



Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.555 OF 2026

SURESH DATTU KAMAT

Son of Dattu Kamat

Age 81 years

Resident of H No 780, Vaishnavi

Near Navdurga Temple,

Marcaim Ponda Goa

... PETITIONER

VERSUS

1. UNION OF INDIA

through the Secretary,

Ministry of Finance,

North Block, New Delhi — 110 001

**2. THE ASSISTANT COMMISSIONER
OF INCOME TAX,**

Income Tax Department,

Panaji Goa.

... RESPONDENTS

Mr. Omkar Kulkarni, Advocate for the Petitioner.

Mr. Pravin Faldessai, Deputy Solicitor General of India with Ms. Prajali Tari, Advocate for Respondent No.1.

Ms. Swati Kamat Wagh, Standing Counsel with Ms. Shibani Singbal, Advocate for Respondent No.2.

CORAM:- VALMIKI MENEZES &

AMIT S. JAMSANDEKAR, JJ.

DATED :- 7th OCTOBER, 2026

ORAL JUDGMENT (per Valmiki Menezes, J)

1. Heard. Rule. Rule made returnable forthwith at the request of and with the consent of learned Counsel for the parties.
2. This Writ Petition filed under Section 226 takes exception to an order dated 26.06.2025 passed under Section 148 A (3) of the Income Tax Act. The impugned order seeks to reopen the Petitioner's assessment for the Assessment Year 2021-2022.
3. The Revenue, by a notice dated 13.03.2025 issued under Section 148 A(1) of the Income Tax Act called upon the Petitioner to show cause why his assessment for the Assessment Year 2021-2022 should not be reopened insofar as interest on certain securities in the amount of Rs.2,51,257/- has escaped assessment. The notice claims that on receipt of information from the Risk Management Portal formulated by the Department, the Petitioner had entered into certain transactions in the said Assessment Year and received interest which had escaped assessment.
4. Based on this notice, the Petitioner filed a reply dated 16.03.2025 in which, he purported to justify that the said amount had not escaped assessment but had in fact been accounted for in his return for the year 2021-2022 where income in the form of interest was returned in the amount of Rs. 2,52,687/-.
5. After considering the reply, the impugned order accepted the explanation and dropped the proceedings insofar as the claim for

reopening of assessment in relation to the interest amount of Rs.2,51,257/-. However, the impugned order proceeds to record that from the very same information, which forms the basis of the notice, there was escapement of income under a different head. According to the impugned order from the information contained I Risk Management Portal, the Petitioner had entered into transaction for purchase of an immovable property and made payments of Rs. 83,87,386/- which had not been disclosed in his returns. By the impugned order the Assessing Officer held that there was no explanation for this investment and directed reopening of the assessment insofar as this item was concerned.

6. The challenge to the impugned order is based on the premise that the impugned order is passed without jurisdiction since the foundational facts for reopening assessment under Section 148 (A) were missing in the original notice sent to the assessee; according to the Petitioner the notice was restricted to a claim of an escaped interest amount of Rs.2,51,257/-.

7. The petition has been opposed by the Revenue on two submissions, the first being that the Petitioner has an alternate remedy of filing an appeal after the assessment is complete and an order is passed. It was submitted that even now the Petitioner has an opportunity of filing a return and a detailed reply to the notice and he would be given an opportunity of hearing before a fresh Assessment is done. The second submission advanced by the Respondents is that the Assessing Officer has committed a mistake in omitting to incorporate in the annexure to the original notice under Section 148(1) the basis for claiming that, income in the amount of Rs. 83,87,386/- had escaped; it was submitted that this

amount had escaped assessment and has come to the notice of the Officer only through the information received by the Officer through the Risk Management Portal. It is further submitted that the Officer had this information prior to issuing of the notice under Section 148 A of the Act but had mistakenly not incorporated this fact as one of the foundational facts in the notice. It was submitted that if the impugned order is set aside, this Court ought to remand this case back to the Assessing Officer to enable him to either correct the notice under Section 148 A (1) or to amend the original notice. Reliance is placed on the Judgement of Delhi High Court in *Catchy Prop- Build Pvt. Ltd. v/s. Assistant Commissioner of Income Tax and Ors* reported in 2022 SCC OnLine Del 3457.

8. After considering the rival submissions, we are of the opinion that the original notice clearly set out only one ground for claiming reopening of the assessment which stated there was escapement of income comprising interest in the amount of Rs.2,51,237/-. This claim of the Revenue was stated to be based upon information contained in the Risk Management Portal of the Department. There is no other ground specified in the notice.

9. The Assessing Officer has considered the reply of the Petitioner insofar as that ground was concerned and has accepted the same and has dropped the notice insofar as this claim is concerned. However, whilst passing the impugned order, the Assessment Officer has referred to a ground which was totally alien to and not disclosed in the original notice under Section 148A.

10. Considering that the ground now raised for seeking re-assessment was not in the original notice, there was no foundational facts for the assessment officer to assume jurisdiction under Section 148A to proceed to pass the impugned order. Consequently, therefore the impugned order must be quashed and set aside to the extent that it holds the Petitioner is liable for reassessment insofar as the details of transaction stated in the paragraph 9 of the order. That conclusion, holding that the Petitioner has not disclosed the transaction of purchase of an immovable property expending Rs 83,87,386/-, is without jurisdiction and therefore set aside.

11. Reverting to the submission of the Revenue that the case should be remanded solely for the purpose of issuing fresh notice or an amended notice insofar as the second ground is concerned, we are of the opinion that no such purpose would be served by remanding the case to the Assessing Officer. The notice under Section 148 A(1) was restricted to only one ground and remanding a matter to the Assessing Officer where the second ground is non-existent in the notice would not serve any purpose. We have also perused the affidavit of the Assessment Officer filed before us which itself does not claim that there was any mistake on the part of the Assessment Officer in omitting to incorporate the second ground of the transaction of purchase of an immovable property expending Rs 83,87,386/-. It is not the case of the Assessing Officer that such a mistake has taken place and this cause has been pressed forth only in arguments without any factual foundation for seeking a remand, in the lines of the one granted by the Delhi High Court in *Catchy Prop-Build Pvt. Ltd.* (supra). Consequently, we allow the petition.

12. Rule is made absolute in terms of prayer clause (a) of the petition to the extent of our finding above.

AMIT S. JAMSANDEKAR, J

VALMIKI MENEZES, J.