THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH, AHMEDABAD

Before Ms. Suchitra Kamble, Judicial Member

ITA No. 2341/Ahd/2025
Assessment Year 2019-20

Niket Maheshbhai Shah, A301 Vardhaman Complex, Nr. High Court Tension Road, Subhanpura, Vadodara-390007 PAN: BIKPS1300L (Appellant)	Vs	The Income Tax Officer, Ward-1(2)(2), Vadodara (Respondent)

Assessee by: **Shri Jitendra Singh, A.R.**
Revenue by: **Shri Arvind Kumbhare, Sr. D.R.**

Date of hearing : 16-03-2026
Date of pronouncement : 15-05-2026

आदेश/ORDER

This is an appeal filed against the order dated 14-10-2025 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2019-20.

2. The grounds of appeal are as under:-

"1. The Commissioner of Income Tax (Appeals) has erred in law and facts by confirming a penalty of ₹ 2,31,504 under Section 270A of the Income Tax Act, alleging under-reporting in consequential of misreporting of income at the rate of 200% of the assessed tax.

The appellant had claimed deduction U/s 80GGC for a donation of Rs. 3,71,000 to a political party namely Manav Adhikar National Party through a recognized banking channel and necessary certificate was issued by the donee.

The assessment was reopened on the basis of search carried on donee and statement given by the officials, but neither opportunity of cross examination of donee nor provided any documentary evidence on which the AO has relied upon. Further, if assessment must have completed of the donee and additions *would have been made u/s 68 in the hands of donee, then addition in the hands of appellant would lead to double taxation.*

The Appellant has accepted the disallowance and paid the resultant tax demand to avoid prolonged litigation and maintain peace of mind.

The said addition was deleted in the similar case by Ahmedabad Tribunal, hence the allowability of donation to a political party is itself a debatable issue.

Hence, considering the facts of the case, the appellant has not underreported any income in consequence to misreporting of any income, penalty levied U/s 270A is bad in law and the same should be deleted.

2. The Appellant craves leave to add, alter, amend, delete, rescind, or withdraw any of the grounds of appeal mentioned hereinabove."

3. The assessee is an individual, residing at A-301 Vardhaman Complex, Nr. High Tension Road Subhanpura Vadodara 390007, Gujarat, India. The assessee has filed his return of income for the relevant assessment year claiming a deduction of 3,71,000 under section 80GGC of the Income Tax Act. The deduction was for a donation made via a recognized banking channel to a registered political party, namely Manav Adhikar National Party, and supported by a valid certificate issued by the donee. The assessment was reopened under section 147 following a search action conducted on the donee, and consequent statements provided by their officials. The Assessing Officer disallowed the donation claimed under section 80GGC. The assessee has accepted the disallowance and paid the resultant tax demand to avoid prolonged litigation and maintain peace of mind. The AO has initiated penalty proceedings u/s 270A vide notice dated 20/12/2024 and subsequent notices. The assessee had filed an application to seek an immunity U/s 270AA of the Income Tax Act, 1961. The said application was rejected with a reason that the income is misreported.

Penalty of Rs. 2,31,504 imposed at 200 percent of the assessee tax was under the category of under-reporting in consequential of misreporting of income.

4. Being aggrieved by the penalty order passed u/s. 270A(9), the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that the CIT(A) erred in confirming the penalty in respect of under-reporting in consequential of misreporting of income at the rate of 200% of the assessed tax. The assessee has rightly claimed donation u/s. 80GGC for a donation of Rs. 3,71,000/- for political party. This cannot be stated as mis-reporting/under reporting as the assessee was genuinely believing the deduction to that extent. The ld. A.R. relied upon the following decisions:-

(i) G R Infraprojects Ltd. vs. ACIT (2024) 158 taxmann.com 80 (Rajasthan)
(ii) Prem Brothers Infrastructure LLP vs. NFAC (2022) 142 taxmann.com 38 (Delhi)
(iii) Abhishek Jayketu Joshi vs. AC Cir 42(2)(1) order dated 13-01-2026

6. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. The Assessing Officer has categorically verified the deduction which was claimed by the assessee u/s. 80GGC and this cannot be stated mis-reporting/under reporting as the assessee was considering that the donation falls u/s. 80GGC. Therefore, penalty imposed u/s. 270A is not justified. The support of this penalty to be quashed also is based on the decision of Hon'ble High Court in case of Prem Brothers Infrastructure LLP (supra) where it was categorically held that there is not even a whisper as to which limb of 270A of the Act is attracted and how the ingredient of sub-section (9) of section 270A is satisfied. In absence of such particulars, the mere reference to the word mis-reporting by the respondents in the penalty order to deny immunity from imposition of penalty and prosecution makes the impugned order manifestly arbitrary. In the present case also, the Assessing Officer has not mentioned the proper limb or has not given the details while imposing the penalty. Therefore, the penalty does not sustain.

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

Order pronounced in the open court on 15-05-2026

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 15/05/2026
a.k.

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