

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, AHMEDABAD  
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No. 399/Ahd/2024  
(Assessment Year: 2018-19)

Jigar Bhikhalal Sanghavi, Gardania Residency, New Sharda Mandir Road, Nr. Karnavati, Paldi, Ahmedabad-380006 [PAN : AFQPS 1399 F]	Vs.	Income Tax Officer, Ward 4(1)(1), Ahmedabad
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Biren Shah, CA
<b>Respondent by:</b>	Shri Kavan Limbasiya, Sr DR
<b>Date of Hearing</b>	08.04.2025
<b>Date of Pronouncement</b>	22.04.2025

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT :**

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi (hereinafter referred to as "CIT(A)" for short), dated 05.01.2024 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], for Assessment Year (AY) 2018-19.

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

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3. *The Ld. Authorities / CIT (Appeals) are not justified in making addition of investment in the shares of Sanghavi Infotech Private Limited amounting to Rs. 2,80,00,000/- treated as unexplained investments U/s. 69 of the Income Tax Act.*

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4. *The Ld. Authorities / CIT (Appeals) are not justified in making addition of shares received as Gift from real brother amounting to Rs. 39,76,000/- as an unexplained investment U/s. 69 of the Income Tax Act.*

5. *The Ld. Authorities / CIT (Appeals) are not justified in withdrawing interest and adding back interest expenses of Rs. 56,28,281/- U/s. 57 of the Income Tax Act,”*

3. The assessee has also raised an additional ground of appeal which read as under:

*“Without prejudice to Ground No.5, Hon’ble Bench may kindly direct the Assessing Officer to treat entire interest income and interest expense under the head of business and profession considering the nature of transactions and thereby give direction to allow the interest expenses as business expense against interest income and any other business income.”*

4. The brief facts of the case are that the assessee, who is an individual, filed his return of income for the year under consideration on 30.08.2018 declaring total income of Rs.16,09,030/- after claiming deduction under Chapter VIA of Rs. 1,79,973/-. The case was selected for limited scrutiny assessment and order u/s 143(3) of the Act was passed by the Assessing Officer on 26.03.2021, assessing total income at Rs.3,92,13,308/- after making following additions/disallowances:-

i)	Investment in shares	-	Rs.2,80,00,000/-
ii)	Gift received from anonymous	-	Rs. 39,76,000/-
iii)	Addition u/s 57	-	Rs. 56,28,281/-

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5. Aggrieved by the order of the Assessing Officer, the assessee filed appeal before the Ld. CIT(A) who dismissed the appeal of the assessee and confirmed all the additions/disallowance made by the Assessing Officer.

6. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

**i) Investment in shares -Rs.2,80,00,000**

7. The brief facts relating to this issue are that the assessee was allotted 28,00,000 shares through Right issues of Rs. 10 each totaling consideration of Rs. 2,80,00,000/- as on 13.02.2018. Since the assessee has neither explained the sources of fund of investment in the shares of the Rs.2,80,00,000/- nor produced the documentary evidences to substantiate its claim regarding the investments, the Assessing Officer treated the same as unexplained investments u/s 69 of the Act and added the same to the income of the assessee. The ld. CIT(A) confirmed the aforesaid addition on appeal filed by the assessee before him.

7.1 The paper-book submitted before us has been perused, the copy of which was made available to Ld. DR. It could be found that the assessee was allotted 2,80,000 Right Shares of Rs. 10 each of Sanghvi Infotech Private Limited on 13.02.2018. The Ld. AR submitted that the investment in equity shares has been made from the loans repaid back by Sanghvi Infotech Pvt. Ltd, for which he placed copy of ledger account at PB 119. He also contended that the assessee had given a loan to Sanghvi Infotech (copy of Ledger Account at PB 98-101) which was repaid back by Sanghvi Infotech and the proceeds from this repayment have been used by the assessee to

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invest in the equity shares. To substantiate this claim, the assessee has submitted the bank statements from Cosmos Co-Op Bank (PB 120) evidencing the amounts received from Sanghvi Infotech as repayment of loan and the amounts paid to Sanghvi Infotech as a consideration against 28,00,000 Right Shares. These bare facts could not be disputed on facts or on any other material by the Ld. DR. In the absence of any contrary evidences, we hold that no addition is called for on account of investments in shares. Appeal of the assessee on this ground is allowed.

**ii) Gift received from anonymous - Rs. 39,76,000**

8. The assessee in his submission dated 04.03.2021 submitted notarized descriptive declaration and acknowledgment of gift of 3,97,600/- shares of Rs. 10 each dated 02.01.2018 executed with real brother Manish Bhikhalal Sanghavi. The Assessing Officer held that the assessee has claimed that he has received Gift from his brother and also produced a Gift Deed in which he mentioned that he had received Gift of Shares from his brother. Assessing Officer held that on careful examination of the submissions made by the assessee on 04.03.2021, it is noticed that the donor is not his brother as the names of the assessee and his brother with their father's name mentioned in the PAN cards are as Mr. Jigar Bhikhalal Sanghvi son of Mr. Bhikalal Nalchandrabhai Sanghvi and his brother Mr. Manish Kumar Bhikhalal Sanghvi son of Mr. Bhikhalal Haichandbhai Sanghvi. For the sake of ready reference, the order of the Assessing Officer on this issue is reproduced as under:-

*5.3 From the above facts it is clear that the Mr. Manishkumar Bhikhalal Sanghvi is not brother of the assessee. As per the provisions of the Income Tax Act, 1961, any person can receive Gift from his/her*

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*relatives only. There is different between the father's name of the assessee and the donor. Thus, the assessee has unable to submit the documentary evidences to substantiate his claim that he has received Gift of the Share total amounting to Rs.39,76,000/- from his relatives as per the provisions of the Income Tax Act 1961. As per the provisions of the Income Tax Act, 1961 the assessee could receive the Gift from the Relatives only which are defined in the Act in various sections. But the assessee has unable to prove that he has received the Gift from any relatives. Thus the Gift has remained as anonymous.*

*5.4 In view of above facts and relying on the provisions of the Act, vide show cause notice dated 22 03.2021, assessee had asked to show cause as to why the Gift received from Anonymous of amounting to Rs.39,76,000/- should not be treated unexplained investments under section 69 of the Income Tax Act, 1961 in your case during the year and added back in the total income for A.Y. 2018-19. The date of compliance is fixed on 25.03.2021. Assessee has filed reply in this regard on 25.03.2021. The reply of the assessee has carefully examined, but not found in order and acceptable as under:-*

*5.5 In response of the show cause notice assessee has submitted reply and the same is reproduced "Gift deed of equity shares has been already submitted in earlier responses."*

*5.6 The facts of the reply of the assessee are already discussed in above Para No.5.2 and 5.3. The assessee has not submitted any reply regarding the above facts discussed in Para No.5.2 and 5.3 as the Draft Assessment order is sent to the assessee with the show cause notice. Thus the assessee is unable to prove that he has received Gift from relatives as defined in the Income Tax Act 1961.*

*5.7 In view of the above, it is clear that the reply of the assessee on the above point is not in order and acceptable. Therefore, the total value of the Shares as Gift received by the assessee during the year has remained Unexplained Investment under section 69 of the Income Tax Act, 1961 during the year and the same has added back to the total income of the assessee for A.Y.2018-19. The tax calculation shall be done as per the provisions under section 115BBE of the Act."*

8.1 We find that the name of the assessee - Jigar Bhikhalal Sanghvi  
Father name (in PAN Card)- Bhikhalal **Nalchandra**bhai Sanghvi  
Name of the brother of the assessee – Manishkumar Bhikhalal Sanghvi  
Father name (in PAN Card)- Bhikhalal **Haichanda**n**an**bhai Sanghvi

8.2 The Assessing Officer with great ingenuity held that Shri Manishkumar Bhikhalal Sanghvi cannot be the brother of Shri Jigar Bhikhalal Sanghvi as the grandfather's name in the PAN card of both the brothers is at variance. Hence, the Assessing Officer held that Shri Manishkumar Bhikalal Sanghvi cannot be treated as the brother of Jigar Bhikhalal Sanghvi as per the Income-tax Act and denied the benefit of gift without bringing any other material on record or directing the assessee to prove the brotherly relation in spite of the affidavit filed by both the parties with regard to the receipt of the gift and the relation "brother".

8.3 The Ld. CIT(A) went a step further ahead and held that :-

*"5.9 ...., it is trite that an appellate authority is essentially called upon to balance the two sides of an argument presented before him as held in Nirmal Singh and Others of the Hon'ble Punjab and Haryana High Court [Or No. 3791 of 2013 (O&M) dated 01.05.2014] and in the absence of any reasonable, cogent and valid arguments/contentions advanced by the appellant in the instant appeal to counter the AO's decision as contained in the assessment order, as mentioned earlier, the additions/disallowances made by the AO is sustained ...."*

8.4 Having seen the facts before us, we are still searching for appropriate words in the English dictionary to appreciate the dedication, neutrality,

objectivity and judicious nature of the Assessing Officer and the CIT(A) while dealing with this issue. Having unable to find appropriate words, we at least found the reasons why the taxpayer detests the tax authorities.

8.5 Nevertheless, on the merits of this issue, we hold that the Revenue Authorities have failed to appreciate the issue in the right perspective and hence we hold that no addition on account of gift of shares received by the assessee from his brother can be treated as unexplained investment u/s 69 of the Act. Appeal of the assessee on this ground is allowed.

**i) Deduction u/s 57 of the Act of amounting 56,28,281/-**

9. During the year the assessee has earned interest of Rs.56,89,413/- against the amount advanced (loans) to various parties. The assessee has also paid interest of Rs.56,28,281/- from whom the amounts (loans) have been received. The Assessing Officer disallowed the deduction of interest claimed by the assessee u/s 57 of the Act. The Ld. CIT(A) upheld the action.

9.1 We have examined the details submitted by the assessee before the Revenue Authorities. The assessee has submitted the details of interest received on loan, advances, bank interest and on IT refund of total of 16 entries amounting to Rs.56,97,081/- (PB 39). Similarly, the assessee has filed details of interest paid on loans and advances pertaining to FY 2017-18, totaling to 48 persons, wherein the rate of interest ranged from 12% to 15%. The details of the name, address and PAN numbers from whom the amounts have been received and interest paid has been duly given before the Revenue Authorities. Further, the ledgers of all the 48 parties have been submitted before the Revenue Authorities. The ledgers reveal opening balances, payment of the principal made during the year, payment of

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receipt during the year and the interest payments. Further, we also find on record, the flow of money as advances and extending of loans to other parties. Hence, it shall be treated as business activity of the assessee and claim of interest paid has to be allowed from the interest received. In the result, appeal of the assessee on this ground is allowed.

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

**The order is pronounced in the open Court on 22.04.2025**

Sd/-

**(SIDDHARTHA NAUTIYAL)  
JUDICIAL MEMBER**

Sd/-

**(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

Ahmedabad; Dated 22/04/2025

*btk*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True Copy

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad