IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH, AHMEDABAD

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER AND
Ms. MADHUMITA ROY, JUDICIAL MEMBER

(Conducted through Virtual Court)

ITA No.390/Ahd/2020
Assessment Year: 2015-16

Anil Rambhai Mevada 1, Parishram, Makarba Gam, Bharwad Vas, Ahmedabad. [PAN – ABWPB 4548 B]	vs.	Principal CIT-3 Ahmedabad.

ITA No.391/Ahd/2020
Assessment Year: 2015-16

Deepakkumar Rambhai Mevada 1, Parishram, Makarba Gam, Bharwad Vas, Ahmedabad. [PAN – ABXPB 1575 B] (Appellants)	vs.	Principal CIT-3 Ahmedabad. (Respondents)

Appellants by	:	Shri Vijay Mehta
Respondent by	:	Shri O.P. Sharma, CIT D.R.

Date of hearing	:	14.09.2021
Date of pronouncement	:	15.12.2021

O R D E R

PER PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER :

The captioned appeals have been filed at the instance of the respective assessees captioned hereinabove against respective revisional orders of the PCIT-3 Ahmedabad concerning A.Ys. 2015-16.

2. As stated on behalf of the assessee, both appeals emanates from the same set of facts giving rise to the identical grievance. Both the assessee are stated to be

recipient of similar compensation on release of rights in same land parcels as two different co-purchasers. Hence, the facts and issue being identical, both the captioned appeals have been heard together and are being disposed of by this common order.

3. We shall first take up ITA No.390/Ahd/2020 concerning Assessment Year 2015-16 in the case of Anil Rambhai Mevada for the purpose of adjudication.

ITA No.390/Ahd/2020 – Anil Rambhai Mevada – AY 2015-16

4. The captioned appeal has been filed against the revisional order of PCIT-3, Ahmedabad dated 16.03.2020 passed under section 263 of the Act whereby the assessment order passed by the Assessing Officer (A.O.) dated 30.10.2017 concerning Assessment Year (A.Y.) 2015-16 was sought to be set aside for reframing assessment in terms of supervisory directions.

5. As per its grounds of appeal, the assessee has essentially challenged the justification of revisional action of the PCIT as a consequence of which the A.O. was directed to pass the assessment order *denovo* after making enquiries and verifications on points set out in the revisional order.

6. A small delay of 45 days in filing captioned appeals before the tribunal is condoned at the request on behalf of respective Assessee having regard to ongoing pandemic situation prevailing in the country at the relevant time. No prejudice is shown to have caused to revenue. The appeals were thus admitted for adjudication on merits at the time of hearing.

7. Briefly stated, the assessee, an individual, filed its original return of income for A.Y. 2015-16 declaring a total income of Rs.14,89,200/-. The case was selected for

scrutiny through CASS under '*limited scrutiny*' category. As per the scrutiny notice, the case was selected for examination of following issues:-

1) Whether capital gain/loss on sale of property has been correctly shown in the return of income.

2) Whether deduction from capital gains have been claimed correctly.

8. The assessee, in the course of regular assessment, filed revised computation of income and withdrew the deduction claimed under section 54B of the Income Tax Act, 1961 (the Act in short) in the Return of income. As a sequel to revised computation, the assessee paid taxes on the enhanced income declared at Rs.2,12,73,202/- owing to withdrawal of deduction. It was pointed that the revision of the income in the course of assessment was made on realisation by the assessee that he is not entitled to deduction under section 54B against the capital gain arising from transfer of mere rights in the land parcels which cannot be equated with sale of land *per se.* As stated, the A.O. in the regular assessment proceedings asked specific questions regarding capital gains accrued to the assessee vide point nos.4 & 5 of questionnaire dated 08.08.2017 placed in the Paper Book as Annexure-F. In response to the notice, the assessee filed a reply dated 23.10.2017 regarding capital gains earned on sale of certain land parcels and towards release of rights in land parcels relating to Survey No.847 registered with registering authority for a sale consideration of Rs.9.30 Crores vide sale deed dated 19.02.2015. It was pointed out that the assessee entered into a Banakhat (MOU) dated 25.08.2008 with land owners (Kiran D Patel) for purchase of land parcels bearing survey no. 847 along with other proposed co-purchasers namely Deepak R Bharwad; Dhiren R Bharwad/ Mevada. It is claimed that by virtue of the MOU, the Assessee and other proposed co-purchasers acquired certain rights in the land parcels. However, the land parcel was eventually sold by the land owners to the ultimate purchaser namely Navin Kalidas Patel. A sale deed was executed and registered for transfer of land dated 19 Feb.2015 wherein the assessee and other erstwhile co-purchasers to the *banakhat* agreement were made confirming parties to the sale transactions between the land owners and ultimate purchaser. The assessee and other original co-purchasers received Rs. 2.85 cr. each out of the sale consideration by virtue of being confirming parties to the sale

agreement. The capital gains arising on such receipts for release of rights claimed to be vested by *banakhat* agreement was worked out to Rs. Rs.2,66,01,375/- by the assessee. The assessee offered such surplus under the capital gains and availed indexation benefits and concessional tax treatment associated to such long term capital gains. As noted earlier, deduction against such capital gains were claimed under S. 54B of the Act which was withdrawn in the course of assessment and additional taxes were paid thereon. The AO after making enquiries in this regard as mandated under 'limited scrutiny' and after taking relevant documents in the form of *banakhat* and sale agreement etc. endorsed the claim of capital gains and consequently assessed the income at Rs.2,12,73,200/ based on the revised computation of income.

9. After the completion of assessment, the PCIT in exercise of his revisionary powers issued show cause notice dated 22.01.2020 under section 263 of the Act requiring the assessee to show cause as to why the impugned assessment so framed under section 143(3) of the Act dated 30.10.2017 should not be modified/set side on the ground that assessment order so passed is erroneous in so far as it is prejudicial to the interest of the revenue. As per the show cause notice, the PCIT broadly observed that the receipts arising to the assessee ought to have been assessed under the residuary head 'income from other sources' instead of 'capital gains' which has the effect of withdrawal of concessions and tax rate benefits etc. associated to capital gains. It may be apt to extract the show cause notice for easy reference:

"Notice u/s. 142 (1) of the I.T. Act 1961

PAN: ABXPB1575B *Date: 08/08/2017*
Reminder -I

Deepakkumar Rambhai Mevada
1, Parishram Makarba Gam,
Bharwad Vas, Ahmedabad.

Sir, '

Sub: Requisition for information in connection with assessment proceedings for the A.Y. 2015-16 -reg.

Please refer to this office notice u/s. 143(2) of the I.T. Act dated 05/07/2016 which has been issued and duly served on you. In this connection, you are requested to furnish the following details/submission/ evidences on 23/08/2017 at 3.30 P.M.

1. Please furnish the brief note on nature of business carried out by you during the year under consideration.

2. Please furnish the details of immovable property transferred during the year and the value of as reported in AIR is higher than the value of property transferred as reported in return of income (AIR 007) and schedule CG of ITR. Please explain the same with documentary evidence along with separate working of long term capital earned on the same.

3. Please also furnish the details of deduction claimed u/s 54B, 54C, 54G, 54GA (Schedule CG of ITR along with documentary evidences.

4. Please explain whether the capital gain has been claimed correctly with documentary evidences.

5. Please explain whether the capital gain on transfer of property has been shown correctly with documentary evidences.

6. Please reconcile the 26AS data with the income shown in ITR.

7. Please furnish copies of assessment orders for the last three years.

8. Details of bank accounts operated during the year under consideration along with Reconciliation Statements of each accounts.

Bank accounts & Reconciliation Statement:

In respect of bank accounts held by you either severally or jointly, please furnish the details of the same along with the copy of bank statement/pass-book and bank book as under:

Name of the Bank/Branch	*A/c. No.*	*Type of A/c Current/CC/ OD/Loan/ Savings*	*Balance as per Bank (Rs.)*	*Balance as per Books (Rs.)*	*Difference, if any*	*interest received during the year(Rs.)*

In case of difference in the balance, please furnish the bank reconciliation statement along with supporting documentary evidence.

9. It is also requested that the above information may please be furnished para wise, with complete details called for.

Book-Bank Statement etc. along with the bills-vouchers-receipts etc.

Please note that the assessment proceedings is being time barring proceedings, it requires to be complete within the time limit prescribed as per provision of the Act. Therefore, kindly ensure that reply this notice is given as per the specified date/time as mentioned in the Notice u/s 142(1) of the Act issued. Please also note that incomplete or non compliance to this

notice may attract penalty proceedings u/s 271(1)(b) of the Act which is Rs.10,000/- (Rupees Ten Thousand) for each default."

10. After taking note of the defense propagated by the assessee in response to the show cause notice under S. 263, the PCIT concluded that the order passed by the A.O. suffers from error which has resulted in prejudice to the interest of the revenue. A revisional order was accordingly passed whereby the assessment order was set aside for fresh adjudication.

11. On a broader reckoning, the allegations made in the revisional order passed against the assessee can be capsulated as (1) wrong characterisation of income under the head 'capital gains' as claimed on the ground that such income arose to the assessee by way of compensation on release of rights in land parcel bearing Survey No.847. The PCIT viewed that such gains are susceptible to tax under the 'income from other sources' (2) incorrect claim of exemption and cost of improvement in respect of sale of other two plots namely plot no.594/2 and plot no.868/1/2.

12. Aggrieved by the revisional order, the assessee preferred appeal before the Tribunal. The assessee has challenged the assumption of jurisdiction by the PCIT under section 263 of the Act as well as the consequential directions given under revisional order on the ground that the assessment order sought to be revised is neither erroneous nor prejudicial to the interest of the revenue.

13. When the matter was called for hearing before the Tribunal, the learned counsel for the assessee made wide ranging submissions to vociferously defend the assessment order and non fulfilment of prerequisites for assumption of revisional jurisdiction. The arguments advanced are broadly summarised hereunder:-

i) The case was selected for 'limited scrutiny' on the very point in issue. The A.O. thus examined the correctness of capital gain/loss on sale of property and whether deduction from capital gain has been claimed correctly as required upon him in performance of quasi judicial functions. The A.O. has raised

appropriate questions on both these points and after taking note of the documents filed before him in support of such claim, has found merit in stance of the assessee. The assessee, on his part, has fully substantiated the claim of capital gains arising on sale of property/rights therein with clinching evidence. Therefore, there was no perceptible reason for the A.O. to interfere with the income offered by the assessee dehors the tangible facts.

ii) The PCIT has proceeded to set aside the assessment based on totally irrelevant & extraneous considerations. As contended, it was never the case of the assessee that he was the owner of plot (Survey No.847) giving rise to capital gains of Rs.2,66,01,375/-. The assessee has all along claimed that while the assessee was not vested with ownership right nor was having the possession of the property, certain rights were accrued to the assessee on account of *banakhat* dated 25.08.2008 entered into between seller (Shri Kiran D. Patel) and the then proposed purchasers (Shri Dipak R. Bharwad, Shri Dhiren R. Bharwad & the assessee). It is in recognition of the right available to the assessee by virtue of b*anakhat* agreement that the seller while selling the property to the ultimate purchaser namely Shri Navin K. Patel has perforce recognised the rights of the assessee and other three parties as confirming parties and shared a part of sale consideration with the assessee and other co-purchasers befitting to the risk perceived and to keep the looming litigation at bay.

(iii) It is highly improbable that vender would have agreed to settle the dispute by paying the huge amount of Rs.8.55 crores in aggregate to the confirming parties (2.85 crores each) unless the assessee is perceived to have acquired some valuable right over the property from the point of view of the transacting parties. A reference was to the decision of the co-ordinate bench in the case of *Sri P Ramgopal Varma vs. Addl. CIT ITA No. 827/Hyd./2013 order dated 28.05.2014* to support such contention. The inherent risk and its probability to mar the sale transaction has been assessed by the stake holders in a registered agreement. The receipt arose to the assessee by virtue of *banakhat* and quality of rights arising to assessee from such *banakhat* is for transacting parties to ascertain and none else.

(iv) The allegation of PCIT in the revisional order towards absence of verifiable evidence of payment in pursuance of *banakhat* does not arise from the show cause notice and finds place directly in his discussion in the revisional order. Such course of action amounts to no opportunity and thus unsustainable in law. Be it as it may, such purported deficiency does not vitiate the factum of receipt of compensation.

(v) The observations of the PCIT that b*anakhat* has expired and has become void on expiry of one year from the date of b*anakhat* on non fulfilment of conditions, is totally extraneous in the subject matter of dispute on characterisation and alignment of income. Firstly, *banakhat* has been misunderstood to be void both factually and legally. The *banakhat* has only rendered voidable for non registration by the seller and could become void only at the instance of the proposed purchasers. The contract being voidable is different from being void. Secondly, if the *banakhat* has become void as suggested by the PCIT, no income by way of compensation would accrue to the assessee at all. The question of characterisation of *non-est* income would thus not arise at all. In a situation, where the *banakhat* is deemed to be void and not enforceable as viewed by PCIT, why will the seller part with huge amount to the assessee and other parties. The answer lies in the risk assessment of contracting parties; howsoever absurd such assessment might be. It is the sole wisdom of the transacting parties which will govern the quantum and character of receipt.

vi) Such compensation on release of rights to sue in land parcel is clearly a capital receipt. Such compensatory receipts, not being property under S. 2(14) are not chargeable to tax at all and at best can be taxed under the head 'capital gains'. By bringing such non taxable income to capital gain tax, the revenue has not suffered at all. The PCIT completely lost sight of the fact that the compensation received cannot be seen *dehors* the *banakhat* rights and hence by no means could be brought to charge under the head 'income from other sources' erroneously concluded by the PCIT. The issue on nature of income is thus not even debatable. What is debatable is the correctness of taxes levied on such capital receipt for which long line of judicial precedents are in favour of the

assessee. It is the error committed by the assessee to his own prejudice and not the AO as alleged.

vii) The assessee has waived his right to acquire property arising to it from *banakhat* which is a capital right and the assessee has rightly claimed the cost of acquisition against such receipt as a deduction. In similar situations, the taxability of such right is well settled in favour of assessee by various judicial decisions of the co-ordinate benches including Chandrashekar Naganagouda Patil vs. DCIT (2020) 117 taxman.com 520 (Bglr.) and P. Ramgopal Varma vs. Addl. CIT in ITA No.327/Hyd/2013, order dated 28.05.2014.

(viii) The question of taxability under the head 'income from other sources' would arise only where the nature and character of income is not identifiable. In the instant case, the income is directly attributable to the sale deed executed by the seller in February 2015 wherein the assessee and other two erstwhile purchasers in *banakhat* in Aug. 2008 were introduced as confirming parties to give quietus to the probable *lis*.

(ix) The clause no.4 & 6 of the sale agreement dated 16.02.2016 recognise the right of the proposed purchasers including the assessee by virtue of *banakhat* agreement. As a corollary, in the absence of *banakhat* rights, the assessee is left with no right to receive any money.

(x) The action of the PCIT is based only on re-appreciation of the existing facts and is merely a manifestation of his perception and what enquiries or verifications are required to be carried out independently by the A.O. remains un-spelt. In the garb of setting aside for verification and examination, the PCIT has, in effect, directed the A.O. to replace his point of view with that of PCIT based on same set of facts. Such course is not permissible under S. 263 of the Act. The course adopted by the AO cannot be displaced without showing how such course is totally unsustainable in law.

(xi) On the query from the bench, the learned Counsel submitted that as against three proposed purchasers, two of which are above captioned assessees namely Shri Anil Rambhai Mevada and Shri Deepakkumar Rambhai

Mevada, no such realignment of income in the hands of Shri Dhiren R. Bharwad (3rd confirming party) has been made to the best of his knowledge. No proceeding under S. 263 or other under other provisions are probably pending against him. Notwithstanding, it was simultaneously stated that in the light of self-evident fact, no adverse conclusion would be possible against any confirming party in law. The assessee has duly declared income and limited ground is assessment under correct head. The action of the assessee to declare the income under the head 'capital gain' is fully supportable without any room for debate. The only debate possible is on the inherent chargeability of such income. Looking from any perspective, the order of the AO is, in no way, either erroneous or prejudicial to the interest of revenue.

14. As regards revision proposed in respect of other land transactions, it was fairly submitted that the assessee has no impending grievance towards the directions given in the revisional order in respect of capital gain arising on sale of land parcels bearing plot no.594/2 and 868/1/2 having regard to the fact that a positive consequential order has already been passed by the A.O. on appreciation of facts and evidences. The issue relating to other land parcels (other than survey no. 847) is thus academic and does not call for adjudication on merits. It was thus submitted that in the absence of any prejudice subsisting at present, the assessee does not seek to press against the revisional directions in relation to other land parcels.

15. In the light of submissions made, the ld. Counsel has urged for cancellation of the revisional order in the absence of fulfilment of prerequisites of section 263 of the Act.

16. Learned CIT – DR, on the other hand, strongly relied upon the observations made in the revisional order. In furtherance, it was submitted that the PCIT has analysed the issue threadbare and has pointed out that the A.O. has failed to make requisite enquiries which should have been made resulting in grievous error in the assessment order. It was contended that it is difficult to fathom an extraordinary

amount of compensation received by the proposed purchasers based on some unregistered *banakhat* whose already stood expired and rendered unenforceable. A suitable enquiry in this regard was called for by the A.O. and thus the PCIT has rightly interdicted with the assessment order to correct the error. In any case, it is open to the assessee to explain facts before the A.O. in the consequential proceedings and thus no prejudice can be said to have caused to the assessee as such. Learned CIT D.R. accordingly submitted that no interference with the revisional order is called for.

17. We have carefully considered the rival contentions and perused the revisional order passed by the PCIT under section 263 of the Act as well as other materials referred and relied upon by respective parties and case laws cited.

17.1 The solitary issue in the revisional order concerns determination of true nature and character of income arising to the assessee on sale of rights in land parcel along with other proposed co-purchasers as confirming parties. Few facts need to be reiterated. The assessee along with other erstwhile co-purchasers entered into *banakhat* agreement with seller Shri Kiran D. Patel in August 2008 whereby the seller had agreed to sell and transfer the land parcel (Survey no.847) in favour of the proposed purchasers (assessees) on fulfilment of terms and conditions of *banakhat*/MOU. A part consideration of Rs.90,000/- was paid by the erstwhile co-purchasers against the *banakhat* agreement. No ownership right was vested or possession was given to the assessee herein by virtue of *banakhat* agreement. The transfer of the impugned land parcel was ultimately effected in favour of one Shri Navin K. Patel by the land owners and sellers (Shri Kiran D. Patel) vide sale agreement dated 19.02.2015. The registered sale agreement however, has admittedly recognised the assessee and other two erstwhile co-purchasers as 'confirming parties' to facilitate a peaceful transfer of land parcel in favour of ultimate purchasers. In the process, the assessee and other two co-purchasers have received Rs.2.85 crores each as compensation for relinquishment of their right to sue demand to arise by virtue of erstwhile *banakhat*. The assessee has offered the compensation so received in the capacity of a confirming party on sale of land parcel under the head 'capital gain'. The document namely *banakhat* agreement, sale agreement etc. were

produced before the A.O. in the original assessment under limited scrutiny. The A.O. ascertained the quantum of the capital gains declared by the assessee and assessed the income offered by the assessee without any adjustments or realignment. The PCIT, however, in exercise of the revisional powers under section 263 of the Act has directed the A.O. to make property enquiries and verifications *denovo* on the issue. While setting aside the assessment order the PCIT observed that the A.O. should have taxed the compensation income under the head 'income from other sources' having regard to the unenforceable strength of the *banakhat* deed. According to the PCIT, the *banakhat* has, in effect, turned void and ceased to carry any legal existence on expiry of period of one year provided for registration of agreement as a result of such MOU.

17.2 In defence, it is the contention of the assessee that, indisputably, the assessee has received consideration being a confirming party to the final sale deed executed in February 2015. The source of receipt arises by virtue of *banakhat* agreement howsoever incapacitated it might be. In the absence of *banakhat* agreement, the assessee is not entitled to any right to claim compensation. The seller and the ultimate purchaser have recognised this valuable right of the assessee and other co-purchaser in their wisdom, regardless of legal existence or otherwise of *banakhat*. Once a sum is received by way of compensation owing to release of rights in the land parcel, such right is nothing but a capital receipt which is arguably not chargeable to tax at all. Nevertheless, such amount at best can be charged under the head "capital gain" since the right arising on account of *banakhat* falls within the sweep of definition of capital asset provided under section 2(14) of the Act.

18. We find wholesome merit in the plea of the assessee. It is observed that the assessee has filed relevant evidence before the A.O. to substantiate the existence of gain arose to him. The only issue in dispute is towards the nature and character of such gains arising to the assessee. It is the case of the PCIT that the gains arising to the assessee ought to have been taxed under the head 'income from other sources' instead of 'capital gains' offered by the Assessee. The source of money received is manifest. The assessee has sufficiently demonstrated that the gains arising to him is having live and direct nexus to the *banakhat* agreement executed way back in August

2008 and sale deed executed in Feb. 2015 and such compensation/ gains has arisen to the assessee in recognition of rights of the Assessee to sue in the land parcels which falls under the definition of 'capital asset', the relinquishment of which is taxable as capital gains under S. 45 of the Act. The assessee was paid compensation along with other co-purchasers when the final sale deed was executed in consideration of release of rights arising to him by *Banakhat*. Hence, the seller and the ultimate purchaser have, rightly or wrongly, perceived strength of such *banakhat* under general laws and in order to bring quietus to any potential dispute, have taken these co-purchasers onboard as confirming parties, as advised to them. The compensation awarded to the assessee and co-purchasers naturally have direct connect with such subsisting rights perceived by the sellers and purchasers. Compensation so received on release of such right, at best, falls within the ambit of expression of 'capital asset' defined in section 2(14) of the Act. Pertinent to note, the expression 'capital asset' as defined in section 2(14) of the Act of very wide import and connotation. Needless to say, the income emanating on relinquishment of a capital asset would give rise to capital gain as claimed by the assessee. Hence, we do not see potency in the claim of PCIT that such income is chargeable under the head "income from other sources" more so, in exercise of revisional jurisdiction which debars the revisional authority to interfere with a legally plausible view taken by the A.O. The stand of PCIT prima facie appears to be quite slender and plainly contrary to law and facts of the case. Significantly, it is not for the revenue to determine as to whether the assessee is entitled to any compensation on a conceivably unenforceable *banakhat* agreement or otherwise. It is trite that the revenue cannot step into the shoes of the contracting parties to determine the expediency of payment. Where the seller and purchasers have consciously decided to pay compensation for relinquishment of right arising from an erstwhile *banakhat* and suitable clause to this effect was put up in the registered sale deed, the revenue cannot displace the legal effect of such express terms duly registered. In the factual matrix, the gains arising by virtue of such arrangement is either chargeable under the head ""capital gains"" or not chargeable at all. There is no scope for bringing such income to tax under the head 'income from other sources'. It must be borne in mind that the scope of powers under revisionary jurisdiction are not unfettered. Whereas the A.O. had rightly endorsed the corroborated claim of the assessee in this regard, the PCIT, in our view, has attempted to substitute his wisdom by views of the A.O. without any definite basis. If the view of the PCIT towards the

banakhat allegedly hollow or unenforceable is accepted, no income can be recognised at all. The view taken by the A.O. is clearly plausible in law and could not have been displaced in a revisionary proceedings by a very untenable or a debatable view.

18.1 We also observe that having come to a conclusion that the income should be taxed under the had 'income from other sources' it was not open to the PCIT to direct the A.O. to make enquiries and verifications without keeping the issue open for him to be determined afresh. It is evident that the issue was foreclosed in the revisional order itself and the A.O. was simply directed to follow the dotted lines in the garb of lack of proper enquiries or verifications. The PCIT has also failed to spell out as to what further enquiry or verifications are required to be made independently where all the evidences are already perused. Manifestly, the revisional order does not pass the test of prerequisites of jurisdiction embedded in section 263 of the Act. In our view, the PCIT has failed to demonstrate any perceived error in the assessment order. Noticeably, the assessee claims a converse situation where the prejudice, if any, has caused to assessee for offering such gains as chargeable to tax, where judicial view is also available for its non chargeability at the threshold.

18.2 We are thus inclined to agree with various pleas raised on behalf of the assessee for setting aside the revisional order and restore the assessment order in so far as taxability of receipts attributable to impugned land parcel bearing survey no. 847 is concerned. The revisional order is accordingly set aside on the point of taxability of capital gains on sale of land parcel bearing survey no.847 in question.

18.3 In the light of concession given on behalf of the assessee, the grievance of the Assessee in respect of other land parcels (other than survey no. 847) are, however, answered in negative and against the assessee.

19. In the result, appeal of the assessee is partly allowed.

ITA No.391/Ahd/2020 – Assessment Year 2015-16

20. The facts and the issue are common and identical to ITA No.390/Ahd/2020. The assessee herein is also one of erstwhile co-purchaser of the land parcels bearing Survey No.847. Hence, the observations and the findings made in ITA No. 390/Ahd/2020 in the case of erstwhile co-purchaser Shri Anil Rambhai Mevada shall apply *mutatis mutandis*. Consequently and in tandem, the revisional directions of the PCIT in respect of Survey No.847 in the instant case is also set aside and cancelled. We however, decline to interfere with the revisional directions in respect of other land parcels similarly placed in other appeal supra.

21. In the result, appeal of the assessee is partly allowed.

22. In the combined result, appeal of both the captioned assesses are partly allowed. Pronounced in the open Court on this 15th day of December, 2021.

Sd/-
(MADHUMITA ROY)
Judicial Member

Sd/-
(PRADIP KUMAR KEDIA)
Accountant Member

True Copy

Ahmedabad, the 15th day of December, 2021
PBN/*

Copies to:
(1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad