

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR
BEFORE SH. R.S.SYAL, VICE PRESIDENT AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.386(Asr)/2017
Assessment Year:2012-13

Asst. CIT, Circle-1,
Jammu

Vs. M/s JK Grameen Bank,
Head Office Narwal,
Jammu
PAN:AAAAJ7859H

(Appellant)

(Respondent)

Appellant by: Sh. S.S. Negi (DR)
Respondent by: None

Date of hearing: 19.02.2018
Date of pronouncement: 21.02.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Revenue Department, on feeling aggrieved against the order dated 24.02.2017 passed by the Ld. CIT(A), J&K, Jammu, in appeal No.13/15-16, by raising the following grounds of appeal.

“Whether the Ld. CIT(A) was right in law and fact in allowing the appeal of the assessee on the decision of Hon’ble ITAT Amritsar orders in ITA No.73,74,75 of 2014 dated 17.12.2015 and ITA No.75(ASR)/2015 dated 17.06.2015 in case of M/S J&K Bank Ltd. on the same issue of deleting the penalty u/s 271E though the department has preferred an appeal before the Hon’ble High Court of J&K in case of M/S J&K Bank Ltd. on the same issue.

Whether the Ld. CIT(A) was right in law and fact in allowing the appeal of the assessee while covering it under the exception of section 273B of the Act.”

2. The brief facts of the case are that the return declaring income ‘NIL’ was filed by the assessee on 29th Sep. 2012. The case of the assessee was selected for scrutiny under CASS and statutory notices u/s 142(1) and 143(2) of the I.T. Act were issued, on which various details/documents have

been furnished by the assessee which were subjected to verification. The Assessing Officer came to the conclusion that from the perusal of the audit report filed along with return of income reveals that the assessee has repaid the deposits other than account payee cheques to following persons in contravention to Sec.269T of the I.T. Act, 1961 and further in penalty proceedings, imposed the penalty, which was challenged by the assessee/appellant before the Ld. CIT(A) mainly on the ground that there is no dispute on the fact that J&K Grameen Bank have made the re-payment of deposits exceeding 20,000/- in contravention of provisions of Sec. 269T of the Income Tax Act. During the assessment proceedings, the assessee has already admitted to have committed the mistake but pleaded that it was due to ignorance of law. It was further pleaded that transactions were genuine and bonafide and were undertaken during the regular course of business, thus, the case of assessee is well covered under the exception of Sec.273B of the I.T. Act and therefore, penalty should not be imposed because there is a reasonable cause. The assessee also relied upon the order passed by the ITAT, Amritsar Bench, in ITA Nos.73,74,75/Asr/2014 dated 17.12.2015 for Asst. Years: 2005-06, 2007-08 and 2008-09 and ITA No.75(Asr)/2015 dated 17.06.2016 in the appellant's own case of J&K Bank Ltd., wherein the Hon'ble ITAT Bench has deleted the penalty imposed u/s 271E of the I.T. Act.

3. The Ld. CIT(A) quashed the penalty order and feeling aggrieved against the same, the Revenue Authority preferred the instant appeal which is under consideration.

4. We have given our thoughtful consideration to the order passed by the CIT(A) and realized that while dealing with the penalty order, the Ld. CIT(A) has considered the facts that the assessee has already admitted to have committed the mistake but pleaded that it was due to ignorance of law and

while deciding the appeal of the assessee respectfully followed the decisions rendered by the Co-ordination Bench of ITAT, Amritsar in the aforesaid appeals stated above. The concluding part of the order passed by the Co-ordination Bench of ITAT is as under:

"In the present cases, the Department has not doubted the genuineness of the transactions and has imposed & upheld the penalty holding that the reasons for repayment submitted by assessee did not constitute reasonable cause. We further find that in different years the violations has been made by different branches of the Bank and the violation has not been repeated. In Asstt. Year 2008-09, the violation was by Bulbul Nowgam, L.D. Hospital & Islamia College branches & in Asstt. Year 2007-08, the violation was by Lai Mandi Branch whereas in assessment year 2005- 06, the violation was by Lai Bazar Branch. We further find that the Learned CIT (A) himself in Asstt. Year 2006-07 has deleted the penalty imposed under similar facts and circumstances. We further find that no mens rea is involved as the violation is not intentional. Therefore, in view of the above facts and circumstances and in view of legislature intention of introducing these penal provisions and in view of the precedents relied upon by the learned AR, we hold that penalties are not imposable in these cases."

Although, it was argued by the Ld. DR that he is relying upon the order passed by the Assessing Officer and from the ground No.1 raised in the appeal, it reflects that the Department has preferred the instant appeal in the Hon'ble High Court of Jammu & Kashmir in the case of M/s J&K Bank Ltd. on the same issue, however, neither brought on record any material qua interim or final out come of the aforesaid appeal as referred in the ground No.1 nor shown any impediment in the adjudication of the instant appeal.

Hence, we are of the considered view that the Ld. CIT(A) while passing the impugned order herein considered the decision rendered by Jurisdictional High Court in the appellant's own case and non doubting the genuineness of the transactions by the A.O., rightly deleted the penalty imposed u/s 271E

of the Act. We found no infirmity, impropriety and illegality in the order under challenge and the appeal of the Revenue is liable to be dismissed.

5. In the result, the appeal filed by the Revenue Department stands dismissed.

Order pronounced in the open Court on 21 .02.2018.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:21.02.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) M/s JK Grameen Bank, Head Office Narwal, Jammu
- (2) The ACIT, Circle-1, Jammu
- (3) The CIT(A). J&K, Jammu
- (4) The CIT concerned.
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order