

**IN THE INCOME TAX APPELLATE TRIBUNAL AT AHMEDABAD  
AHMEDABAD “A” BENCH  
(BEFORE S/SHRI G.D. AGARWAL, VICE-PRESIDENT AND  
MUKUL SHRAWAT, JUDICIAL MEMBER)**

ITA.No.869/Ahd/2010  
Asstt. Year : 2007-2008

Vipul Y. Mehta 1, Anand Shopping Centre C.G. Road, Navrangpura Ahmedabad.	Vs.	ACIT, Cir.10 Ahmedabad.
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(Appellant)

(Respondent)

Assessee by	:	Shri M.K. Patel
Revenue by	:	Shri Samir Tekriwal

**ORDER**

**PER G.D. AGARWAL, VICE-PRESIDENT:** This is assessee's appeal against the order of the CIT(A)-XVI, Ahmedabad dated 18.01.2010 for A.Y.2007-2008 arising out of the order of the Assessing Officer passed under Section 143(3) of the Income Tax Act, 1961.

2. Ground No.1 of the assessee's appeal reads as under:

*“1. Ld.CIT(A) erred in law and on facts to uphold the disallowance of interest paid to persons specified u/s.40A(2)(b) of the IT Act in excess of 16%. The ld.CIT(A) further erred in considering all the payees of interest as persons specified u/s.40A(2)(b) of the Act.”*

3. At the time of hearing before us, it is submitted by the learned counsel that during the year under consideration, the assessee paid interest to the relatives at the rate of 18%. The AO was of the view that reasonable rate of interest is 12%, he therefore disallowed 6% under Section 40A(2)(b) of the Act. On appeal, the CIT(A) was of the opinion that the banks are charging interest at the rate of 16% and therefore he directed the AO to allow interest at the rate of 16%. It is submitted by the learned counsel that the loan taken from the relatives cannot be compared with the bank loan because the loan from the

relatives are without security while the loan from the bank is secured. He also pointed out that in the case of Omkarmal Gaurishanker Vs. ITO, 92 TTJ (Ahd) 223 the Tribunal held that the interest paid to the relatives at the rate of 24% is be reasonable. He also submitted that during the year under consideration, the assessee himself has charged interest from others at the rate of 18%. In view of this, it is submitted by the learned counsel that the payment of interest at the rate of 18% was reasonable and not excessive.

4. The learned DR, on the other hand, relied upon the order of the authorities below:

5. We have heard both the sides and also perused the material placed before us. Considering the facts of the case and the arguments of both the sides, in our opinion, the payment of interest at the rate of 18% per annum to the relatives on unsecured loan cannot be said to be excessive or unreasonable. We, therefore, delete the disallowance made under Section 40A(2)(b) of the Act. Accordingly, Ground No.1 of the assessee's appeal is allowed.

6. The Ground No.2 reads as under:

*“2. The ld.CIT(A) erred in law and on facts to restrict and uphold the disallowance of Rs.50,000/- out of travelling expenses as personal expenses. The ld.CIT(A) ought to have deleted entire addition on this ground.”*

7. We have heard both the parties and perused the material placed before us. We find that during the year under consideration, the assessee claimed travelling expenses amounting to Rs.4,29,011/-. The AO disallowed 50% of the claim because the expenses included the expenses of assessee's wife also. The CIT(A) reduced the disallowance to Rs.50,000/-. The Revenue is not in appeal against the relief allowed by the CIT(A). At the time of hearing before us, leaned counsel for the assessee has not denied that the expenses incurred by assessee's wife was claimed as business expenses. The CIT(A) has already

reduced the disallowance substantially. Considering the facts of the case, in our opinion, the disallowance of Rs.50,000/- sustained by the CIT(A) cannot be said to be unreasonable or excessive. We therefore uphold the same and reject the Ground No.2 of the assessee's appeal.

8. In the result, the assessee's appeal is partly allowed.

*Order pronounced in Open Court on 9<sup>th</sup> July, 2010.*

Sd/-  
(MUKUL SHRAWAT)  
JUDICIAL MEMBER

Sd/-  
(G.D. AGARWAL)  
VICE-PRESIDENT

Place : Ahmedabad

Date : 09-07-2010

Vk\* *Copy of the order forwarded to:*

- 1) : Appellant
- 2) : Respondent
- 3) : CIT(A)
- 4) : CIT concerned
- 5) : DR, ITAT.

BY ORDER

AR, ITAT, AHMEDABAD