

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD

BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 1819/Ahd/2018
(निर्धारण वर्ष / Assessment Year : 2015-16)

Shri Vinodchandra Narendrarai Bhatt 10, Sabarmati Society, Dharmanagar, Sabarmati, Ahmedabad – 380 005	बनाम/ Vs.	Asstt. Commissioner of Income Tax Circle 5(1), Narayan Chamber, Ashram Road, Ahmedabad 380009
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ADIPB2852L		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Sanjay R Shah, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri N. K. Goel, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	13/01/2020
घोषणा की तारीख /Date of Pronouncement	17/01/2020

आदेश/ORDER

PER PRADIP KUMAR KEDIA - AM:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-5, Ahmedabad (CIT(A)' in short), dated 06.07.2018 arising in the assessment order dated 26.12.2017 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2015-16.

2. The grounds of appeal filed by the assessee read as under:

“1.0 The learned CIT(A) erred in disallowing a sum of Rs.14,00,000/- u/s 80 GGC in respect of donation to two political parties. The learned CIT(A) grossly erred in confirming such addition. It is submitted that since the appellant has led all evidences to prove the genuineness of the donation and the same fulfils all the requirements of section 80GGC, the same should be allowed to him. It is submitted that it be so held now.

2.0 The learned A.O. erred in rejecting the explanation of the appellant in respect of such donation and erred in disallowing the same u/s 80GGC in breach of principle of natural justice, whereas the learned CIT(A) grossly erred in confirming such addition on an absolute different ground in spite of the fact that the evidences to support genuineness and source of such donations were available with both the lower authorities to prove its authenticity . It is submitted that it be so held now and addition made by learned A.O. and confirmed by the learned CIT(A) be directed to be deleted.

3.0 The learned CIT(A) erred in not adjudicating the ground before him in respect of non-consideration of revised return by the learned A.O. and not granting the credit for Double Taxation Relief u/s 90 of the Act OF Income tax of Rs. 1,25,935/- on foreign income of amounting to Rs.4,07,559/-. It is submitted that it be so held now.”

3. First two grounds of the assessee concern disallowance under s.80GGC of the Act amounting to Rs.14 Lakhs. On consideration of rival submissions and on perusal of the orders of the authorities below, we find that AO has disallowed donations made to two political parties; (i) Rashtriya Komi Ekta Party & (ii) Lok Janshakti Party. The

assessee, a salaried employee, claimed deduction for such donations made through banking channel to these political parties. In this regard, it is the case of the assessee that in the course of the scrutiny proceedings, the assessee furnished the proof of these payments by way of receipts as well as registration of these political parties issued by Election Commission of India. A show cause notice was issued by the AO to the assessee to produce bank passbook / statement to substantiate the claim which was duly complied with highlighting the donation debited in the bank statement together with name, cheque number etc. It is claimed on behalf of the assessee that despite these facts, the AO disallowed the claim made under s.80GGC of the Act on the preliminary ground that notice issued under s.131 of the Act to Rashtriya Komi Ekta Party seeking confirmation of receipt of donation remained uncomplished with. Likewise, summons issued under s.131 of the Act to Lok Janshakti Party remained unresponded. It was further observed by the AO that political party was not found the address provided as per the Tax Inspector Report.

4. In the first appeal, the CIT(A) denied the relief to the assessee on two counts; firstly, the source and supporting evidence explaining the payment was not proved and secondly, on inquiries from the political parties, the verification of receipt of payment by them could not be made.

5. On perusal of the facts and circumstances narrated above, we find that certain observation from the Revenue are overriding in nature which distinguishes the case of the assessee with that of *M/s. Sudeep Infrastructure ITA No. 512/Ahd/2017* order dated 22.10.2019 referred to and relied upon on behalf of assessee at the time of hearing before Tribunal. In the instant case, the bank statement filed by assessee showing payment made does not show complete picture of the name of the bank and other vital details. Therefore, we are unable to place

reliance on such incomplete bank statement at present. Secondly, summon issued to one political party appears to have return back without service. The other political party has not proved the factum of the receipt of donation.

6. Pertinent to say, a political party is an organized group of people meant to play crucial role in facilitating governance, policy making etc. and consequently in defining the way of life of common citizen on continued basis. It is hard to imagine that such parties registered with Election Commission and so essential to our democratic form of Government would not abide by declared law of country and would seek an escape from providing vital information on contributions received under enquiry. Such leeway to a registered political party would be fatal and would set a bad example to the society at large.

7. Therefore, having regard to the totality of the case, we consider it just and equitable to restore the issue back to the file of the AO for *de novo* examination in accordance with law after making suitable enquiry with political parties as may be considered expedient and after providing proper opportunity to the assessee. The assessee shall be at liberty to adduce such evidence as he may think fit to substantiate the bonafides of donations made and prove eligibility of deduction under s.80GGC of the Act.

8. Ground Nos. 1 & 2 are accordingly allowed for statistical purposes.

9. Ground No.3 concerns grievance towards not granting credit for double taxation relief. As pointed out on behalf of the assessee, the revised return filed by the assessee to claim double taxation relief under s.90 of the Act amounting to Rs.1,25,935/- in respect of foreign

income by way of salaries and offered for taxation in India appears to have not been taken note of by both the lower authorities. Under these circumstances, we set aside the action of the lower authorities on this point as well and remit the matter back to the file of the AO for determination of the issue afresh in accordance with law after providing proper opportunity to the assessee for substantiation of his claim.

10. In the result, Ground No.3 of the assessee's appeal is allowed for statistical purposes.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on 17/01/2020

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 17/01/2020

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

True Copy

S. K. SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।