

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri Manjunatha, G., Accountant Member

आयकर अपील सं./I.T.A. No.899/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2017-18

Mani Sundaram,  
No. 52, Thiyagigal Road,  
Devakottai, Tamil Nadu 630 302.  
**[PAN:CWOPS9124D]**

Vs. The Income Tax Officer,  
Ward-1, Karaikudi.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T. Vasudevan, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 01.02.2024  
घोषणा की तारीख /Date of Pronouncement : 07.02.2024

**आदेश / O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi, dated 21.06.2023 relevant to the assessment year 2017-18.

2. Brief facts of the case are that the assessee is a proprietor of M/s. Surabi PVC Pipes and filed the return of income for the assessment year 2017-18 on 20.01.2018 declaring taxable income of ₹.3,03,720/-. The return of income was processed under section 143(1) of the Income Tax

Act, 1961 ["Act" in short] by the CPC. Since the assessee has accepted cash for the consideration of the sale of immovable property and the amount was more than ₹.20,000/-, in contravention of the provisions of section 269SS of the Act, the Assessing Officer initiated penalty proceedings under section 271D of the Act. In accordance with the provisions of section 274 of the Act, a show cause notice under section 271D of the Act was issued and served on 12.10.2021 and called for explanation from the assessee. In response, the assessee has filed his submission vide letter dated 20.09.2021 and 20.10.2021. However, after considering the submissions of the assessee, the Assessing Officer has observed that the assessee has availed following loans in cash:

1. ₹.1,70,000/- cash loan from Chandrakala (Wife)
2. ₹.2,75,000/- cash loan from Pandiyammal (Mother)
3. ₹.1,17,550/- cash loan from father-in-law (Sathaiah)
4. ₹.2,75,000/- cash received out of the agricultural income

Since the Assessing Officer was of the opinion that the assessee has availed cash loan in contravention of provision of section 269SS of the Act, penalty under section 271D of the Act of ₹.8,37,550/- has been levied. On appeal, the Id. CIT(A) confirmed the penalty levied under section 271D of the Act.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. counsel for the assessee has submitted that though the assessee

has initially availed loans from close relatives, which were subsequently the loans, were treated as gift and credited to his capital account. Therefore, it was submitted that levy of penalty under section 271D of the Act is unwarranted. By relying upon the decisions in the cast of CIT v. Smt. M. Yesodha 351 ITR 265 (Mad) and Ms. Nanda Kumar v. ITO in TCA No. 968 of 2018 dated 20.12.2018, the Id. counsel prayed for deleting the penalty levied under section 271D of the Act.

4. On the other hand, the Id. DR supported the orders of authorities below.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the Assessing Officer levied penalty under section 271D of the Act for the reason that the assessee has received loan amount in cash in contravention of the provisions of section 269SS of the Act. Before the Assessing Officer, against the show cause notice under section 271D of the Act, the assessee has filed a detailed written submission vide letter dated 20.09.2021 and 20.10.2021 stating that the cash loan received from the close relatives viz., wife, father-in-law & mother, were treated as gift. However, the Assessing Officer has ignored the above explanations and confirmations furnished by the lender and levied penalty under

section 271D of the Act. On appeal, the Id. CIT(A) dismissed the appeal of the assessee.

6. We have perused the details furnished by the assessee, wherein, the assessee furnished copies of the confirmation letters from the lender, which were filed before the authorities below and find that assessee's father-in-law as well as assessee's wife, who have confirmed that the loan amount shall be treated as gift. The assessee's mother passed away and produced death certificate. Moreover, the assessee has shown reasonable cause for receiving money towards purchase of machineries. Thus, we are of the opinion that the explanation offered against show cause notice before the authorities below were reasonable and therefore, levy of penalty under section 271D of the Act is untenable. Moreover, on an identical facts and circumstances in similar issue, in the case of Ms. Nanda Kumari v. ITO (supra), the Hon'ble Jurisdictional High Court has also observed and held as under:

*9. In our considered view, the crucial aspect to be considered is as to whether the assessee had shown reasonable cause for having received money in cash in contravention of the provisions of Section 271D of the Act. The Assessing Officer had no material to show that the case, as projected by the assessee, was false or for that matter, there was no transaction between the assessee and the said Mr.Natesan. In the absence of any material to disbelieve the said property transaction, all that is required to be seen is as to whether the explanation offered was reasonable. Admittedly, the amount was borrowed by the assessee from her maternal uncle and maternal aunt.*

*10. In more or less identical circumstances, a Division Bench of this Court granted relief to the assessee by dismissing the appeal filed by the Revenue in the case of CIT Vs. Smt.M.Yesodha [reported in (2013) 351 ITR 265]. In the said case, the assessee*

*claimed to have taken a loan of Rs.20,99,393/- from her father in law for purchasing a property. The Assessing Officer initiated penalty proceedings under Section 271D of the Act on the ground that the assessee had obtained the said loan in cash from her father in law, which was in contravention of the provisions of Section 269SS of the Act. The assessee contended that the amount received in cash from her father in law was a gift and not a loan. The Assessing Officer rejected the said contention and found that it was a loan and not a gift because the same was shown in the balance sheet of the assessee filed along with the return of income. Accordingly, the Assessing Officer levied penalty equal to the loan amount. This was challenged by the assessee before the CIT(A), who dismissed the appeal and confirmed the order passed by the Assessing Officer. The assessee filed an appeal before the Tribunal, which allowed the assessee's appeal and while doing so, the Tribunal followed the decisions*

- (i) of the Tribunal in the case of M.Raju Vs. ACIT [ITA.No.899/Mds/2006];*
- (ii) of the Pune Bench of the Tribunal in the case of ITO Vs. Sunil M. Kasliwal [reported in (2005) 94 ITD 281]; and*
- (iii) of this Court in the case of CIT Vs. <http://www.judis.nic.in> Lakshmi Trust Co. [reported in (2008) 303 ITR 99],*

*and held that in the facts and circumstances of that case, the levy of penalty was not warranted. The Tribunal further held that the transaction between the father in law and the daughter in law was a genuine transaction and this was not in dispute because the amount was paid for purchase of a property. Before the Division Bench, the Revenue contended that the assessee had nowhere pleaded any reasonable cause as contemplated under Section 273B of the Act and that therefore, the Tribunal was not right in holding that the genuineness of the transaction was not disputed.*

*11. Even before us, Mrs.R.Hemalatha, learned Senior Standing Counsel submits that the provision namely Section 273D of the Act uses the expression 'reasonable cause' and not the expression 'sufficient cause' and that the Authorities below rightly found that the reason given by the assessee was not a reasonable cause.*

*12. However, a similar contention was rejected by the Division Bench in the decision in the case of Smt.M.Yesodha wherein it was held that even though the assessee had not taken a specific plea of reasonable cause, it must be considered as applied to human action and where transactions were bona fide, penalty could not be imposed.*

*13. In the case on hand, the assessee had shown a cause for having received the amount in cash. Therefore, if the assessee had shown a cause, the burden shifts on the Assessing Officer to establish that the cause shown <http://www.judis.nic.in> is not a reasonable cause by examining the cause shown and establish that it lacks bona fides. In the instant case, there is no such finding recorded by the Authorities below or for that matter by the Tribunal. Admittedly, the transaction in the instant case is between the assessee and her maternal uncle and aunt and there is nothing on record to show that the transaction lacks bona fides or the assessee came forward with a false case. In the result, we are of the considered view that the case on hand does not warrant levy of penalty under Section 271D of the Act.*

*14. Accordingly, the appeal filed by the assessee is allowed and the order passed by the Tribunal is set aside. The substantial questions of law are answered in favour of the assessee. No costs.*

Since facts are identical and respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of Ms. Nanda Kumari v. ITO (supra), we direct the Assessing Officer to delete the penalty levied under section 271D of the Act.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 07<sup>th</sup> February, 2024 at Chennai.

Sd/-  
(MANJUNATHA, G.)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 07.02.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.