

# The Panchsheel Mercantile Co-Op Bank vs Assistant Commissioner Of Income Tax

ID: F2J-C-2207 Court: Gujarat High Court

Case: R/SPECIAL CIVIL APPLICATION NO. 11753 of 2023 Date: 2025-10-16

Complete searchable public court-text reproduction. This clean reference PDF is generated by Finin2min; the linked public source remains controlling.

[Cites 11, Cited by 0]

Gujarat High Court The Panchsheel Mercantile Co-Op Bank ... vs Assistant Commissioner Of Income Tax ... on 16 October, 2025 Author: Bhargav D. Karia Bench: Bhargav D. Karia NEUTRAL CITATION

C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025

undefined

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11753 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BHARGAV D. KARIA

and HONOURABLE MR. JUSTICE PRANAV TRIVEDI =====

Approved for Reporting Yes No

===== THE PANCHSHEEL MERCANTILE CO-OP BANK LIMITED

Versus ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1)(1)

===== Appearance: MR MANISH J SHAH(1320) for the Petitioner(s) No.

1 KARAN G SANGHANI, SR. STANDING COUNSEL for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE BHARGAV D. KARIA and HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 16/10/2025

ORAL JUDGMENT (PER : HONOURABLE MR. JUSTICE PRANAV TRIVEDI) 1 Heard learned advocate Mr.Manish J. Shah for the petitioner and learned Senior Standing Counsel Mr.Karan Sanghani for the respondent. 2 Rule returnable forthwith. Learned Senior Standing Counsel Mr.Karan Sanghani, waives service Page 1 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined of notice of rule for and on behalf of the respondent. 3 Having regard to the controversy involved in this petition, with the consent of the learned advocates for the respective parties, the matter is taken up for final hearing. 4 By way of the present petition under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for a direction to quash and set aside the order passed under Sec.148A(d) dated 31.03.2023 of the Income Tax Act (hereinafter referred to as 'the Act' for short) as well as notice issued under Sec.148 dated 31.3.2023 under the provisions of the Act. 5 The brief facts leading to filing of the present writ petition is that the petitioner is a Mercantile Co- operative Society and inter alia filed its return of income under Sec.139(1) of the Act on 22.10.2019 Page 2 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined having PAN No. AADAT9507D inter alia declaring total income of Rs.1,35,85,340/-. 5.1 It is the case of the petitioner that before filing of the return, the petitioner had surrendered its earlier PAN being PAN No. AAAT8950B by way of a communication dated 14.06.2019. It was the case of the petitioner that the old PAN which was surrendered was inadvertently allotted by the Income Tax Department on the status of 'Company' instead of 'Association of Person'. Therefore, the request was made for new PAN which was allotted and from the Assessment Year 2014-15, the petitioner was regularly filing its return of income under the new PAN. 5.2 It is the case of the petitioner that scrutiny assessment in the case of the petitioner was undertaken for the Assessment Year 2014-15 to 2017- Page 3 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined 18 and accordingly notice under Sec.143(2) of the Act was issued on new PAN. Thereafter, the Assessment Order under Sec.143(3) came to be passed on new PAN. 5.3 It is the case of the petitioner that notice under Sec.142(1) dated 19.12.2017 was received by the petitioner, directing the petitioner to file income tax return for the Assessment Year 2017-18 on the old PAN i.e. AAAT8950B. In response to the said notice, the petitioner vide communication dated 18.01.2018 informed the respondent qua the allotment of new PAN i.e. AADAT9507D to the petitioner being a Co- operative Bank. 5.4 Subsequently, the petitioner addressed another communication dated 17.06.2019 informing the respondent that the return of income was filed under the new PAN, and therefore, the notice under Page 4 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined provision of Sec.142(1) of the Act was not applicable qua the old PAN. 5.5 In wake of such submissions, the Assessing Officer had not passed any Assessment Order under Sec.143(3) on old PAN. 5.6 It is the case of the petitioner that almost after a period of three years from the end of the Assessment Year, the petitioner received notice under Sec.148A(a) on 04.03.2023 for the Assessment Year 2018-19 on old PAN which was already surrendered by the petitioner. The respondent had informed that certain information had been flagged as per the RMS strategy formulated by CBDT on the insight portal. 5.7 In response to the notice, the petitioner, vide communication dated 10.03.2023, informed the respondent about the issuance of new PAN and the Page 5 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined surrendering of the old PAN. However, without considering the request made by the petitioner, the respondent issued notice under Sec.148A(b) on 21.03.2023. The petitioner submitted its response vide communication dated 10.03.2023 informing the respondent about surrendering of the old PAN and issuance of new PAN. However, the respondent passed the impugned order under Sec.148A(d) on 31.03.2023 as well as notice under Sec.148 suggesting that income to the tune of Rs.5,49,15,258/- had escaped assessment. 6 It has been submitted

by learned advocate Mr.Manish Shah for the petitioner that order passed under Sec.148A(d) by the respondent is based on incorrect facts since the petitioner, on allotment of new PAN No. i.e. AADAT9507D, had made all the compliances under the Act on the newly allotted PAN and had never used the old PAN being PAN No. Page 6 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined AAAC8950B. 6.1 Learned advocate Mr.Manish Shah for the petitioner submitted that the allegation of the respondent to the effect that the petitioner has not cancelled the old PAN is factually incorrect as the petitioner, vide communication dated 14.06.2019 and 17.06.2020 had specifically surrendered the old PAN. He submitted that, in the aforesaid order, it was wrongly observed that the petitioner continued to use old PAN and had not cancelled the same. 6.2 Learned advocate Mr.Shah for the petitioner, with regard to the observations made by the respondent in its order passed under Sec.148A(d) that, the information has cropped up under old PAN:

AAAC8950B on account of quoting of old PAN by the petitioner, submitted that the said observation made by the respondent is also actually incorrect in view of Page 7 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined the fact that information as mentioned in the notice under Sec.148A(a) and 148A(b) as well as in the order passed under Sec.148A(d) is the information traced from the Statement of Financial Transactions (SFT) as provided by banks, which in the impugned case are Kotak Mahindra Bank Ltd., and HDFC Bank Ltd., and Yes Bank Ltd., with whom the petitioner bank had transacted. Thus, in the submission of learned advocate Mr.Shah, it is not the petitioner bank who had incorrectly quoted old PAN but it is the above stated banks who had, by mistake, reported the transactions made with the petitioner bank on old PAN: AAAC8950B.

6.3 Learned advocate Mr.Shah for the petitioner submitted that, in view of the aforesaid facts, the allegation with regard to quoting of old PAN of the petitioner is incorrect, and accordingly, submitted that the allegations of respondent with regard to non- Page 8 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025

NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined cancellation of PAN and usage as well as quoting of old PAN are baseless and contrary to the material available on record, and therefore, the said allegations be rejected. 6.4 Learned advocate Mr.Shah, further submitted that the order passed under Sec.148A(d) and notice issued under Sec.148, for the Assessment Year 2019- 20 are based on incorrect facts / allegations and hence are illegal and bad in law and thus liable to be quashed and set aside. 7 Per Contra, learned Senior Standing Counsel Mr.Karan Sanghani for the respondent- Revenue, admitted to the fact that the notice was issued on the old PAN which was surrendered. However, it was submitted that the re-assessment was based on specific information related to cash deposits, withdrawals and foreign remittances, amounting to Page 9 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined Rs.5,49,15,258/-, which the petitioner would not have indulged into being a Co-operative Bank with the banking license. These transactions does grant immunity from scrutiny, especially, if the transactions suggested potential income escapement. However, learned Senior Standing Counsel Mr.Karan Sanghani could not dispute the fact that the notice was issued on old PAN. 8 Having heard the learned advocates appearing for the respective parties and having perused the material on record, it is not in dispute that the formal notice issued under the old surrendered PAN being AAAC8950B, which was communicated to the office of the respondent way back on 14.06.2019. The return relating to the relevant Assessment Year 2019- 20 was filed by the petitioner under the new PAN being AADAT9507D which was allotted to the petitioner. In spite of this fact, the respondent had Page 10 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025 NEUTRAL CITATION C/SCA/11753/2023 JUDGMENT DATED: 16/10/2025 undefined passed the order under Sec.148A(d) as well as notice under Sec.148 of the Act under the old PAN. 9 It is a settled position of law that the respondent authority cannot issue notices on the old PAN which is already surrendered. In view of such fact, the impugned order dated 31.03.2023 under Sec.148A(d) of the Act as well as notice dated 31.03.2023 under Sec.148 of the Act are hereby quashed and set aside. However, the respondent would be at liberty to initiate fresh proceedings by issuing notice on the new PAN in accordance with the law. In view of such observations, the petition is allowed with the aforementioned directions. Rule is made absolute to the aforesaid extent. No order as to costs. (BHARGAV D. KARIA, J) (PRANAV TRIVEDI,J) BIMAL Page 11 of 11 Uploaded by BIMAL B CHAKRAVARTY(HC01089) on Thu Oct 16 2025 Downloaded on : Fri Oct 17 03:26:11 IST 2025