

## **Gift received by individual from his HUF wasn't exempt; ITAT upheld additions**

**Summary – The Ahmedabad ITAT in a recent case of Gyanchand M. Bardia., (the Assessee) held that HUF does not come under specified category of relative under section 56(2)(vii), Explanation (e); therefore, money received by an individual from HUF as gift would not considered as valid gift**

### **Facts**

- The assessee had shown gift of certain amount from his HUF and claimed said amount to be covered under section 56(2)(vii)(c) as inserted with effect from 1-10-2009.
- The AO held that the term 'relative' in *Explanation (e)* to section 56(2)(vii) does not include HUF as donor and therefore added impugned amount to assessee's income under section 68.
- The CIT(A) upheld the addition.
- On second appeal:

### **Held**

- The legislature substituted clause (e) to *Explanation* in Section 56(2)(vii) defining the term of "relative" to be applicable in case of an individual assessee as well as HUF; with retrospective effect from 01.10.2009. The assessee is fair enough in not disputing the fact that the former category in clause (i) of *Explanation (e)* defining a "relative" qua an individual recipient does not include an HUF as a donor. The legislature has incorporated clause (ii) therein to deal with an instance of an HUF donee only receiving gifts from its members. The legislative intent is very clear that an HUF is not to be taken as a donor in case of an individual recipient. The assessee's plea of having received a valid gift from his HUF is therefore declined and impugned addition is to be upheld.