

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 5775/Mum/2025
(Assessment Year: 2019-20)**

Abhishek Jayketu Joshi C-73, Venus Society, R. G. Thadani Marg, Worli Sea Face, Mumbai-400 018	Vs.	AC CIR-42(2)(1), Kautilya Bhavan, Mumbai-400 051
PAN/GIR No. ACKPJ8583H		
(Applicant)		(Respondent)

Assessee by	Shri M. M. Golvala, Ld. AR
Revenue by	Shri Surendra Mohan, Ld. DR

Date of Hearing	07.01.2026
Date of Pronouncement	13.01.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal by the assessee is directed against the order dated 21.07.2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, under section 250 of the Income-tax Act, 1961, for Assessment Year 2019-20, arising out of the assessment order dated 20.01.2025 passed by the Assessing Officer under section 147 read with section 144B of the Act.

2. The brief facts of the case are that the assessee is an individual. For the year under consideration, the assessee filed his original return of income under section 139(1) of the Act on 24.10.2019, declaring a total income of Rs. 1,48,76,220/-, after claiming deductions aggregating to Rs. 6,85,000/- from a gross total income of Rs. 1,55,61,223/-. Subsequently, a revised return under section 139(5) was filed on 25.10.2019, declaring the same total income, with an additional disclosure of TCS of Rs. 19,090/-. In the return of income, the assessee, inter alia, claimed a deduction of Rs. 5,00,000/- under section 80GGC of the Act in respect of a donation stated to have been made to Kisan Party of India, a political party stated to be registered under section 29A of the Representation of the People Act, 1951. The return was initially processed under section 143(1) of the Act.

3. Subsequently, the Jurisdictional Assessing Officer received information through the Risk Management Strategy of the Board, based on inputs from the Investigation Wing, pursuant to search and seizure operations under section 132 conducted in the case of certain Registered Unrecognized Political Parties (RUPPs). As per the said information, some political parties, including Kisan Party of India, were allegedly engaged in providing accommodation entries in the guise of political donations, whereby amounts received through banking channels were returned to donors after deduction of commission.

4. On the basis of the said information, proceedings under section 148A were initiated. A notice under section 148A(b) was

issued to the assessee, calling upon him to explain why proceedings under section 148 should not be initiated. The assessee submitted a reply stating that the donation was made through account payee cheque, that the recipient political party was duly registered under section 29A, and that the requisite documentary evidences such as donation receipt and bank statement had been furnished.

5. The Assessing Officer was not satisfied with the explanation furnished and, after obtaining approval of the specified authority, passed an order under section 148A(d), followed by issuance of notice under section 148 on 19.04.2023. In response, the assessee filed a return of income on 18.05.2023, declaring the same income as originally returned and again claiming deduction under section 80GGC of Rs. 5,00,000/-.

6. During the reassessment proceedings, the Assessing Officer raised specific queries regarding the genuineness of the donation, including the circumstances in which the assessee came to know about the political party, the rationale for making a donation to a party allegedly having no political presence in Mumbai, the mode of delivery of the cheque and receipt of the donation acknowledgment, and the identity of intermediaries, if any. The Assessing Officer noted that the assessee was unable to furnish satisfactory explanations with regard to the surrounding circumstances of the donation and merely relied on the fact that the payment was made through banking channels and supported by a donation receipt. The Assessing Officer relied upon

statements recorded under section 132(4) of certain persons during search proceedings, wherein it was allegedly admitted that Kisan Party of India was being used to provide bogus donation entries and that donation amounts were returned to donors after deducting commission. The Assessing Officer observed that the assessee's name appeared in the list of beneficiaries identified by the Investigation Wing. The Assessing Officer rejected the assessee's request for cross-examination of the persons whose statements were relied upon, holding that such cross-examination was not necessary in the facts of the case.

7. Applying the test of human probabilities and holding that mere compliance with documentary formalities was not sufficient to establish genuineness, the Assessing Officer concluded that the donation of Rs. 5,00,000/- was not genuine. Accordingly, the deduction claimed under section 80GGC was disallowed and added back to the total income of the assessee. The total income of the assessee was thus assessed at Rs. 1,53,76,220/-, and penalty proceedings under section 270A(9) were initiated separately.

8. Aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the CIT(A), the assessee challenged, inter alia, the assumption of jurisdiction under section 147, the disallowance of deduction under section 80GGC, denial of cross-examination, and non-grant of credit for TDS, advance tax, and TCS. The assessee filed written submissions reiterating that the statutory conditions of section 80GGC were

duly fulfilled, that the donation was made through banking channels to a political party registered under section 29A, and that no evidence had been brought on record by the Assessing Officer to demonstrate that any amount was returned to the assessee. It was further contended that reliance on third-party statements without granting cross-examination amounted to violation of principles of natural justice.

9. The CIT(A) considered the assessment order, submissions of the assessee, and the material relied upon by the Assessing Officer. The CIT(A) placed reliance on the statements recorded under section 132(4) of various persons during search proceedings and concurred with the Assessing Officer that Kisan Party of India was being used as a conduit for providing accommodation entries in the form of political donations. The CIT(A) held that mere payment through banking channels and possession of donation receipt did not establish genuineness of the transaction and that the surrounding circumstances and human probabilities indicated that the transaction was not genuine. The CIT(A) further held that denial of cross-examination did not vitiate the assessment in the facts of the case. Accordingly, the CIT(A) confirmed the disallowance of Rs. 5,00,000/- under section 80GGC made by the Assessing Officer and dismissed the grounds raised by the assessee on this issue.

10. Further aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

1. *Both the lower authorities erred in relying on section 148 of the Act when the jurisdictional conditions were not satisfied.*
2. *The AO erred in resorting to Section 147 on “borrowed satisfaction”.*
3. *Both the lower authorities failed to consider that jurisdiction u/s.147 was wrongly assumed by the Jurisdictional Assessing Officer (JAO) issuing a notice u/s.148, instead of the Faceless Assessing Officer (FAO).*
4. *Both the lower authorities erred in disallowing the deduction of Rs.500000/- claimed under Section 80GGC of the Income Tax Act.*
5. *The AO erred in flouting the principles of natural justice, by refusing to grant cross-examination, inspite of the appellant’s specific request.*
6. *The AO equally contravened the principles of natural justice by furnishing piecemeal statements recorded by the Department. It is well settled that the AO was required to furnish the entire statements recorded and relied upon by him.*
7. *The AO has failed to duly consider the evidence and documents submitted by the Appellant, including the bank statements and the receipts issued by the political parties.*
8. *The AO failed to lead any positive evidence that the donation was bogus and that money in any form was returned to the appellant.*
9. *The AO erred in not granting credit for TDS amounting to Rs.5151547/- inspite of same appearing in form 26AS, and inspite of CPC granting the said credit in the intimation under section 143(1).*
10. *The AO erred in not granting credit for advance tax paid of Rs.15000/- although the same was granted in intimation under section 143(1).*
11. *The AO erred in not granting credit of TCS of Rs.19090/- in spite of same appearing in form 26AS.*

The appellant craves leave to add, amend, alter or delete any of the above grounds of appeal.

11. During the course of hearing before us, the learned Authorized Representative of the assessee vehemently argued the

grounds raised in the appeal and, at the outset, assailed the validity of the proceedings initiated under section 147 of the Act by drawing our attention to the notice issued under section 148A(b). It was submitted that the very foundation of the reassessment proceedings is vitiated, as the said notice was issued on the basis of vague, generalized and borrowed information, without there being any tangible material demonstrating escapement of income in the case of the assessee. According to the learned Authorized Representative, the notice merely reproduces allegations arising out of search proceedings conducted in the case of certain third parties and political organizations, without disclosing any material directly linking the assessee with the alleged accommodation entry arrangement.

12. The learned Authorized Representative invited our attention to the annexure forming part of the notice under section 148A(b) and pointed out serious factual inaccuracies apparent on the face of the record. It was submitted that paragraph 1 of the annexure alleges that donations were made to the bank account of Aadhar Foundation along with Kisan Party of India, whereas the assessee had never made any payment to Aadhar Foundation. It was further pointed out that paragraphs 3 and 4 of the annexure again make repeated reference to Aadhar Foundation and even allege that the assessee undertook a non-genuine transaction with Aadhar Foundation during the year under consideration. According to the learned Authorised Representative, these allegations are wholly misplaced, as the undisputed position on

record is that the donation of Rs. 5,00,000/- was made only to Kisan Party of India and not to Aadhar Foundation.

13. It was further submitted that this factual error was specifically pointed out by the assessee in paragraph 6 of his reply to the notice under section 148A(b), wherein it was categorically clarified that no payment whatsoever was made to Aadhar Foundation. The learned Authorised Representative then drew our attention to paragraph 5.1 of the order passed under section 148A(d), wherein the Assessing Officer himself recorded that the mention of Aadhar Foundation in the show cause notice was inadvertent and that the donation was in fact made to Kisan Party of India. It was argued that once the Assessing Officer admits that the notice was issued on an incorrect factual premise, the assumption of jurisdiction under section 147 stands vitiated, as the very basis for forming satisfaction regarding escapement of income was flawed.

14. The learned Authorised Representative submitted that such an error cannot be brushed aside as a mere clerical lapse, since the jurisdiction under section 147 hinges on the correctness and specificity of the information forming the basis of the notice under section 148A(b). It was contended that issuance of a jurisdictional notice on incorrect identification of the donee entity reflects non-application of mind and renders the entire proceedings unsustainable in law.

15. The learned Authorised Representative further pointed out inherent contradictions in the approach of the Assessing Officer by referring to the reproduction of Question No. 13 and the corresponding answer from the statement recorded under section 132(4), as extracted in the order under section 148A(d). It was submitted that while, on the one hand, the Assessing Officer alleged that Kisan Party of India was not engaged in any political or social activity, on the other hand, the answer to Question No. 13 recorded in the same order acknowledges that the party had contested elections and participated in the Bihar Legislative Assembly elections. According to the learned Authorised Representative, such mutually inconsistent observations in the same order demonstrate complete non-application of mind and undermine the credibility of the conclusions drawn by the Assessing Officer.

16. The learned Authorised Representative further contended that the Assessing Officer failed to follow the procedure prescribed under section 148A, inasmuch as no material or evidence, on the basis of which the notice under section 148A(b) was issued, was ever furnished to the assessee. In this regard, attention was invited to paragraph 5.5 of the order passed under section 148A(d), wherein the Assessing Officer took the stand that there is no statutory mandate to provide the statements or other material relied upon along with the show cause notice. It was submitted that such an approach defeats the very object of section 148A, which contemplates a meaningful opportunity of

being heard. According to the learned Authorised Representative, merely stating that statements under section 132(4) exist, without furnishing even the relevant extracts thereof, renders the opportunity illusory and ineffective.

17. It was further argued that while the Assessing Officer placed heavy reliance on third-party statements recorded under section 132(4), the assessee was neither furnished copies of such statements nor granted an opportunity to cross-examine the persons whose statements were relied upon, despite a specific request made in this regard. It was submitted that selective reliance on adverse material, coupled with denial of access to such material, amounts to gross violation of the principles of natural justice and vitiates the proceedings at the threshold.

18. On merits, the learned Authorised Representative submitted that the assessee had fully complied with the statutory conditions prescribed under section 80GGC of the Act. In support, reliance was placed on the donation receipt issued by Kisan Party of India, which clearly records the name and PAN of the assessee, the amount of donation of Rs. 5,00,000/-, the mode of payment by cheque, and the express mention that the donation is eligible for deduction under section 80GGC. The learned Authorised Representative also produced the letter issued by the Election Commission of India evidencing that Kisan Party of India is duly registered under section 29A of the Representation of the People Act, 1951, with effect from 24.09.2015, and submitted that such registration has never been disputed by the Assessing Officer.

19. Further, our attention was drawn to the bank account statement of the assessee, demonstrating that the donation was made through normal banking channels by cheque drawn on HDFC Bank and that no cash payment was made at any point of time. It was submitted that there is no material on record to show that any part of the donation amount was returned to the assessee, either in cash or through any other mode, and that the Assessing Officer has not pointed out any defect in the documentary evidences furnished by the assessee.

20. The learned Authorised Representative submitted that the disallowance has been made solely on the basis of generalised allegations, investigation inputs and third-party statements, without any tangible material establishing that the assessee received any benefit in return for the donation. It was contended that once the assessee has discharged the initial onus by furnishing primary evidences, the burden shifts to the Department, which has not been discharged in the present case.

21. In support of the jurisdictional challenge, the learned Authorised Representative placed reliance on the judgment of the Hon'ble Bombay High Court in *Anurag Gupta v. Income-tax Officer* [2023] 150 taxmann.com 99 / 454 ITR 326, and submitted that the ratio laid down therein squarely applies to the facts of the present case. It was contended that the Hon'ble High Court has categorically held that furnishing of information without supplying the material relied upon renders the proceedings under section 148A(b) unsustainable, as it deprives the assessee of an

effective opportunity to respond. Relying on the said decision, it was submitted that the notice under section 148A(b), the subsequent notice under section 148, and all consequential proceedings deserve to be quashed on jurisdictional grounds alone, without entering into the merits of the disallowance under section 80GGC.

22. The Departmental Representative on the other hand relied on the order of lower authorities.

23. We have carefully considered the rival submissions, perused the material placed on record, and examined the notices issued under section 148A(b), the assessee's reply thereto, the order passed under section 148A(d), and the consequential reassessment order. The primary issue which arises for our consideration is whether the jurisdiction assumed by the Assessing Officer under section 147, pursuant to the procedure prescribed under section 148A, is in accordance with law.

24. At the outset, we find considerable force in the contention of the assessee that the notice issued under section 148A(b) suffers from fundamental infirmities. A perusal of the annexure to the said notice reveals that the Assessing Officer repeatedly alleged that the assessee had undertaken non-genuine transactions with Aadhar Foundation, along with Kisan Party of India. Paragraphs 1, 3 and 4 of the annexure specifically proceed on the premise that the assessee made donation to Aadhar Foundation and claimed deduction under section 80GGC on that basis. It is an

undisputed fact on record that the assessee had never made any donation to Aadhar Foundation, and the donation of Rs. 5,00,000/- was made only to Kisan Party of India.

25. Significantly, this factual error was not only pointed out by the assessee in his reply to the notice under section 148A(b), but the Assessing Officer himself, in paragraph 5.1 of the order passed under section 148A(d), admitted that the reference to Aadhar Foundation in the show cause notice was an inadvertent error and that the donation was actually made to Kisan Party of India. In our considered view, once it is admitted that the jurisdictional notice under section 148A(b) was issued on an incorrect factual premise, the very foundation for formation of satisfaction regarding escapement of income stands vitiated. Such an error cannot be treated as a mere clerical lapse, as the assumption of jurisdiction under section 147 is contingent upon correct and specific information suggesting escapement of income in the case of the assessee.

26. We also find merit in the contention of the assessee that the notice under section 148A(b) is vague and generalised in nature and does not enclose or disclose any material or evidence forming the basis of the allegations. The Assessing Officer has relied upon statements recorded under section 132(4) of certain third parties and general investigation findings, but no such statements or relevant extracts thereof were ever furnished to the assessee, despite a specific request. On the contrary, in paragraph 5.5 of the order under section 148A(d), the Assessing Officer has taken

a categorical stand that there is no statutory mandate to provide the material relied upon along with the show cause notice.

27. This approach, in our view, is contrary to the scheme and object of section 148A. The provision contemplates a meaningful and effective opportunity of being heard, which necessarily presupposes that the assessee is made aware of the material on the basis of which the Assessing Officer proposes to initiate reassessment proceedings. Mere reference to the existence of information or statements, without furnishing the underlying material, renders the opportunity illusory.

28. On this aspect, the issue is no longer res integra. The Hon'ble Bombay High Court, in **Anurag Gupta v. Income-tax Officer [2023] 150 taxmann.com 99 / 454 ITR 326**, has categorically held that failure to furnish the material relied upon vitiates the proceedings under section 148A. The relevant observations of the Hon'ble High Court are reproduced as under:

"It goes without saying that providing information to the petitioner, without furnishing the material based upon which the information is provided, would render an assessee handicapped in submitting an effective reply to the show cause notice thereby rendering the purpose and spirit of section 148A(b) totally illusive and ephemeral. The fact that the material also was required to be supplied can very well be gauged from the clear directions issued by the Supreme Court in the case of Ashish Agarwal(supra)." (para 11)

The Hon'ble High Court further held as under:

"Be that as it may, we hold that the reassessment proceedings initiated are unsustainable on the ground of violation of the procedure prescribed under section 148A(b) on account of failure of the Assessing Officer to

provide the requisite material which ought to have been supplied along with the information in terms of the said section.” (para 12)

29. The ratio laid down by the Hon’ble Bombay High Court squarely applies to the facts of the present case. Here also, the Assessing Officer admittedly did not furnish the statements recorded under section 132(4) or any other material forming the basis of the allegations in the notice under section 148A(b). The assessee was thus deprived of an effective opportunity to rebut the allegations at the threshold.

30. We also note an inherent contradiction in the reasoning adopted by the Assessing Officer. While alleging that Kisan Party of India was not engaged in any political activity, reliance has simultaneously been placed on the answer to Question No. 13 in the statement recorded under section 132(4), which records that the party had contested elections in Bihar. Such mutually inconsistent positions further demonstrate non-application of mind at the stage of initiation of proceedings.

31. In view of the above cumulative facts and respectfully following the binding judgment of the Hon’ble Bombay High Court, we hold that the proceedings initiated under section 148, being founded on a defective notice under section 148A(b) and in violation of the mandatory procedure prescribed under section 148A, are unsustainable in law and liable to be quashed.

32. Even otherwise, and without prejudice to our finding on the jurisdictional issue, we find that the disallowance of deduction

under section 80GGC cannot be sustained on merits. The assessee has placed on record the donation receipt issued by Kisan Party of India, which clearly mentions the name and PAN of the assessee, the amount of donation of Rs. 5,00,000/-, the mode of payment by cheque, and the specific reference to section 80GGC. The assessee has also furnished the bank statement evidencing payment of the donation through normal banking channels. Further, the registration certificate issued by the Election Commission of India establishes that Kisan Party of India is duly registered under section 29A of the Representation of the People Act, 1951. These facts have not been disputed by the lower authorities. The Assessing Officer has not brought on record any tangible evidence to demonstrate that the donation amount was returned to the assessee, either in cash or through any other mode. The disallowance has been made solely on the basis of generalised investigation inputs and third-party statements, without any direct material linking the assessee to any alleged accommodation entry arrangement. Once the assessee has discharged the primary onus by furnishing documentary evidences, the burden shifts to the Revenue, which has not been discharged in the present case.

33. Mere suspicion, conjectures, or application of human probabilities, in the absence of any corroborative material, cannot be a ground to deny a statutory deduction expressly provided under the Act.

34. In view of the foregoing discussion, we hold that the reassessment proceedings initiated under section 148, being in violation of the mandatory procedure prescribed under section 148A, are invalid and liable to be quashed; and even on merits, the disallowance of deduction of Rs. 5,00,000/- under section 80GGC is unsustainable.

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

Order pronounced in the open court on 13.01.2026.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 13/01/2026
Dhananjay, Sr.PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai