

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7305 of 2026****FOR APPROVAL AND SIGNATURE:**

HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No
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MADHAV POWER PRIVATE LIMITED

Versus

ASSISTANT COMMISSIONER OF INCOME TAX CENT CIR 2(3)
 AHMEDABAD

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Appearance:

MR B S SOPARKAR(6851) for the Petitioner(s) No. 1

MR.VARUN K.PATEL(3802) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 29/06/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Heard learned Advocate Mr.B.S.Soparkar appearing for the petitioner and learned Senior Standing Counsel Mr.Varun K. Patel for the respondent. The Affidavit tendered by learned Senior Standing Counsel, Mr.Varun K. Patel is ordered to be taken on record.
2. Having regard to the controversy involved, with the consent of the learned advocates for the respective

parties, the matter is taken up for final hearing.

3. **RULE.** Learned Senior Standing Counsel Mr.Varun K Patel waives service of notice of rule on behalf of the respondent.
4. By this petition under Article 226 of the Constitution of India, the petitioner challenges the notice dated 30.03.2026 issued under Section 148 of the Income Tax Act, 1961 (for short “the Act”) seeking to re-open income tax assessment of the petitioner for the Assessment Year 2015-16 (for short “the assessment year under consideration”) by the Assistant Commissioner of Income Tax, Central Circle 2(3), Ahmedabad (for short “the respondent”).
 - 4.1 The petitioner is a company and has filed its return of income for the assessment year 2015-16 on 30.10.2015 declaring total income at NIL. The petitioner is part of MSK Group which is engaged in the business of infrastructure development. The said MSK and Madhav Group of Gujarat including the petitioner were subjected to search action under Section 132 of the Act on 18.05.2024. The Respondent issued a notice dated 30.03.2026 under Section 148 of the Act for the year under consideration. It is stated therein that a search was initiated under Section 132 of the Act on 18.05.2024 in the case of the Petitioner or in the case of the person in respect of which the Petitioner is assessable under the Act. It was further stated that the Respondent is satisfied,

with the approval of Principal Commissioner or Commissioner, that the books of accounts or documents, seized or requisitioned under section 132 or section 132A of the Act in the case of MSK and Madhav Group pertains or pertain to, or any information contained therein, relate to the Petitioner or the person in respect of which, the Petitioner is assessable under the Act and hence, the notice dated 30.03.2026 is issued under Section 148 of the Act after obtaining prior approval of Directorate General of Income Tax (Investigation), Ahmedabad. The Petitioner has challenged the said notice under Section 148 of the Act principally on the ground of limitation.

5. Learned Advocate Mr.B.S.Soparkar for the petitioner submitted that the respondent has acted illegally and without jurisdiction while issuing Notice under Section 148 of the Act as the same is barred by limitation. It was further contended that the impugned notice is time-barred under the statutory scheme governing search assessment. It was submitted that in the present case, search action in question was carried out on 18.05.2024 i.e. during the Financial Year 2024-25. Since the search under Section 132 of the Act was initiated on or after 1st April, 2021 but before 1st September, 2024, the provisions of Sections 147 to 151 of the Act as they stood immediately before the commencement of Finance (No. 2) Act, 2024 shall apply as contemplated under Section 152(3) of the Act. Hence, relying upon Section 149 of the Act, it is contended that the Notice under Section 148 of

the Act can be issued up to six years from the end of the relevant assessment year. Further, relying upon the Section 153A of the Act, it is submitted that Notice under Section 153A of the Act can be issued for a period of “ten assessment years” immediately preceding the assessment year relevant to the previous year in which search is carried out and for the “relevant assessment years”, subject to fulfillment of certain conditions.

- 5.1 It is further submitted that the “relevant assessment year” means assessment year preceding the assessment year relevant to the previous year in which search is carried out or requisition is made, which falls beyond six assessment years but not later than ten assessment years from the “end of the assessment year relevant to the previous year in which search is conducted”.
- 5.2 Reference is also made to the provisions of Section 149 of the Act, more particularly the *proviso* to Section 149 read with explanation – 1 to Section 153A of the Act, and it is submitted that so far as the limitation is concerned, for reopening of the assessment, the same is *pari materia* to Section 153C of the Act.
- 5.3 It is submitted that in the instant case, the search action was carried out in the case of third party on 18.05.2024 i.e. during the Financial Year 2024-25, and hence relevant assessment year to the previous year in which the search was undertaken under Section 132 of the Act is Assessment Year 2025-26. It is further submitted that

the notice under Section 148 of the Act for the Assessment Year 2015-16 would be time-barred, as the period of ten years would end at the Assessment Year 2016-17, since the Assessment Year 2025-26 will become the first assessment year as per the provisions of Section 153A of the Act. The table showing the calculation was placed before this Court and the same is reproduced as under:

Number	Assessment Year
1 st year	Assessment Year 2025-26
2 nd year	Assessment Year 2024-25
3 rd year	Assessment Year 2023-24
4 th year	Assessment Year 2022-23
5 th year	Assessment Year 2021-22
6 th year	Assessment Year 2020-21
7 th year	Assessment Year 2019-20
8 th year	Assessment Year 2018-19
9 th year	Assessment Year 2017-18
10 th year	Assessment Year 2016-17

5.4 In support of his submissions, learned Advocate Mr.Soparkar has placed reliance on the judgment of the Delhi High Court in the case of *Dinesh Jindal vs. Assistant*

Commissioner of Income-tax [2024] 164 taxmann.com 746 / 469 ITR 32 (Delhi) / Writ Petition (Civil) No. 12091 of 2023 decided on 27.05.2024. Reliance is also placed on the judgment of the Delhi High Court in the case of Principal Commissioner of Income-tax (Central-1) vs. Ojjus Medicare (P.) Ltd. [2024] 161 taxmann.com 160 / 465 ITR 101 (Delhi). Finally, he has also placed reliance on the judgment of Madras High Court, Bench at Madurai, passed in A.R. Safiullah vs. ACIT [Writ Petition (MD) No. 4327 of 2021, dated 24-3-2021].

- 5.5 Thus, it is urged that the impugned notice issued under Section 148 of the Act for the assessment year 2015-16 may be quashed and set aside.
6. Per contra, learned Senior Standing Counsel Mr.Varun Patel for the respondent Department opposed the petition and contended that the impugned notice under Section 148 of the Act is valid and within the limitation. It is further contended that since the search was initiated after 01.04.2021, the old Section 153A/153C assessment regime does not apply to the present case. Instead, the case falls under the new Section 148/149 reassessment regime introduced by the Finance Act, 2021. Under the new Section 149(1)(b), the limitation period is not calculated backward from the search year. Instead, a notice can be issued if not more than 10 years have elapsed from the end of the relevant assessment year, provided the escaped income is Rs. 50 lakhs or more. Accordingly, the notice for AY 2015-16 is perfectly valid

and within the limitation period.

7. It is further submitted that the petitioner assessee in support of the contention regarding inclusion of search year has wrongly construed the word 'end' used in the explanation 1 to Section 153A, which is otherwise missing in the notes on clauses and the memorandum explaining the provisions. It is further submitted that the assessment year has two ends, one 1st April, and 2nd 31st March. For the purpose of going forward, the end would be considered as 31st March. Whereas for the purpose of going backward, the end would be considered as 1st April. Thus, since it is required to go backward for purpose of calculating 10 assessment years, 'end' is to be construed as 1st April. It is therefore submitted that considering the aforesaid contentions and the legislative intent as borne out from the notes on clauses and memorandum explaining the provisions relating to Finance Act, 2017, for purpose of calculating 10 assessment years, search year is to be excluded and it is always to be considered as six plus four assessment years and therefore, 'end' is to be construed as 1st April for going backward for making the said provision effectively workable as per the legislative intent. It is submitted that the purpose of introducing the amendment was to extend the reach of assessing officer and therefore while interpreting the provisions of Section 153A of I.T., apart from the six previous assessment years, the authority of assessing officer must include for another four years, otherwise the

intention of the legislature and purpose of the proviso would be defeated.

- 7.1 While referring to Explanation (1) to Section 153A of the Act, it is contended that the “relevant assessment year” which finds place in the provisions of Section 153A(b) of the Act cannot be construed by adopting two different methodologies - one wherein, for calculating the six assessment years, the period would start from the previous year in which such search is conducted or requisition is made, and for the very same assessee, if it is found that the income of Rs.50 lakhs has escaped, for calculating ten years, the first assessment year has to be ignored. In other words, if search year is included for calculating period of 10 A.Ys. as contended by the petitioner, there will be two different calculations, first, for six AYs excluding the search year and second, for 10 A.Ys. including the search year, which cannot be legislative intent. It is also submitted that the assessment year in which search was conducted, cannot be included while calculating ten assessment years, otherwise, A.Y. 2019-20 will come under both i.e. original six assessment years preceding the relevant assessment year in which search was carried (as 6th AY) and under extended category of ten assessment years also (as 7th AY) and the same could not be the intention of the legislature. The following statement containing the calculation of ten assessment year as per Assessee’s case and Revenue’s case corroborates the aforesaid contentions:

No of Year.	Assessee's calculation of 10A.Ys. (including search year)	Revenue's calculation of 10A.Ys. (Excluding search year)
1.	2025-26	2024-25
2.	2024-25	2023-24
3.	2023-24	2022-23
4.	2022-23	2021-22
5.	2021-22	2020-21
6.	2020-21	2019-20
7.	2019-20	2018-19
8.	2018-19	2017-18
9.	2017-18	2016-17
10.	2016-17	2015-16

7.2 It is further submitted that in case of Bhavin Kishorbhai Zinzuwadia Vs. ACIT [2024] 169 Taxmann.com 505 (Guj.) this Hon'ble Court has already decided this issue accepting the calculations of 10 assessment years for the purpose of Section 153C excluding the search year/the year in which the incriminating material is received by AO of other person.

7.3 An attempt is also made to distinguish the judgment of the Delhi High Court in the case of Ojjus Medicare (supra), by submitting that two methods cannot be adopted for computation of the six-year block period as

mentioned in Sections 153A and 153C of the Act and for calculation of the ten-year block period by excluding the previous year from computation of ten years. Thus, it is urged that this Court may take a different view, disagreeing with the judgments of the Delhi High Court as well as the Kerala High Court, and it is urged that the action of the respondent may be upheld for reopening the Assessment Year 2015-16.

- 7.4 Thus, it is urged that the action of the respondent in issuing the impugned notice for the A.Y. 2015-16 under Section 148 of the Act may be upheld and the present petition may be dismissed.

ANALYSIS AND OPINION:

8. We have heard the learned advocates for the respective parties at length. We have also perused the case laws cited, considered the provisions threadbare and have also perused the material on record.
9. The sole issue that arises for consideration in the present petition is that –
- (i) Whether the notice issued by the respondent for the Assessment Year 2015-16 is barred by limitation;
 - (ii) Dealing with this issue, uncontroverted facts are that the search took place in the case of the petitioner on 18.05.2024 which indisputably falls in the Financial Year 2024-25 and Assessment Year 2025-26. Therefore, the date of search would be taken into consideration for the

purpose of initiation of proceedings under Section 153A of the Act. Keeping that legal principle in mind, ten years that could be covered subject to fulfilling other conditions emanating from the statute, would be as under:

Number	Assessment Year
1 st year	Assessment Year 2025-26
2 nd year	Assessment Year 2024-25
3 rd year	Assessment Year 2023-24
4 th year	Assessment Year 2022-23
5 th year	Assessment Year 2021-22
6 th year	Assessment Year 2020-21
7 th year	Assessment Year 2019-20
8 th year	Assessment Year 2018-19
9 th year	Assessment Year 2017-18
10 th year	Assessment Year 2016-17

- The only difference between the calculation as per the revenue and the petitioner is the inclusion or exclusion of the search year. Revenue contends that while calculating the period of ten years, search year is to be excluded and the calculation starts from assessment year immediately preceding the previous year relevant to the assessment year in which search is conducted whereas the

petitioner's contention is that the calculation of the period of ten years would include the search year.

10. The short controversy turns upon whether, while computing the ten-year block, the assessment year relevant to the previous year in which search is conducted (hereinafter "the search assessment year") is to be included in the reckoning, unlike the computation of six assessment years which expressly excludes it.
11. With reference to the relevant assessment year, it is necessary to refer to the provisions of Section 153A(1)(b) of the Act which reads as under :

"Section 153A(1)(b) : (The Assessing Officer shall) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years."

- 11.1 The key expression that flows from reading of the section is "six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted" and "for the relevant assessment year or years." is phrased independently, disjointed from earlier phrase.
12. In juxtaposition, the Fourth Proviso permits assessment beyond six years subject to specified conditions and refers to "relevant assessment year" as stated in Explanation 1 of Section 153A of the Act defines

“relevant assessment year” as:

“For the purpose of this sub-section, the expression “relevant assessment year” shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.”

12.1 The key expression that flows from reading of the section is *“not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted”*.

13. Thus, the computational framework of Section 153A of the Act, including Explanation 1, applies *pari materia* to the proceedings under Section 153C of the Act. A plain reading of Section 153A of the Act reveals that the Parliament has consciously adopted two different phraseologies:

Six-Year Block	Ten-Year Block
“six assessment years immediately preceding”	“not later than ten assessment years from the end of the assessment year”

13.1 This linguistic distinction is deliberate and must be given full effect. Under Section 153A(1)(b) of the Act, the anchor point is “the assessment year relevant to the

previous year in which search is conducted". Therefore, six years must be "immediately preceding" that assessment year. The phrase "immediately preceding" necessarily excludes the search assessment year itself. In contrast thereto, Explanation 1 of Section 153A of the Act introduces a materially different formulation: "not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted". This computation mechanism does not use the phrase "immediately preceding" but instead, requires reckoning from the end of the assessment year relevant to the previous year of search. Thus, the assessment year relevant to the previous year of search becomes the reference year and the ten-year period is counted from the end of that assessment year. This necessarily includes the search assessment year within the ten-year framework and resultantly, the search year becomes the first year in the reckoning of the ten-year block.

13.2 If Parliament intended identical computation for both six and ten years, it would have used identical language. Instead, it has consciously used different phraseology, for six years "immediately preceding" and for ten years "from the end of the assessment year". Legally, it is well settled that while interpreting plain language of a Statute, the Court must give meaning to every word used by the Legislature. To compute ten years by excluding the search year (as is done for six years) would render

the phrase “from the end of the assessment year” otiose and merge two distinct statutory schemes into one that would violate settled principles of statutory interpretation. The scheme of Section 153A reflects calibrated expansion in as much as ordinary search assessment would be computed as six years immediately preceding the search year whereas exceptional extended jurisdiction up to ten years is not a mere arithmetic extension of the six-year model; it is governed by a separately structured computational rule. The Legislature, in its wisdom, has consciously created:

- A backward-looking “preceding” model (six years), and
- A reckoning “from the end of the assessment year” model (ten years).

13.3 Thus, it can be concluded that Section 153A of the Act prescribes two distinct and independent computational regimes. The six assessment years are those “immediately preceding” the assessment year relevant to the previous year of search, thereby excluding the search year whereas the ten assessment years under Explanation 1 of Section 153A of the Act are to be computed “from the end of the assessment year” relevant to the previous year of search. The statutory language necessarily results in inclusion of the search assessment year within the ten-year reckoning. Any interpretation that applies the six-year exclusion model, if made applicable to the ten-year block, would defeat the

legislative scheme and render material words redundant. Accordingly, while computing the extended ten-year period under Explanation 1 to Section 153A read with Section 153C of the Act, the assessment year relevant to the previous year of search is to be included in the reckoning.

13.4 Even otherwise, this issue is no more *res integra* as the same is covered by the judgement of this Court in the case of Jayantibhai Karamshibhai Maniya vs. Income-tax Officer, [2026] 182 taxmann.com 493 (Guj.). This Court has taken a view, after considering the earlier judgement in the case of **Bhavin Zinzuwadia (supra)**, that while calculating the period of ten years under Section 153C of the Act, keeping in mind the language of Explanation 1 to Section 153A of the Act, the search year or the year in which seized material is received by the Jurisdictional Assessing Officer of the petitioner is required to be taken into consideration. Relevant extract of the said judgment can be usefully referred to as under:

“ **9.2** *The provisions of Sections 153A / 153C of the Act find place in the proviso to Section 149 of the Act and, hence, the limitation as provided in Sections 153A / 153C of the Act gets triggered upon the initiation of assessment proceedings emanating from a search under Sections 132 / 132A of the Act. We may, at this stage, mention that the Delhi High Court as well as the Madras High Court has already considered the implications of Explanation (1) to Section 153A of the Act to the limitation and the expression “relevant assessment year” used therein in Explanation (1) to Section 153A of the Act. The Delhi High Court, in the case of Ojjus Medicare (P.) Ltd. (supra), after considering an array of judgments of other High Courts as well as of the Supreme Court and upon a threadbare consideration and analysis of the statutory provisions of Sections 153A, 148 and 149 of the Act, has held*

thus:

“ 88 Section 153A replicates the basis on which the six AYs' are to be identified and computed with the solitary distinction being that in the case of the searched person, the six AYs' are liable to be computed from the AY pertaining to the FY in which the search was conducted. The starting point for the purpose of identifying the six AYs' in the case of section 153A would thus turn upon the year of search as opposed to the handover of material which is spoken of in the First Proviso to section 153C. If one were to therefore assume that a search took place on a person between 01 April 2021 to 31 March 2022, the pertinent AY would become AY 2022-23 and the corresponding six AYs' would be as follows:

Computation of the six-year block period as provided under section 153C of the Act	No of years
AY 2021-22	1
AY 2020-21	2
AY 2019-20	3
AY 2018-19	4
AY 2017-18	5
AY 2016-17	6

89. That takes us then to the issue of identifying the “relevant assessment year” for the purposes of computing the ten year block. Explanation 1 to section 153A specifies the manner in which the entire ten AY period is to be computed. While the computation of six AYs follows the position as enunciated and identified above, Explanation 1 prescribes that the ten AYs' would have to be computed from the end of the AY relevant to the FY in which the search was conducted or requisition made. The ten AY period consequently is to be reckoned from the end of the AY pertaining to the previous year in which the search was conducted as distinct from the preceding year which is spoken of in the case of the six relevant AYs.

90. Viewed in that light, and while keeping the period of 01 April 2021 to 31 March 2022 as the constant, the relevant AY would be AY 2022-23. The ten AYs would have to be computed from 31 March 2023 with the said date indubitably constituting the end of the AY relevant to the previous year of search. Viewed in light of the above, the block period of 10 AYs would be as follows.-

Computation of the six-year block period as provided under section 153C read with Section	No of years
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153Aof the Act	
AY 2022-23	1
AY 2021-22	2
AY 2020-21	3
AY 2019-20	4
AY 2018-19	5
AY 2017-18	6
AY 2016-17	7
AY 2015-14	8
AY 2014-15	9
AY 2013-14	10

91 Tested on the aforesaid precepts, it would be manifest that AY 2022-23 would form the first year of the block of ten AYs' terminating in AY 2013-14. We, in this regard also bear in consideration the following instructive passages as appearing in the decision handed down by a learned Judge of the Madras High Court in A. R. Safiullah. We deem it appropriate to extract the following paragraphs from that decision:-

"9 Explanation-I is clear as to the manner of computation of the ten assessment years. It clearly and firmly fixes the starting point. It is the end of the assessment year relevant to the previous year in which search is conducted or requisition is made. There cannot be any doubt that since search was made in this case on 10.04.2018, the assessment year is 2019-20. The end of the assessment year 2019-20 is 31.03.2020. The computation of ten years has to run backwards from the said date i.e. 31.03.2020. The first year will of course be the search assessment year itself. In that event, the ten assessment years will be as follows:

1st Year	2019-20
2nd Year	2018-19
3rd Year	2017-18
4th Year	2016-17
5th Year	2015-16
6th Year	2014-15
7th Year	2013-14
8th Year	2012-13
9th Year	2011-2012
10th Year	2010-2011

The case on hand pertains to AY 2009-10. It is obviously beyond the ten year outer ceiling limit prescribed by the statute. The terminal point is the tenth year calculated from the end of the assessment year relevant to the previous year in which search is conducted. The long arm

of the law can go up to this terminal point and not one day beyond. When the statute is clear and admits of no ambiguity, it has to be strictly construed and there is no scope for looking to the explanatory notes appended to statute or circular issued by the department.

10. In the case on hand, the statute has prescribed one mode of computing the six years and another mode for computing the ten years. Section 153A(1)(b) states that the assessing officer shall assess or reassess the total income of six years immediately preceding the assessment year relevant to the previous year in which search is conducted. Applying this yardstick, the six years would go up to 2013-14. The search assessment year, namely, 2019-20 has to be excluded. This is because, the statute talks of the six years preceding the search assessment year. But, while computing the ten assessment years, the starting point has to be the end of the search assessment year. In other words, search assessment year has to be including in the latter case. It is not for me to fathom the wisdom of the parliament. I cannot assume that the amendment introduced by the Finance Act, 2017 intended to bring in four more years over and above the six years already provided within the scope of the provision. When the law has prescribed a particular length, it is not for the court to stretch it. Plasticity is the new mantra in neuroscience, thanks to the teachings of Norman Doidge. It implies that contrary to settled wisdom, even brain structure can be changed. But not so when it comes to a provision in a taxing statute that is free of ambiguity. Such a provision cannot be elastically construed.

11. One other contention urged by the standing counsel has to be dealt with. It is pointed out that the petitioner has invoked the writ jurisdiction at the notice stage. Since the petitioner has demonstrated that the subject assessment year lies beyond the ambit of the provision, the respondent has no jurisdiction to issue the impugned notice. Once lack of jurisdiction has been established, the maintainability of the writ petition cannot be in doubt."

In our considered opinion, the decision in A.R Safiullah correctly expounds the legal position and the interpretation liable to be accorded to the identification of the ten AYs which are spoken of in sections 153A and 153C."

9.3 *Thus, it is precisely held hereinabove that the statute prescribes different modes of computation for six years and ten years. We reiterate that the provisions of Section 153A(1)(b) of the Act stipulate that the Assessing Officer shall assess or reassess the total income of six years immediately*

preceding the assessment year relevant to the previous year in which the search is conducted. However, the ten assessment year period, consequently, is to be reckoned from the end of the assessment year pertaining to the previous year in which the search was conducted, as distinct from the preceding year which is spoken of in the case of the six relevant assessment years. Thus, the contention with regard to the computation of six years as well as ten years under the provisions of Section 153A of the Act has already been gone into by the Delhi High Court as well as the Madras High Court, and we have no convincing reason to take a divergent view from the view expressed hereinabove. Applying the aforesaid computation to the facts of the present case, taking the date of the search as 09.05.2024 during the Financial Year 2024-25, the Assessment Year 2025-26 will become the first assessment year and, in the same manner, the Assessment Year 2016-17 will become the tenth assessment year. Thus, the year under consideration, namely, Assessment Year 2015-16, for which the impugned notice has been issued under Section 148 of the Act, would fall beyond the period of ten years prescribed under the statute as it stood immediately before the commencement of the Finance Act, 2021, and hence, on this count, the impugned notice can be said to be barred by limitation. "

14. For the foregoing reasons, the impugned Notice issued under Section 148 of the Act dated 30.03.2026 for A.Y. 2015-16 is barred by limitation as the same falls beyond the permissible period of ten years. We, therefore, quash and set aside the Notice dated 30.03.2026 issued under Section 148 of the Act for Assessment Year 2015-16 on the ground of limitation. Accordingly, the present writ petition is allowed. **RULE** is made absolute. No order as to cost.

(A. S. SUPEHIA, J)

(VAIBHAVI D. NANAVATI, J)