

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No.1387/Bang/2025
Assessment Year: 2022-23

Vineet Sudhakar Rao, D-904 Purva Fountain Square, Marathahalli, Bengaluru – 560 037. PAN – ANBPS 8102 K	Vs.	The Income Tax Officer, Ward – 4(1)(3), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Sudesh Garg, Advocate
Revenue by	:	Shri Muthu Shankar, CIT (DR)

Date of hearing	:	10.09.2025
Date of Pronouncement	:	29.09.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order of the NFAC, Delhi vide order dated 21/05/2025 in DIN No.ITBA/NFAC/S/250/2025-26/1076341817(1) for the assessment year 2022-23, confirming the addition of ₹50,00,000/- made by the Assessing Officer (AO) on account of alleged bogus donation to a political party.

2. The assessee is an individual and a director in two private limited companies. During the year under consideration, the assessee claimed to have made a donation of ₹50,00,000/- to Rashtriya Samajwadi Party

(Secular), a registered but unrecognized political party. The AO found, based on search proceedings at the premises of the said party, that it was engaged in issuing bogus donation receipts in lieu of commission, with the balance amount returned to donors. On this basis, the AO disallowed the donation and added it back to the assessee's total income.

3. Before the learned CIT(A), the assessee argued that the AO relied upon third-party material without granting opportunity of cross-examination. The Id. CIT(A), however, observed that while cross-examination is a facet of natural justice, it is not an invariable requirement in every case. Relying on judicial precedents such as *Kisnalal Agarwalla v. Collector of Land Customs* (AIR 1967 Cal 80), and *Motilal Padampat Udyog Ltd. v. CIT* (Allahabad HC) reported in 293 ITR 565, the Id. CIT(A) held that failure to provide cross-examination does not invalidate assessment where the material relied upon is collateral or where the AO has collected and disclosed the evidence. The Id. CIT(A) noted that the party had no office at the declared address, had not made any contributions since FY 2013–14, and was found to be engaged in issuing bogus receipts. In this view, the addition of ₹50,00,000/- was confirmed.

4. Being aggrieved by the order of learned CIT-A, the assessee is in appeal before us.

5. The learned AR before us filed a brief synopsis and SOP dated 3-08-2022 for National Faceless assessment and argued that the addition

suffers from gross violation of natural justice and NFAC's Standard Operating Procedures (SOPs). It was pointed out that para 4.4 of the assessment order and the show cause notice (SCN) dated 10.02.2024 clearly reveal that evidences relied upon by the AO were never confronted to the assessee. This, it was submitted, is contrary to the SOP dated 03.08.2022 issued by NFAC under section 144B, which mandates that:

- Para N.4.3: "To meet the requirements of principle of natural justice, additional SCN/questionnaire must be issued where any modification prejudicial to the assessee, other than those shared in the SCN, is found prima facie acceptable."
- Para N.5.1.2: "Inquiries conducted and response of the assessee, if additional SCN/questionnaire is issued, must be duly recorded."
- AU-7 Format: Requires that the AO mandatorily provide a summary of information/evidences collected, along with attachments, which are proposed to be used against the assessee.

5.1 The AR submitted that none of these mandatory requirements were complied with. The assessee was not even confronted with the alleged evidences, much less given opportunity to cross-examine the persons whose statements were relied upon. It was further submitted that even those statements did not specifically name the assessee. Hence, the entire assessment rests on assumptions and presumptions. The AR further contended that several binding case laws on natural justice were cited before the Id. CIT(A), but were not considered. It was

thus pleaded that the addition of ₹50,00,000/- is unsustainable both in law and on facts and deserves to be deleted.

6. The learned DR, on the other hand, relied on the orders of the AO and Id. CIT(A). It was argued that the political party in question had no activity, no office, and was merely issuing bogus receipts, a fact established by search. The assessee failed to prove the genuineness of the donation by any independent evidence. It was submitted that the AO's reliance on material from search proceedings was justified.

7. We have heard the rival contentions of both the parties and perused the materials available on records. The law is well settled that principles of natural justice require that any adverse material proposed to be used against an assessee must be confronted to him. The NFAC's own SOP dated 03.08.2022 reinforces this by mandating that if any new prejudicial material is relied upon, a fresh SCN/questionnaire must be issued. The AU-7 format further obligates the AO to share a summary of such evidences along with attachments.

7.1 In the present case, para 4.4 of the assessment order itself acknowledges that the evidences relied upon were not confronted to the assessee. The SCN dated 10.02.2024 also reveals the same. This is a direct violation of the SOP provisions as well as principles of natural justice. The assessee was neither provided with the materials relied upon nor given opportunity to cross-examine the persons whose statements were used. In fact, as pointed out by the Id. AR, even those statements did not specifically implicate the assessee.

7.2 While it is true that cross-examination is not an invariable attribute in every case (*Krishna Chand Chela Ram v. CIT*), the present case stands on a different footing. Here, the entire addition of ₹50,00,000/- rests upon third-party material collected in search, without confrontation. Such denial goes to the root of procedural fairness. The AO's failure to follow NFAC SOPs compounds the violation.

7.3 The CIT(A) sustained the addition primarily on the ground that the political party was found to be engaged in bogus donations. However, the assessee's fundamental grievance is that material was not confronted remains unaddressed. The binding SOP requirements and natural justice principles cannot be bypassed.

7.4 Accordingly, in our considered view, the addition of ₹50,00,000/- made by the AO and confirmed by the Id. CIT(A) is not sustainable in law. The same is directed to be deleted. Hence, the ground of appeal of the assessee is allowed.

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

Order pronounced in court on 29th day of September, 2025

Sd/-

(SOUNDARARAJAN K)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 29th September, 2025

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore