

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before Ms. Suchitra Kamble, Judicial Member

**ITA No. 1654/Ahd/2025
Assessment Year 2019-20**

Tushar Vipinchandra Shukla, B-21, Sharnam-1, Opp. Lotus School, Jodhpur Gam, Satellite, Ahmedabad PAN: AECPS5482C (Appellant)	Vs	The ITO, Ward-5(3)(2), Ahmedabad (Respondent)
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Assessee by: Shri Mehul Thakkar, A.R.
Revenue by: Shri Suresh Chand Meena, Sr. D.R.

Date of hearing : 01-12-2025
Date of pronouncement : 16-01-2026

आदेश/ORDER

This is an appeal filed against the order dated 24-06-2025 passed by National Faceless Appeal Centre(NFAC), Delhi for assessment year 2019-20.

2. The grounds of appeal are as under:-

"1. The Ld. Assessing Officer has erred in law and on facts in reopening the assessment under section 147 of the Act. The reopening is bad in law and void ab initio.

2. The Ld. Assessing Officer has erred in issuing notice under section 148A(b) without furnishing complete relied-upon documents and without disposing of the objections of the appellant by way of a reasoned and speaking order.

3. The order passed under section 148A(d) of the Act by the Ld. Assessing Officer is bad in law, as it has travelled beyond the

scope of the Show Cause Notice by treating the alleged escapement of income at ₹10,00,000/- instead of ₹5,00,000/- as originally alleged.

4. The order passed under section 148A(d) of the Act by the Ld. Assessing Officer is bad in law, as sanction under section 151 of the Act was obtained only in respect of alleged escapement of ₹5,00,000/-, whereas the order under section 148A(d) refers to alleged escapement of ₹10,00,000/-, thereby travelling beyond the sanction accorded.

5. The sanction granted under section 151 of the Act is bad in law, as in the case of reopening beyond three years from the end of the relevant assessment year, the competent sanctioning authority is the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General. In the present case, approval was accorded only by the Ld. Principal Commissioner of Income Tax (PCIT), rendering the entire proceedings invalid.

6. The initiation of reassessment proceedings is bad in law, as the Show Cause Notice was issued under section 148A(b) of the Act despite the fact that the provisions of section 148A were not applicable to the appellant's case, which prima facie falls within clause (c) of the proviso to section 148A of the Act.

7. The Ld. CIT(A) has erred in law and on facts in confirming addition of ₹5,00,000/- for the donation made to the Rashtriya Samajwadi Party (Secular) and more particularly:

-That the above addition was confirmed disregarding the evidence produced by the appellant.

-That the above addition was confirmed without appreciating the fact that the addition was made solely on the basis of unverified and uncorroborated extracts of the alleged third-party statements recorded under section 132(4), without providing copies thereof to the appellant, in gross violation of principles of Audi Alteram Partem.

-This further resulted into inability of the appellant to seek cross-examination of the third parties whose statements have been heavily relied upon while rejecting the claim of deduction under section 80GGC of the Act.

-That the order under section 147 has been issued by mechanically adopting the findings of the Investigation Wing without independent enquiry or analysis, thereby acting on "borrowed satisfaction," which is impermissible in law.

8. *The Ld. CIT(A) has erred in law and on facts in confirming addition of 5,00,000/- for the donation made to the Apna Desh Party and more particularly:*

-That the disallowance of donation of ₹5,00,000/- made to Apna Desh Party was confirmed, despite the fact that the Investigation Wing's report, relied upon by the AO, pertained only to Rashtriya Samajwadi Party (Secular) and had no reference to Apna Desh Party, thereby rendering the addition baseless, mechanical, and without jurisdiction.

-That the addition made by the AO was without bringing and confronting the corroborative material on record for making the impugned addition.

9. *The Ld. CIT(A), thus, grossly erred in not appreciating that the additions were made on the basis of borrowed satisfaction, without any corroborative evidence to establish that the donations made by the appellant were accommodation entries.*

10. *The appellant craves leave to add, alter, amend, or modify any of the above grounds at the time of hearing.”*

3. The assessee is an individual and filed return of income u/s. 139(1) of the Act for assessment year 2019-20 on 17-07-2019 declaring total income of Rs. 36,07,440/-. As per the information, the assessee had claimed bogus deduction u/s. 80GGC in respect of donation made to a registered un-recognized political party more specifically more specifically in para 3.1.1 of the assessment order. The assessee was issued show cause notice u/s. 148A, notice u/s. 148 was issued and served upon the assessee on 16-04-2023 in respect search and seizure action dated 07-04-2022 conducted by the Department in respect of 23 Ahmedabad based registered un-recognised political parties. It was found that the assessee has donated Rs. 10,00,000/- through banking channel. These 10 parties are mentioned on page 4 of the assessment order. The assessee filed response to the show cause notices and after taking into account the said responses, the Assessing Officer held that the deduction

claimed by the assessee u/s. 80GGC was bogus and the paper work was merely colourable device. Thus, the Assessing Officer disallowed the amount of Rs. 10,00,000/- claimed u/s. 80GGC of the Act and made addition.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that in respect of notice u/s. 148 of the Act, the assessee filed return of income on 29-04-2023 declaring total income of Rs. 36,07,440/- which was already declared u/s. 139(1) return on 17-07-2019. The assessee furnished donation receipts and bank statements evidencing demand made through banking to substantiate the funding of the donations. The A.R. submitted that the addition was solely made on the basis of the appraisal report of the Investigation Wing without any independent inquiry or application of mind by the Assessing Officer. This is evident from the reasoning in the re-assessment order itself wherein the Assessing Officer stated that although proper paper work existed, reliance was placed on the Investigation Wing report but also the transaction as sham. The A.R. further submitted that the disallowance of donation of Rs. 5,00,000/- to Apna Desh Dal is not correct as the Investigation Wing report pertained to only Rashtriya Samajwadi Party (Secular). The ld. A.R. submitted that Rashtriya Samajwadi Party (Secular) has no connection with the search referred to, thereby demonstrating complete non-application of mind and borrowed satisfaction.

6. The ld. D.R. submitted that the Assessing Officer as well as CIT(A) was not correct in disallowing deduction claim u/s. 80GGC of the Act. The D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the material available on record. As regards ground nos. 1 to 4, the ld. A.R. submitted that the notice issued u/s. 148A(b) categorically mentions in respect of Rashtriya Samajwadi Party (Secular) wherein registered un-recognized political parties and not that of any specific parties as the Assessing Officer has mentioned in the assessment order. But from the perusal of the records related to the information details of search conducted at Rashtriya Samajwadi Party (Secular), the assessee's name was categorically mentioned related to the donation given. Thus, ground no. 1 that the reopening is valid/void ab initio does not sustain as the 144AD order categorically mentions the deduction claimed u/s. 80GGC to the extent of Rs. 10,00,000/- and though in para 4 only the RSP amounting to Rs. 5,00,000/- was mentioned in para 8.2 of the said order, the total donation of Rs. 10,00,000/- claimed by the assessee as deduction was taken into account by the Assessing Officer. Thus, ground no. 2 does not sustain. Though the ld. A.R. relied upon the case of Rajiv Bansal in para 7.3 it can be categorically mentioned that in the present case the assessee is not travelling beyond the show cause notice issued u/s. 148A(b) as the issue is related to the donations made to registered unrecognized political parties and claiming the deduction u/s. 80GGC. As regards the ground no. 3, the submission of the ld. A.R. that the sanction is beyond three years period from PCIT also does not sustain as the Assessing Officer has not travelled beyond the scope of the show

cause notice related to the donations to the registered un-recognized political parties. Thus, ground nos. 1, 2 and 3 are dismissed. As regards ground no. 4 ld. A.R. submitted that the sanction granted u/s. 151 as in the case of reopening the assessee's case prima facie falls within the clause (c) of provision to section 148A of the Act. The ld. A.R. submitted that the said proviso categorically mandates the Assessing Officer as to draw satisfaction note with the prior approval of the Pr. CIT or Commissioner. But the assessee has ignored the total holistic interpretation of the proviso more specifically proviso (a) as in the present assessee's case there was search and seizure action conducted by the revenue in respect of 23 Ahmedabad based registered un-recognized political parties (Date of search 07-0-2022). Thus, the said contention will also do not apply in assessee's case. Ground no. 4 is dismissed. The ld. A.R. has relied on various case laws where factual aspects in those case laws are totally different than the present assessee's case. Now coming to the merits of the case i.e. ground nos. 7 and 8 the assessee pointed out that the additions are solely made on the basis of Investigation Wing and are from borrowed satisfaction without allowing the assessee to cross examine those third parties. From the perusal of the records, the assessee has given the details of bank statements along with donations receipts as well as registration letter of political parties with the Election Commission of India. These documents were not taken cognizance by the Assessing Officer as well as by the CIT(A). Therefore, it will be appropriate to remand back this issue to the file of the Assessing Officer for taking cognizance of these details and adjudicate the same as per Income Tax Statute. Thus, the appeal of the assessee is partly allowed for statistical purpose.

8. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 16-01-2026

Sd/-
(Suchitra Kamble)
Judicial Member

a.k.

Ahmedabad : Dated 16/01/2026

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

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद