

आयकर अपीलिय 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. 1781/Ahd/2018
(निर्धारण वर्ष / Assessment Year : 2015-16)

Nitinkumar N. Shah 904, Indraprash – 10, B/h. Pride Hotel, Bodakdev, Ahmedabad - 380054	बनाम/ Vs.	ACIT Circle - 5(1), 6 th Floor, Nature View Building, Near H. K. House, Ashram Road, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AHWPS1688R		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Deepak R. Shah, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri Vidhyut Trivedi, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	20/01/2020
घोषणा की तारीख /Date of Pronouncement	27/01/2020

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 08.06.2018 arising in the assessment order dated 29.12.2017 passed by the

Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2015-16.

2. As per grounds of appeal, the assessee has challenged the disallowance of Rs.10 Lakhs being deduction claimed by the assessee under s.80GGC of the Act on donations purportedly given to the political parties.

3. On perusal of the assessment order, we notice that the assessee, a salaried employee, claimed deduction for donation amounting to Rs.10 Lakhs under s.80GGC of the Act made through banking channel to the political parties. The assessee has claimed to have donated Rs.5 Lakhs to Rashtriya Komi Ekta Party and Rs.5 Lakhs to Rashtriya Samajwadi Party (Secular). In this regard, it is case of the assessee that in the course of the scrutiny proceedings, the assessee furnished the proof of payments as evidenced by receipts issued by the political parties as well as registration of these political parties issued by the Election Commission of India. A copy of the bank statement was also produced to substantiate the claim towards payment of donation. 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 ground that notice issued under s.131 of the Act to Rashtriya Komi Ekta Party remained uncomplied with. The bank statement furnished by the party did not show the cheque numbers of the assessee. Similarly, notice issued under s.131 of the Act to Rashtriya Samajwadi Party (Secular) also remained unresponded. It was alleged by the AO that transaction with Rashtriya Komi Ekta Party are sham and money donated to the party has been clandestinely returned to its beneficiaries. The claim of deduction under s.80GGC of the Act by assessee was rejected.

4. In the first appeal, the CIT(A) denied the relief to the assessee on the ground that despite several opportunities given to the assessee, the onus placed on the assessee to substantiate the bonafides of donation purportedly made to the political parties could not be discharged.

5. Placed in the similar circumstances, the co-ordinate bench of the Tribunal *Shri Vinodchandra Narendrarai Bhatt vs. ACIT ITA No.1819/Ahd/2018 order dated 17.01.2020 for AY 2015-16* has remanded the issue back to the file of the AO after making following observations:

“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 to 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.”

6. In parity, the issue is remanded back to the file of the AO for *de novo* examination on identical terms and directions. It shall be open to AO to make such objective enquiries in the matter as may be considered expedient to arrive at a cogent finding in this regard.

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

This Order pronounced in Open Court on 27/01/2020

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER
Ahmedabad: Dated 27/01/2020

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 ।