

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT**  
**[Conducted through "E" Court at Ahmedabad]**

**BEFORE SHRI RAJPAL YADAV,**  
**HON'BLE JUDICIAL MEMBER**  
**AND**  
**SHRI AMARJIT SINGH**  
**HON'BLE ACCOUNTANT MEMBER**

**ITA No.587/RJT/2014**  
**निर्धारण वर्ष/ Asstt. Year: 2010-11**

Shri Piyush Chandubhai Vasoya "Shri Ram", 1-Gurudev Park B/h. Amarnath Temple 150feet Ring Road Rajkot 360 005.	Vs.	ITO, Ward-1(3) Rajkot.
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<b>(Applicant)</b>		<b>(Responent)</b>
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Assessee by :	Shri M.J. Ranpura, AR
Revenue by :	Mrs.Namita Khurana, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : **16/07/2019**  
घोषणा की तारीख /**Date of Pronouncement**: **15/10/2019**

**आदेश/O R D E R**

**PER RAJPAL YADAV, JUDICIAL MEMBER:**

Assessee is in appeal before the Tribunal against order of the Id.CIT(A)-1, Rajkot dated 6.8.2014 passed for the Asstt.Year 2010-11.

2. The assessee has taken nine grounds of appeal, however, his grievance is that the Id.CIT(A) has erred in upholding the addition of Rs.42,79,300/- which was added by the AO with the aid of section 68 of the Income Tax Act, 1961.

3. Brief facts of the case are that the assessee has filed his return of income on 17.2.2011 declaring total income at Rs.1,48,670/-. The case of the

assessee was selected for scrutiny assessment. It revealed to the AO that the assessee was operating a saving bank account bearing no.03791000040888 with HDFC Bank, Kalawad Road Branch, Rajkot. He found that the assessee had deposited cash deposit aggregating to Rs.72,55,000/-. The ld.AO directed the assessee to explain the source of cash deposits made to the bank. The assessee has filed his explanation and the ld.AO was broadly satisfied with the explanation of the assessee except for three amounts, viz.

(a)	gift received from grand-parents	:	Rs.15,00,000/-
(b)	cash deposits by join account holder: Smt.Ritaben C. Vasoya	:	Rs.26,50,000/-
(c)	Unsecured loan	:	<u>Rs.1,29,300/-</u>
	<u>Total addition</u>	:	Rs.42,79,300/-

The ld.AO has made addition of the amount. Appeal to the CIT(A) did not bring any relief to the assessee.

4. With the assistance of the ld.representatives, we have gone through the record carefully. Shri Govind Vasoya and Smt.Jadiben Bhimjibhai Baldha executed gift deed on a stamp paper of Rs.50/-, and this confirmation-cum-gift deed was produced by the assessee before the ld.AO. According to the declaration made by both the deponent, it was alleged that they have paid Rs.7,50,000/- in cash each to their grandson. He directed the assessee to produce both the donors. It was submitted that Shri Govind Vasoya has died and death certificate was submitted. With regard to Smt.Dudhiben G. Vasoya, it was contended that she was old and unable to walk through. It was not possible to attend proceedings. The ld.AO rejected the contentions of the assessee on the ground that gift deed was not executed in consonance with rules and regulations. It is by way of simple narration. It is not attested.

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Donors failed to demonstrate their capacity to donate this amount. The Id.CIT(A) concurred with the observation of the AO.

5. On the other hand, the stand of the assessee is that both the donors were related to the assessee being grandparents. They were having agriculture land and past savings. Out of which, they have given this amount to the assessee. The Id.DR pointed out that the land holding was not sufficient to generate this much income to the donors, and they have not filed supporting evidence with regard to the agriculture operations.

6. On due consideration of the above facts and circumstances, we are of the view that grandparents one of whom died after execution of the gift deed, and before appearing before the AO, they have declared that they have gifted a sum of Rs.7,50,000/- each to their grandson. It is not a gift which is arranged from unknown person. They might have some sorts of assets which could be inherited by different parties, and some of them must have arranged the cash. Though there is no specific evidence with regard to the reasoning, but whatever gifts from direct blood relations are being visualized, then we have to appreciate them from social and family circumstances. These gifts cannot be visualized with an angle where gifts are being alleged to be received from unknown persons. Therefore, we are of the view that at the fag- end of their life, their grandparents might have donated a sum of Rs.15 lakhs to their grandsons. We delete the addition of Rs.15 lakhs.

7. Next item of addition of Rs.26,50,000/- received from Smt.Ritaben C. Vasoya, a joint account holder and sister of the assessee.

8. According to the assessee, she has contributed an amount of Rs.26,50,000/- and declaration to this effect was submitted. The Id.Revenue

authorities have rejected the contentions of the assessee on the ground that she failed to explain the source of such amount. To our mind, the Revenue authorities failed to appreciate that if a joint account holder owns up a particular transaction by filing a confirmation and affidavit, then that question is to be examined in her case. In other words, it should be inquired in the case of Smt.Ritaben C. Vasoya and not from the assessee. For a joint account both the co-owners are equally responsible, and if a plausible explanation is given, then that explanation cannot be rejected on the ground that other co-holder was not having sufficient fund. If that be so, then addition on account of unexplained investment in the bank account should be made in the hands of other co-owner. How, the assessee can be fastened with liability ? When the co-owner has owned up the cash deposit in the account, in such circumstances addition in the hands of the assessee cannot be made. Therefore, we allow this fold grievance and deleted the addition of Rs.26,50,000/-.

9. As far as a sum of Rs.1,29,300/- is concerned, no explanation was given to establish the genuineness of the identity and capacity of the persons from whom this amount has been taken. Therefore, this ground of rejected, and this addition is confirmed.

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

**Order pronounced in the Court on 15<sup>th</sup> October, 2019 at Ahmedabad.**

Sd/-  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(RAJPAL YADAV)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated 15/10/2019