

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

**BEFORE SHRI P. K. BANSAL, VICE PRESIDENT AND
SHRI GEORGE GEORGE K., JUDICIAL MEMBER**

ITA No.376/COCH/2016
Assessment Year:2006-07

St. Mery's Hotels Pvt. Ltd., Windsor Castle, Nattakam Kodimatha, Kottayam. PAN:AAKCS 4691 L	Vs	Addl.C.I.T., Thiruvalla Range, Thiruvalla.
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Shri A. Dhanraj, Sr. D.R.
Date of hearing	05/10/2017
Date of pronouncement	05/10/2017

ORDER

PER P. K. BANSAL, V.P.

This appeal has been filed by the assessee against the order of the CIT(A) dated 30/06/2016 by which the CIT(A) has confirmed the penalty levied by the Assessing Officer on the assessee for Rs.5,00,000/- due to the violation of section 269SS of the Act.

2. None appeared on behalf of the assessee, even though the case was adjourned for today on the request of the assessee on 27/09/2017. We, therefore, decided to dispose of the appeal of the assessee after hearing learned D.R. and considering the material available on record.

2. We have heard the submissions of Learned D. R., carefully considered the same along with the orders of the tax authorities below. We noted that the Assessing Officer levied the penalty under section 271D on the assessee because the assessee has violated the provisions of section 269SS as the Managing Director of the company made the repayment of Rs.5,00,000/- in cash to Kottayam District Co-operative Bank Limited, Account No. 1/99. When the matter went before the CIT(A), the CIT(A) confirmed the penalty ignoring the fact that the assessee has taken the plea before the Assessing Officer that he was prevented by reasonable cause as the MD of the company has to directly deposit a sum of Rs.5,00,000/- in cash into the account of Kottayam District Co-operative Bank Limited account No. 1/99 as per the direction of the court out of his own sources. We noted that the provision of section 271D for levying the penalty are subject to the provisions of section 273B. Section 273B stipulates that in case the assessee has a reasonable cause then no penalty shall be imposed on the assessee. In this case the assessee company has to deposit the amount towards the repayment of the term loan account maintained with Kottayam District Co-operative Bank Limited as per the direction of the court. The payment on behalf of the company was made by the MD from his own sources in cash to the bank as it was immediately required to be made. The genuinity of the transaction has not been doubted by the Assessing Officer. Except the said sum of Rs.5,00,000/-, the rest of the payment amounting to Rs.50,00,000/- was remitted into the term loan account of the bank by the assessee company only through cheque. In our opinion, due to the exigencies of the circumstances and the order of the court, the assessee was bound to make the payment immediately and therefore, the assessee was prevented by reasonable cause. We accordingly hold that

this is not a fit case to levy the penalty. We accordingly delete the penalty levied under section 271D.

3. In the result, the appeal of the assessee stands allowed.

(Order pronounced in the open court on 05/10/2017)

Sd/.
(GEORGE GEORGE K.)
Judicial Member

Sd/.
(P. K. BANSAL)
Vice President

Dated:05/10/2017
***Singh**

Copy of the order forwarded to :

- 1.The Appellant
- 2.The Respondent.
- 3.Concerned CIT
- 4.The CIT(A)
5. D.R., I.T.A.T., Cochin

Asstt. Registrar