

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'A', BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

**ITA No. 2141 (Bang) 2016
(Assessment year : 2008 – 09)**

Mr. B. Muralikrishna,
No. 75, 15th cross, Doddanna Industrial Estate,
Bangalore – 560008.

PAN: AINPM5549D

Appellant

Vs

Addl. CIT, Range – 6,
Bangalore.

Respondent

**Assessee by : Shri G. S. Prasanth, C. A.
Revenue by : Shri B. R. Ramesh, JCIT DR**

**Date of hearing : 26-09-2017
Date of pronouncement : 28-09-2017**

ORDER

PER A. K. GARODIA, A. M.:

This appeal is filed by the assessee and this is directed against the order of CIT (A) – 6, Bangalore dated 05.08.2016 for A. Y. 2008 – 09.

2. The assessee has raised as many as 11 grounds but the only grievance of the assessee is about penalty of Rs. 133,400/- imposed u/s 271D. There are two technical objections. First such objection is this that the penalty order is time barred u/s 275 (1) (c) of I T Act. Second such objection is this that the AO has not provided adequate opportunity of being heard.

3. Learned AR of the assessee submitted that although various grounds are raised but if the matter is restored to AO for fresh decision after providing adequate opportunity of being heard, the assessee will be satisfied and in the set aside proceedings, he will raise all issues. Learned DR of the revenue submitted that three opportunities were provided by the AO but were not availed by the assessee and therefore, the assessee does not deserve any further opportunity.

4. We have considered the rival submissions. We find that no doubt, three notices were issued by the A.O. on 23.08.2012, 11.01.2013 and 12.02.2013 and served on the assessee as noted by the AO on page 2 of the penalty order and there was no compliance by the assessee. But the assessee is an individual having meager income of Rs. 727,430/- in the present year as per return of income as noted in the assessment order. The assessed income is Rs. 974,430/-. Therefore, we feel that in the interest of justice, the assessee should be provided one more opportunity to establish that there was reasonable cause for accepting cash loan as provided in section 273B and no prejudice will be caused to the revenue if such an opportunity is provided. Therefore, we set aside the order of CIT (A) and restore the matter to A.O. for a fresh decision after providing adequate opportunity of being heard. We do not make any comment on merit or time barring aspect and all aspects are open before the A.O.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

Place: Bangalore

D a t e d : 28.09.2017

*MS

Sd/-
(A.K. GARODIA)
ACCOUNTANT MEMBER

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.