,09,333)
			USD 33,433 (Rs.15,59,331/-)	USD 66,867 (Rs.31,18,661/-)

3.5. As can be seen in para 16 to 19 of the impugned assessment order, ld. Assessing Officer has held that the alleged initial deposit of USD 100,000 and annual expenses of USD 300 is assessable amongst the assessee, his deceased father and assessee's brother in equal proportion. While making substantive additions, ld. Assessing Office held that since the assessee did not discharge onus of explaining exact share as beneficial owner of the bank accounts in question, and that since no bank statement was furnished or even no consent waiver form was signed, in order to protect interest of revenue, the balance 2/3 of the above amounts is also assessed in the hands of the assessee on

protective basis as unexplained u/s 69A of the Act. Ld. Assessing Officer presumed equal share of interest amongst Late Shri. DHA and the legal heirs. Accordingly, 1/3 of the interest on the deposit for A/c No. 5091327690 and maintenance charges for both the alleged bank accounts, i.e., one with BUP ID 5090260976 and another being client profile no. 5091327690, has been assessed in the hands of the assessee substantively. However, the balance 2/3 share for the legal heirs have also been assessed in the hands of the assessee protectively. In the case of both the legal heirs also 1/3 amount is taxed on substantive basis and balance 2/3 amount is taxed on protective basis. Thus, the same amount is taxed three times. Details of computation made by assessee along with similar nature of addition made in all the six years are reproduced below:

3.6. It is an undisputed fact that assessment of Late Shri DHA, for AY 2006-07, was reopened for bringing to tax, the peak balance for bank account bearing No. 5091327690. The said peak balance was not only offered to tax but also assessed as income by the ld. Assessing Officer in Assessment Year 2006-07. For this assessment, reasons recorded for reopening of assessment in case of Late Shri. DHA recorded by ACIT 3(3) on 23.11.2011 are worth taking note. The same reads as under:

"Information has been received regarding existence of a bank account in the name of Canabar Holdings Corporation in HSBC Bank, Gamevast-50813270902 This account has a peak balance of USD 55,44,646.99 as on November 2005. One Mr. M.K. Shetty resident of London is the Attorney Holder of that account and Mr. Mukesh D. Ambani and Mr. Anil D. Ambani are shown to be beneficiaries of the account. It has also been stated that Mr. M.K. Shetty has set up this account for the benefit of Late Mr. Dhirubhai Ambani in the year 2000-01. After the death of Mr. Dhirubhai H. Ambani the names of his two sons Mr. Mukesh D. Ambani and Mr. Anil D. Ambani have been included as beneficiaries. As such it appears, that Mr. Dhirubhai Ambani was the beneficiary and the balance in the said account has devolved on his two legal heirs Mr. Mukesh D. Ambani and Mr. Anil D. Ambani. It is also seen from the information forwarded to me that vide letter dated 30th June 2011, HSBC PVL Bank, Geneva has informed Mr. Mukesh D. Ambani that "we can confirm that neither at the time of data theft nor today, you or RIL have been or are the holder or from our records, the beneficial owner of any account with our book in Switzerland"

2. *It is also seen that no original return for period under question, i.e., A.Y. 2006-07 has been filed by Mr. Dhirubhai Ambani as he had passed away before the relevant previous year. However, a return for A.Y. 2006-07 declaring income of Rs. 24,73,46,660/- (with SA Tax has been filed in name of Late Shri Dhirubhai H. Ambani by his two sons on 09.08.2011 in my office, in their capacity as Legal Heirs.*

3.7. It is important to note that Base Note referred by the ld. Assessing Officer for the purpose of making addition in all the three cases, viz. Late shri DHA, the assessee and Shri Anil D. Ambani is the same. It is from this common document that additions have been made in the

hands of all the three assessees, part of it as substantive and part of it as protective.

4. Issue in the present set of appeals before us had already come up before the Co-ordinate Bench of ITAT, Mumbai in the case of deceased father of the assessee, Late Shri Dhirubhai Hirachand Ambani in appeals for the same six Assessment Years 2001-02 to 2006-07, filed by the Revenue vide ITA Nos. 4324, 4331 and 4345 to 4348/Mum/2024 and Cross Objections by Late Shri DHA vide CO Nos. 215 to 220/Mum/2024, consolidated order pronounced on 09.01.2025. Facts and circumstances as well as the basis for the purpose of making additions by the Id. Assessing Officer are identical to the present case which have been elaborately dealt by the Co-ordinate Bench covering all the aspects of the case. In this decision, Coordinate Bench has extensively and elaborately explained the aspects of BUP ID and Bank Account No. as reflected in the Base Note so as to read the same in proper perspective and brought clarity on the manner Id. Assessing Officer has inferred the same. Having gone through this decision on which there is nothing more to add to and re-invent the wheel, in our considered view, present case in hand before us is squarely covered by the said it.

4.1. Facts, observations and findings, all three contained in this order of the Coordinate Bench in the case of Late Shri DHA are reproduced for ease of reference so as to avoid any kind of duplicity.

“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 Dhirubhai Hirachand Ambani 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 US\$ 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 Canbar Holdings Corporation (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 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 \$)	5,544,645.00 en 11/2005
Date de clôture du profil	1/9/2006 ✓		
Statut du profil	Ciblé		
Nature du profil	Nominatif		
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 : CH13 0688 6050 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 décembre 2005” meaning thereby “Assets (account balance) noted in December 2005”, the same for 2006; and
- “Patrimoine max constaté sur la période”, 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]
	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]
	Nom (code BUP) Profils clients concernés Première adresse	PANDA MADHUSUDANA SIVAPRASAD (5090182154) FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [STRIKEN]
	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]
	Nom (code BUP) Profils clients concernés Première adresse	MATHRUBOOTHESWARAN SUNDAR (5090182157) FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [STRIKEN]
	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]
	Nom (code BUP) Profils clients concernés Première adresse	GALLACHER PATRICK TERENCE (5090181036) FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [ATTORNEY C / GROUP A / SEE MANNER OF SIGN. IN THE FILE]
	Nom (code BUP) Profils clients concernés Première adresse	HSBC PRIVATE BANKING (GSAD) LONDON (5090271542) FLAG TELECOM GROUP LIMITED [5091426311] => Lettler of authorisation
	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. (5090248788) CANBAR HOLDINGS CORPORATION [5091327690] => Attorney [CLOSED / ATTORNEY A] FIRST CORPORATE DIRECTOR INC. P.O. BOX 613 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 ld. DR submitted that case of the assessee was reopened on the basis of Base Note received from the French Government. The ld. 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 ld. 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 ld. 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 ld. 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 1,00,000 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 amount)	Rs.31,18,661
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 AMBANI MUKESH DHIRUBHAI Prénoms MUKESH / DHIRUBHAI		Nationalité INDIA		Événements sur la personne Date création: 7/18/2001 Dernière modification: 2/27/2007		Identifiants internes BUP_SIFIC_PER_ID: 5090160984 PER_ID: 96384 PER_NO: 189984	
Date de naissance 4/19/1957 Lieu de naissance MUMBAI Profession		Sexe M SR. Maritale		Date de clôture Motif de clôture			
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 CLIFF PARADE 40021 MUMBAI INDIA [LEGAL ADDRESS] MR MUKESH AMBANI MAKER CHAMBERS IV NARIMAN POINT MUMBAI INDIA [LEGAL ADDRESS]							
PROFILS CLIENT LIÉS À LA PERSONNE							
Nom du profil client FLAG TELECOM GROUP LIMITED Code profil client 5091426311 ✓ Date de création du profil 12/29/2004 Date de clôture du profil [non référencé] Statut du profil Inactif Nature du profil Nominal Type de client Société commerciale Lien personnel/profil client Attorney Info signatures COLLECTIVE A 2 Correspondance envoyée au client Liste des IBAN IBAN : CH08 0868 9050 9120 0319 6 / IBAN : CH30 0868 9050 9120 0318 8 / IBAN : CH85 0868 9050 9115 0644 5		Patrimoine constaté en Décembre 2005 (en \$) 907,910.00 Patrimoine constaté en Décembre 2006 (en \$) 4,072.00 Patrimoine max constaté sur la période (en \$) 21,140,345.00 en 03/2005					
Nom du profil client CANBAR HOLDINGS CORPORATION Code profil client 5091327690 ✓ Date de création du profil 6/27/2001 Date de clôture du profil 1/9/2006 ✓ Statut du profil Clôturé Nature du profil Nominal Type de client Société domiciliée Lien personnel/profil client Beneficial Owner Info signatures [non référencé] Correspondance envoyée au client Liste des IBAN IBAN : CH13 0868 9050 9111 1390 7		Patrimoine constaté en Décembre 2005 (en \$) 3,901.00 Patrimoine constaté en Décembre 2006 (en \$) [non référencé] Patrimoine max constaté sur la période (en \$) 5,544,645.00 en 11/2005					
AUTRES PERSONNES LIÉES AUX PROFILS CLIENTS							
Nom (code BUP) AMBANI ANIL (5090160983) ✓ Profil clients concernés 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 MR ANIL AMBANI "SEA WIND" 39 CLIFF PARADE MUMBAI 40021 [DOMICILE]	
Nom (code BUP) VANIKAT RAMESH (5090185806) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [ATTORNEY F / GROUP B / SEE MANNER OF SIGN. IN THE FILE] Première adresse [non référencé]	
Nom (code BUP) TANDON SANDEEP (5090181079) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [STRIKEN] Première adresse MR SANDEEP TANDON 4A SHREE VIJAYA BHARAN 2B ALTAMOUNT ROAD GAMDEVI 40026 MUMBAI INDIA [LEGAL ADDRESS]	
Nom (code BUP) MALHOTRA HARSH KUMAR SATPAL (5090182141) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [ATTORNEY I / GROUP B / SEE MANNER OF SIGN. IN THE FILE] Première adresse [non référencé]	
Nom (code BUP) DOST PARMINDER PAL SINGH (5090182142) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [ATTORNEY E / GROUP B / SEE MANNER OF SIGN. IN THE FILE] Première adresse [non référencé]	
Nom (code BUP) MODI MANOJ HARJIVANDAS (5090182143) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [STRIKEN] Première adresse [non référencé]	
Nom (code BUP) RAMACHANDRAN RAJA KOLUMUM (5090182144) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [STRIKEN] Première adresse [non référencé]	
Nom (code BUP) SUBRAMANIAM GOPALAKRISHNA (5090182152) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [ATTORNEY H / GROUP B / SEE MANNER OF SIGN. IN THE FILE] Première adresse [non référencé]	
Nom (code BUP) JOSHI VISHWAS VINAYAK (5090182153) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [ATTORNEY G / GROUP B / SEE MANNER OF SIGN. IN THE FILE] Première adresse [non référencé]	
Nom (code BUP) PANDA MADHUSUDANA SWAPRASAD (5090182154) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [STRIKEN] Première adresse [non référencé]	
Nom (code BUP) KHURANA BHAGWAN DASS (5090182156) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [ATTORNEY D / GROUP A / SEE MANNER OF SIGN. IN THE FILE] Première adresse [non référencé]	
Nom (code BUP) MATHRUBOOTHE SWARAN SUNDAR (5090182157) Profil clients concernés FLAG TELECOM GROUP LIMITED [5091426311] => Attorney [STRIKEN] Première adresse [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 Lies 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.*

5. Ld. Counsel clarified the specific queries by the Bench on certain aspects. The first specific query raised by the Bench was in respect of whether any specific submissions/ clarification was furnished before the ld. Assessing Officer in the course of assessment proceedings on the claim made as to only one BUP ID exist which starts with "5090" and the another ID is only a customer profile which starts with "5091" and thus there is only one bank account and two as alleged by ld. Assessing Officer. To this specific query ld. Counsel referred to a detailed written submission, dated 01.03.2021, which was submitted in the course of assessment proceeding in response to notice u/s. 142(1), dated 24.02.2021 placed in the paper book at page 27 to 30. In para-3 of this

written submission, detailed explanations in respect of BUP ID and customer profile number was explained and the same is extracted below:

“3. Further as regards various BUP IDs mentioned in your notice viz. 5090160984 (Sh. Mukesh D. Ambani), 5091327690 (Canbar Holdings Corporation) and 5090260976 (Canbar Holdings Corporation) and various information sought with reference to these BUP IDs, at the outset we submit that:

3.1. The Base Note shows the two IDs at one single place as under:

Nom (code BUP) Profilis clients concernés Première adresse	CANBAR HOLDINGS CORPORATION (5090260976) CANBAR HOLDINGS CORPORATION (5091327690) => Account Holder (CLOSED) CANBAR HOLDINGS CORPORATION 92 RUE DU RHONE C.P. 3590 1211 GENEVE 3 (ADMINISTRATIVE)
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3.2. Even though, the copy provided is not in English language, the same has been attempted to be understood and the English version would read as-

Name (BUP code): Canbar Holdings Corporation (50902 60976)

Customer Profiles concerned: Canbar Holdings Corporation (50913 27690) => Account Holder (CLOSED)

3.3. Hence, it can be understood that there are not multiple / different BUP IDs as you mentioned in your notice. Evidently, ID no. 50902 60976 is a BUP ID. Whereas, nowhere can it be seen that the ID No. 50913 27690 was also a BUP ID. That has been referred as Customer Profile ID, In fact, in all the items listed in Base note, account number are not mentioned as BUP ID.

3.4. As per international practice of banking, the Assessee understands that BUP ID is a Business Partner Identification assigned to the entity itself. Whereas, bank account number is different from the said BUP ID and is linked with the same.

3.5. Accordingly, the Assessee submits that from the Base Document, only one bank account appears with one BUP ID and bank account number.

3.6. This is further confirmed from details mentioned in the same Base Note, under the heading "Autres Personnes Liees Aux Profils Clients", which in English would mean "Other people linked to customer profiles" for other entities. The screenshot of the same is as under:

Nom (code BUP) Profilis 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 référence]
Nom (code BUP) Profilis clients concernés Première adresse	HSBC PRIVATE BANKING (GSAD) LONDON (5090771542) FLAG TELECOM GROUP LIMITED (5091426311) => Letter of authorisation [non référence]
Nom (code BUP) Profilis clients concernés Première adresse	FLAG TELECOM GROUP LIMITED (5090261031) FLAG TELECOM GROUP LIMITED (5091426311) => Account Holder FLAG TELECOM GROUP LIMITED 9 SOUTH STREET LONDON W1K 2XA UNITED KINGDOM (ADMINISTRATIVE ADDRESS)
Nom (code BUP) Profilis clients concernés Première adresse	SHETTY MOODAMDAMBODR KRISHNA (5090160976) CANBAR HOLDINGS CORPORATION (5091327690) => Attorney (CLOSED / ATTORNEY B) MR MOODAMDAMBODR SHETTY 192 LAUDERDALE TOWER BARBICAN LONDON EC2Y 8BY UNITED KINGDOM (LEGAL ADDRESS)
Nom (code BUP) Profilis clients concernés Première adresse	FIRST CORPORATE DIRECTOR INC. (5090246785) CANBAR HOLDINGS CORPORATION (5091327690) => Attorney (CLOSED / ATTORNEY A) FIRST CORPORATE DIRECTOR INC. P.O. BOX 613 8039 ZURICH SWITZERLAND (HEAD OFFICE)

3.7. In all the above cases, there is one BUP ID mentioned against the name field, which starts with '5090'. There is another ID mentioned against the Customer Profile, which starts with '5091'. This is irrespective of whether the name of the customer is same with the profile name. Hence, it is evident that the BUP ID is like a customer relationship number and the profile no. is like a bank account number.

5.1. On another query by the Bench in respect of how Id. Assessing Officer arrived at a figure of USD 1,00,000 (approx.) as initial deposit made to open the bank account and cost of about USD 300 per year to be incurred towards maintenance of the said account. In this respect Id. CIT DR referred to the reasons recorded for the process of re-opening of the case and pointed that the same is contained as under:

“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.”

5.2. Further, Id. Counsel also referred to para-18 and pointed out that Id. Assessing Officer merely stated that this figure is based on information available in public domain for which Id. Counsel thus asserted that Id. Assessing Officer proceeded merely on the basis of surmises that assessee had deposited USD 1,00,000 to open an account and cost of USD 300 incurred per year to make the addition. There is no ascertainment of fact as to whether the said amount was actually deposited in the bank account as claimed by the Id. Assessing Officer for the purpose of making addition and actual incurrence of maintenance cost of USD 300 for the same.

6. In addition to the alleged bank account dealt by the Co-ordinate Bench in the order relating to late Shri Dhirubhai H. Ambani (supra) in the present case of the assessee, Id. Assessing Officer also alleged about assessee being beneficiary of another account with BUP ID ‘5090160984’ for which addition was made towards initial deposit in

Assessment Year 2002-03 of USD 1,00,000 having Rs.48,80,000/- and maintenance of USD 300, i.e., Rs.14,640/- and for Assessment Year 2003-04 to 2006-07, USD 300 with equivalent Rupees in each of these years towards maintenance charges on substantive basis u/s.69A of the Act. In this respect also, ld. Counsel pointed from the base note in the order of the Co-ordinate Bench, copy of which is already extracted above, by referring to the right-hand top corner which contains the customer ID of the assessee which the ld. Assessing Officer claimed it to be the bank account number. Ld. Assessing Officer thus, held that there were total three accounts related to the assessee, one BUP ID 5090260976, second BUP ID 5091327690 and the third BUP ID 5090160984 and made the additions with respect to these three alleged accounts in HSBC Bank. For the alleged bank accounts at Sr. No.1 and 2, the matter has been already extensively dealt by the Co-ordinate Bench (supra). Facts specific to the assessee in respect to these two alleged BUP IDs have already been discussed in above paragraphs.

7. In respect of the BUP ID at Sr. No.3, similar assertions are made by the assessee explained and corroborated from the base note and relevant material placed on record. Relevant portion from the submissions made by the assessee in this respect is extracted below:

*“18. As regards the BUP ID 5090160984, it/only appears at one place in the Base Note, which is extracted as under-
The above field appears to contain personal details such as date of birth, place of residence, sex, marital status, etc. It is logical to contain a business partner identification number along with such details. Besides, the BUP ID 5090160984 is quoted under the heading "identifiers internes" which translates in to "internal identifiers". A business partner identification no. which is akin to (customer relation no. in India).*

18.2 The factual details regarding the BUP ID has already been discussed in while deciding the additions made on account of BUP ID 50901 60976 in the A.Y 2001-02. 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 maximum balance, status, type, etc. is shown for any of the BUP ID. Had the BUP ID been an account there is no reason for similar details, as given for the Client Profile No.s, would not have been in the 'Base Note'. In fact, this is the 1 reason that while the AO has made additions towards the peak balance and interest for the Client Profile No. 5091327690 in the subsequent assessment years, he did not make any such addition for the BUP ID 5090160984.

18.3 Further while deciding the appeal for A.Y 2001-02, it is already discussed that the HSBC bank, Geneva, vide letter dated 30th June 2011, confirmed that the appellant did not hold any account by himself or beneficially. Therefore, no addition could be made u/s. 69A alleging that the Appellant held any account in the said bank.

7.1. On the above, assessee also submitted that for the BUP IDs of Flag and FCDI, letter from HSBC Bank dated 30.06.2011 very specifically explains that assessee was a member of the Board of Directors of Flag Telecom Limited and was an Authorised Signatory for the account held by Flag. HSBC Bank confirmed in this letter that assessee did not hold any account in HSBC Bank, Switzerland by himself or as a beneficial owner.

7.2. Thus, on the above facts and submissions which are *pari materia* to the other two IDs, we do not find any reason to interfere with the findings arrived at by Id. CIT(A) in respect of third BUP ID i.e. 5090160984.

8. Considering the facts discussed above and issue already dealt elaborately by the Co-ordinate Bench on identical fact pattern in the case of late Shri Dhirubhai H. Ambani in ITA Nos. 4324, 4331 and 4345 to 4348/Mum/2024, respectfully following the same, we do not find any reason to interfere with the findings of the Id. CIT(A). Accordingly, grounds raised by the Revenue are dismissed.

8.1. In the result, appeal by the Revenue is dismissed.

9. Since we have dismissed the appeal filed by the Revenue vide ITA No.5141/Mum/2024 AY: 2001-02 as discussed supra in this order, therefore, on similar issue on identical facts, applying the finding of the same *mutatis mutandis*, all the other captioned five appeals of Revenue are also dismissed.

10. In the result, all the six appeals of the Revenue are dismissed.

Cross Objection Nos. 233/M/2024 to 238/Mum/2024

11. 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.233/M/2024 as lead case and its findings will be applied *mutatis mutandis* to the other cross objections.

Cross Objection No. 233/M/2024

12. The cross objection filed on the validity of reopening assessment is as under:

1. *Erred in not quashing the re-assessment order dated 30th December 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; ind

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 Shri. Dhirubhai Ambani in AY 2006-07

13. Cross objections have also been elaborately dealt by the Coordinate Bench in the above referred decision of Late Shri DHA which is already extracted above. Respectfully following the same, we do not find any reason to interfere with the findings of the Id. CIT(A). Accordingly, we consider that re-opening of assessment for Assessment Year 2001-02 to 2006-07 are not valid.

14. In the result, all the cross objections filed by the assessee are partly allowed.

15. In the result, all the appeals of the Revenue are dismissed and cross objections filed by the assessee are partly allowed.

Order is pronounced in the open court on 31 January, 2025

Sd/-
(Amit Shukla)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 31 January, 2025

MP, Sr.P.S.

Copy to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai