

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD òSMCö BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA No. 631/Ahd/2014
Assessment Year 2009-10**

Yogesh Raojibhai Patel Prop. Shree Yogi Auto Fuel, H. P. Petro Pump, Bhalej Road, Anand-388001 PAN: AEIPP4490D (Appellant)	Vs	The ITO, Ward-1, Anand (Respondent)
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**Revenue by: Shri Somogyan Pal, Sr. D.R.
Assessee by: Ms. Arti Shah, A.R.**

Date of hearing : 02-04-2019
Date of pronouncement : 08-04-2019

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This assessee's appeal for A.Y. 2009-10, arises from order of the CIT(A)-IV, Ahmedabad dated 09-12-2013, in proceedings under section 143(3) of the Income Tax Act, 1961; in short òthe Actö.

2. The assessee has raised following grounds of appeal:-

“1. The Learned Commissioner of Income Tax (Appeals)-IV, Baroda has erred in law and on facts of the case by confirming the addition of Rs.91,917/- made by the Assessing Officer on estimation basis in respect of household expenditure.

2. The Learned Commissioner of Income Tax (Appeals)-IV, Baroda has erred in law and on facts of the case by confirming the addition of Rs.85,255/- made by the Assessing Officer in respect of vehicle expenses.

3. The Learned Commissioner of Income Tax (Appeals)-IV, Baroda has erred in law and on facts of the case by confirming the addition of Rs .5,00,000/- by the Assessing Officer u/s 69 in respect of investment in property.

4. The Appellant prays for the following:

(1) To delete the disallowance of household expense of Rs 91,917/-.

(2) To delete the disallowance of vehicle expenses of Rs 85,255/-.

(3) To delete the disallowance of Rs 5,00,000/- made u/s 69 in respect of investment made in property.”

3. In this case, return of income declaring income of Rs. 3,23,110/- was filed on 30th Sep, 2009. Subsequently, the case was selected under scrutiny by issuing of notice u/s. 143(2) of the act on 20th August, 2010. During the course of assessment proceedings, the assessing officer noticed that assessee has shown household expenditure incurred during the year to the amount of Rs. 1,48,083/-. The assessing officer has called for justification of the reasonableness of the aforesaid expenditure claimed to be incurred by the assessee. The assessee has explained that his family has consisted of four members, self, wife and two children who were studying, therefore, looking to the size of the family, the household expenditure were properly shown. The assessing officer has not agreed with the explanation of the assessee. He was of the view that looking to the social status of the assessee, two school going children, the expenditure @ 1,48,083/- towards household were not proper and reasonable. The assessing officer has also taken into consideration the petrol expenditure, electricity expenses etc. and computed

the total household expenditure @ 20,000/- per month and added the different amount of Rs. 91,917/- to the total income of the assessee.

4. During the course of assessment, the assessing officer has also noticed that assessee has debited vehicle expenses at Rs. 8,999/-, vehicle insurance expenses Rs. 41,344/-, vehicle loan interest at Rs. 21,524/-, and depreciation of car at Rs. 3,54,353/-. The total of these expenses was Rs. 4,26,220/-. The assessing officer was of the view that the personal use of motor car cannot be ruled out. Therefore, assessing officer has disallowed 20% of these expenses to the amount of Rs. 85,244/- and added to the total income of the assessee.

5. During the course of assessment, the assessing officer further noticed that assessee has purchased a property to the worth of Rs. 78,87,000/- during the year under consideration. The assessing officer asked the assessee to explain the source of purchase of this property. The assessee explained that this property was jointly purchased and he was having 25% shares in the property. The assessee has contributed as per his share to the amount of Rs. 22,50,000/-. The assessee explained that the investment was made out of agricultural income earned by his father Shri Raojibhai Nayarbhai Patel who was having more than 30 bighas of agricultural land. The assessing officer has not agreed with the explanation of the assessee. He stated that the assessee has failed to substantiate with the relevant supporting evidences i.e. sale of bills of agriculture produce, bills of expenditure for agriculture activity etc. to establish that the source of cash deposit was from out of the agriculture income earned by his father. Therefore, the assessing officer has disallowed

to the extent of Rs. 5 lacs out of total cash deposit of Rs. 22,50,000/- claimed by the assessee out of agriculture income of his father.

6. Aggrieved assessee has filed appeal before the Id. CIT(A). In respect of disallowance of household expenditure, the Id. CIT(A) has dismissed the appeal of the assessee stating that the assessee has not shown withdrawal by any of his family members and assessee has not shown any petrol expenditure in spite of the fact that he has purchased a new vehicle during the year under consideration. The Id. CIT(A) has also sustained the disallowance of vehicle expenses made by the assessing officer on the ground that assessee has not established that the vehicle was used exclusively for his business purpose. The Id. CIT(A) has also sustained the addition of Rs. 5 lacs made by the assessing officer u/s. 69 of the act as unaccounted investment in the property on the ground that assessee could not fully explain with supporting evidences that the entire cash deposits in the bank account was out of agricultural income of his father.

7. During the course of appellate proceedings before us, we have heard both the sides and perused the material on record carefully. In respect of disallowance of household to the amount of Rs. 91,917/-, we observed that assessee has failed to justify the household expenditure claimed by him and assessee has not given any break-up of the expenditure incurred in respect of electricity, telephone and petrol expenditure etc. The assessee has also purchased a new vehicle during the year under consideration. We have further noticed that no other family member of the assessee has made any withdrawal during the year under consideration. After considering the above

facts and elaborate finding of the Id. CIT(A), we do not find any reason to interfere in the decision of Id. CIT(A) on this issue, therefore, this ground of appeal of the assessee is dismissed. Regarding disallowance of 20% of vehicle expenses out of total expenses of Rs. 460220/-, it is noticed that major part of vehicle expenses pertained to insurance, depreciation, vehicle loan. We are of the view that it will be reasonable to restrict the disallowance to 10% of these expenditure as against 20% of the expenditure disallowed by the assessing officer, therefore, we restrict the disallowance to the amount of Rs. 42620/-. Accordingly, this ground of appeal of the assessee is partly allowed. Regarding third ground of appeal of the assessee, pertaining to addition of Rs. 5 lacs u/s. 69 of the act as unaccounted investment in the property, we have gone through the material on record. It is noticed that assessee has contributed Rs. 22,50,000/- towards purchase of the land situated near Lakasa Hotel, Anand. The assessee has explained that the source of investment was out of agricultural income of his father Shri Raojibhai Patel. However, we find that in spite of giving a number of opportunities during the course of assessment and appellate proceedings, the assessee has failed to substantiate the genuineness of cash deposit aggregating to Rs. 22,50,000/- in the bank account out of the agricultural income. The assessee has failed to furnish the complete supporting bills and vouchers for sale of agricultural produce and corresponding expenditure incurred to earn agricultural income. The assessee has also not filed any return of income which to demonstrate earning of agricultural income out of which the cash was deposited in the bank for purchasing of the aforesaid property in the name of the assessee. In the light of the above material fact,

we do not find any infirmity in the decision of Id. CIT(A), therefore, this ground of appeal of the assessee is also dismissed.

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

Order pronounced in the open court on 08-04-2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 08/04/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश क०० तलम अ० षत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपील अ० अधकरण,
अहमदाबाद