

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : SMC-I : NEW DELHI

BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER

ITA No.3385/Del/2016

Assessment Year : 2007-08

R.L. Traders,  
2046, Katra Tobacco,  
Khari Baoli,  
New Delhi.  
PAN: AAAGR5508C

Vs. ITO,  
Ward-47(1),  
New Delhi.

(Appellant)

(Respondent)

Assessee By : Shri K.R. Manjani, Advocate  
Department By : Shri N.K. Bawal, Sr. DR

Date of Hearing : 17.10.2016

Date of Pronouncement : 17.10.2016

ORDER

This appeal by the assessee is directed against the order passed by the CIT(A) on 5.5.2016 in relation to the assessment year 2007-08, upholding the penalty of Rs.45,301/- imposed by the Assessing Officer (AO) u/s 271(1)(c) of the Income-tax ACT, 1961.

2. Briefly stated, the facts of the case are that the assessee showed certain unsecured loans in his books of account. During the course of the assessment proceedings, the assessee was asked to produce the creditor

Shri Pradeep Kumar Bansal, from whom the assessee had declared to have availed loan in his individual as well as HUF capacity amounting to Rs.50,000 each. The assessee was further requested that the creditor should be asked to bring proof in support of the identity and credit worthiness. The assessee, vide his letter dated 2.11.2009, asked the AO to summon Shri Pradeep Kumar Bansal. Complying with such a request, the AO issued summons u/s 131, in response to which Shri Pradeep Kumar Bansal attended the proceedings. His statement was recorded. In reply to question No.10, he submitted that he gave entry loan of Rs.50,000/- to the assessee in exchange of cash of Rs.50,000/-, which was not a genuine loan transaction. Similarly, entry loan of Rs.50,000/- was admitted to have been given in HUF capacity, which was also not genuine. The AO made the addition of Rs.1 lac apart from disallowance of interest amounting to Rs.34,584/-. The assessee remained unsuccessful before the Id. CIT(A) in quantum proceedings. Similar was the fate of the assessee before the Tribunal. Vide order dated 14.8.2015, the Tribunal in ITA No.4495/Del/2013, affirmed the addition made by the AO. The assessee's contention that the statement of Shri Pradeep Kumar Bansal

was recorded at his back and, hence, the addition should be deleted, was turned down by the Tribunal by noticing that Sh. Bansal was the assessee's witness. Further, in the absence of any other evidence to prove the genuineness of the transaction, the Tribunal confirmed the addition. The assessee's miscellaneous application also came to be dismissed by the tribunal. In the mean time, the AO imposed penalty @ 100% of the tax sought to be evaded on the concealed income of Rs.1,34,584/-, being the amount of addition of Rs.1 lac and the interest claimed to have been paid on such loans. The assessee remained unsuccessful before the Id. CIT(A) as well. That is how the appeal is before the Tribunal.

3. I have heard the rival submissions and perused the relevant material on record. It is noticed that Shri Pradeep Kumar Bansal appeared before the AO at the instance of the assessee. It was the assessee alone, who did not produce the creditor and rather requested the AO to issue summons. That led to the issuance of summons by the AO. Shri Pradeep Kumar Bansal admitted before the AO in his statement, a copy of which is available on record, that he gave only entry loan of Rs.50,000/- to the assessee in exchange of cash of Rs.50,000/- and it was not a genuine

transaction. Similar was the position as regards the alleged loan given by his HUF. This stand of the AO has been affirmed up to the level of the Tribunal. No doubt, the assessment and penalty proceedings are independent of each other. I find that in the penalty proceedings too, the assessee has not brought on record anything to substantiate the genuineness of the transaction. There is no retraction by Shri Pradeep Kumar Bansal from the statement given before the AO. These facts go to show that the assessee failed to prove the genuineness of the transaction and, consequently, in my considered opinion, the penalty has been rightly imposed and confirmed. I, therefore, uphold the same.

4. In the result, the appeal is dismissed.

The order pronounced in the open court on 17.10.2016.

Sd/-

[R.S. SYAL]  
ACCOUNTANT MEMBER

Dated, 17<sup>th</sup> October, 2016.

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Copy forwarded to:

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

AR, ITAT, NEW DELHI.