

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

ITA No. 1156/Ahd/2025
(Assessment Year: 2015-16)

Anang Kunjviharibhai Shah, 1, Friends Colony, SM Road, Ambawadi, Ahmedabad-380015 [PAN: ACUPS 2559 J]	Vs.	Income-Tax Officer, Ward 7(2)(1), Vejalpur, Ahmedabad (Previously DCIT, Cir. 1(1)(2))
(Appellant)	..	(Respondent)
Appellant by:	Shri Bandish Soparkar, AR	
Respondent by:	Shri Abhijit, Sr. DR	
Date of Hearing	27.11.2025	
Date of Pronouncement	03.02.2026	

ORDER

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

This appeal has been filed by the assessee against the order dated 25.03.2025 passed by the Ld. Addl. / Jt. Commissioner of Income-Tax (Appeals), Faridabad ('Ld. CIT(A)' in short), under Section 250 of the Income-tax Act, 1961 ('the Act' in short), relating to the Assessment Year 2015-16.

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

"1. That the learned CIT(A) has erred in considering repayment of deposit by the company of Rs. 25,00,000/- to the appellant as deemed dividend u/s. 2(22)(e) of the Act and thereby confirming the addition made by the assessing officer of Rs. 25,00,000/-.

2. That the various reason advanced by leaned CIT(A) in considering repayment of deposit of Rs. 25,00,000/- as deemed dividend u/s. 2(22)(e) of the Act are contrary to the facts of the case and the evidence on records. That the learned CIT(A) has misconstrued the provisions of section 2(22)(e) of the act.

3. That appellant respectfully submit that there is no loan given by the company which has resulted in benefit to the appellant and hence the said transaction being repayment of deposit only should not be considered as deemed dividend u/s. 2(22)(e) of the Act."

3. The brief facts of the case are that the assessee is an individual who filed his return of income for A.Y. 2015-16 on 31.10.2015 declaring a total income of Rs. 2,63,18,720/-. The assessee derives income from salary, short-term capital gains, long-term capital gains, interest, etc. He is the Managing Director of M/s Crystal Quinone Pvt. Ltd. and maintains a deposit account with the said company. **During the relevant year, M/s Crystal Quinone Pvt. Ltd. made payments aggregating to Rs. 25,00,000/- on behalf of the assessee, which were debited to the deposit account of the assessee maintained with the company. The Assessing Officer treated the said payment as deemed dividend u/s 2(22)(e) of the Act and accordingly made an addition of Rs. 25,00,000/-.**

4. Aggrieved by the assessment order, the assessee filed an appeal before the Ld. CIT(A), who dismissed the appeal of the assessee by observing as under:-

“4.0 Determination & Decision: The statement of facts, order appealed against, grounds of appeal, and copies of documentary evidence/explanations have been thoroughly examined. After reviewing the AO'S order and the appellant's submissions, the aforesaid factual and legal position, the appeal filed by the appellant is being decided on the basis of documents available on record.

4.1 The primary dispute revolves around the disallowance of deduction of Rs. 25,00,000/- claimed u/s 80GGC of the Income Tax Act. As per the submissions of the appellant made during the course of assessment proceedings and before this office, the appellant has claimed deduction of the impugned amount of Rs. 25,00,000/- u/s 80GGC of the Act, which the appellant has claimed to have been paid by M/s Crystal Quinone Private Limited in which the appellant was a whole-time director and holding 57% shares. The appellant has further submitted that the donation was made by the company on behalf of the appellant by debiting the deposit account of the appellant with the company having credit balance of Rs. 4,04,73,030/-, prior to the date of making such donation. Thus, the appellant has contended that this is not a transaction of fresh loan given by the company but repayment of deposit accepted by the company earlier.

4.2 The Assessing Officer has duly incorporated the contention raised by the assessee during the course of assessment proceedings and observed in the Assessment Order that the though the transaction under consideration is not a fresh loan given by the company but it falls under payment on behalf or for the individual benefit of any such shareholder. Accordingly, the AO held that the payment of Rs. 25,00,000/- on account of donation made by M/s Crystal Quinone Private Limited as per the instructions of the appellant, benefits of which have been derived by the appellant in the individual capacity in form of deduction u/s 80GGC of the Act, amounts to deemed dividend in the hand of appellant as per provisions of Sec 2(22)e of the Act.

4.3 Aggrieved by the order, the appellant has filed an appeal against the order. On perusal of the submission of the appellant and findings of the AO in the assessment order, it is found that the donation made by the company, M/s Crystal Quinone Private Limited, in which the appellant is having 57% holding is duly covered under Sec 2(22)(e) of the Act. The benefit of such payment has been derived by the appellant in full with any bifurcation or any sharing. The appellant could not furnish any documentary evidence as to how the benefit of such payment is not derived by the appellant. The contention of the appellant that the payment doesn't represent fresh loan is of no avail to the appellant, as Sec 2(22)(e) of the Act not only covers payment which forms of fresh loans but also such transactions, benefits of which are derived by the shareholders. Hence, this is an indisputable fact that the appellant is a shareholder and it has derived benefit to the extent of Rs. 25,00,000/- in the form of deduction claimed u/s 80GGC in its ITR.

4.4 Without prejudice to the discussion made above, the facts and circumstances of the case that there is interchange of deduction from the ITR of the company to the ITR of the appellant also establishes that the transaction is an afterthought and has been done by the appellant with the sole purpose of claiming benefit out of such payment made by the company on behalf of the appellant and doesn't amount to repayment in any form whatsoever.

4.5 Considering the above, it is concluded that the appellant has failed to justify as to how the payment of Rs. 25,00,000/- by the company M/s Crystal Quinone Private Limited on behalf and instruction of the appellant, which has been claimed by the appellant as deduction u/s 80GGC in its ITR, doesn't falls under the ambit of Sec 2(22)(e) of the Act. Accordingly, the addition of Rs. 25,00,000/- made by the AO on account of deemed dividend u/s 2(22)(e) of the Act is upheld."

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

6. Before us, the Ld. AR submitted that the impugned payment represents mere withdrawal/repayment of the assessee's own deposit lying with the company and does not constitute a loan or advance. The Ld. AR also submitted that section 2(22)(e) applies only when a company grants a loan or advance out of its accumulated profits to a shareholder, which results in a benefit flowing from the company to the shareholder; in the present case, the assessee's credit balance with the company stood reduced, and therefore no benefit accrued to the assessee from the company.

7. The Ld. DR, on the other hand, relied upon the order of the authorities below.

8. We have carefully considered the rival submissions and perused the material available on record. In this case, the assessee who is the Managing Director of M/s

Crystal Quinone Pvt. Ltd., holds 57% shareholding in the said company. During the relevant assessment year, the assessee was maintaining a deposit account with the company. As on 19.03.2015, the assessee had a credit balance of Rs.4,04,73,030/- in his deposit account. On the instructions of the assessee, the company made payments of R.10,00,000/- on 20.03.2015 and Rs.15,00,000/- on 25.03.2015, aggregating to Rs.25,00,000/-, by debiting the assessee's deposit account, which facts are not in dispute. Even after such payments, the assessee continued to have a substantial credit balance with the company and there was no point of time during the year when the account showed a debit balance.

The provisions of section 2(22)(e) of the Act are reproduced below for ready reference:-

"2. In this Act, unless the context otherwise requires,—

.....

.....

(22) "dividend" includes—

.....

.....

(e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern) or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits ;

but "dividend" does not include—

(i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets ;

(ia) a distribution made in accordance with sub-clause (c) or sub-clause (d) in so far as such distribution is attributable to the capitalised profits of the company representing bonus shares allotted to its equity shareholders after the 31st day of March, 1964, and before the 1st day of April, 1965 ;

(ii) any advance or loan made to a shareholder or the said concern by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company ;

(iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off;

(iv) any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956 (1 of 1956);

(v) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).”

Since the company has not given any money in any form to the assessee, the provision of Section 2(22)(e) of the Act are not attracted.

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

The order is pronounced in the open Court on 03.02.2026

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad; Dated 03.02.2026
**btk

Sd/-

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

आदेश की प्रतिलिपि □ ग्रेषित/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.

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आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad