

INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A": NEW DELHI  
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No.63/Del/2014  
(Assessment Year: 2009-10)

ACIT, Central Circle-6, New Delhi	Vs.	Sahara India Financial Corporation Ltd, 1, Kapoorthala Complex, Aliganj, Lucknow
(Appellant)		(Respondent)

Revenue by :	Shri Sanjay Goyal, CIT DR
Assessee by:	Shri Satyen Sethi, Adv
Date of Hearing	18/02/2019
Date of pronouncement	20/02/2019

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This is an appeal filed by the revenue against the order of the Id CIT(A)-1, New Delhi dated 31.10.2013 for the Assessment Year 2009-10.
2. The revenue has raised the following grounds of appeal:-
  - "1. *The order of the Id CIT(A) is not correct in law and facts.*
  2. *On the facts and the circumstances of the case the Id CIT(A) has erred in law in deleting the penalty u/s 271E of IT Act amounting to Rs. 2079547176/- imposed by the Addl. CIT."*
3. The solitary issues involved in this appeal is the deletion of the penalty u/s 271E of the Act amounting to Rs. 207954176/- imposed by the Id AO.
4. The brief facts of the case shows that appellant is an RNBC registered with the Reserve Bank of India and is engaged in business of mobilization of deposits. The assessee collected certain deposits in cash exceeding Rs. 20,000/- and therefore, the Id AO while framing assessment u/s 143(3) read with Section 142(2A) of the Act on 16.08.2012 found that the assessee has violated the provisions of section 269 SS and 269T of the Act. Therefore, the Id Add. CIT initiated the penalty proceedings u/s 271E of the Act on 24.08.2010, after considering the reply of the assessee, the

penalty was imposed vide order dated 28.03.2013 u/s 271E of the Act of Rs. 207954716/-. The assessee preferred an appeal before the Id CIT(A) who deleted the penalty vide order dated 31.10.2013 and therefore, the Id AO in appeal.

5. The Id DR supported the order of the Id AO.
6. The Id AR stated that the issue is squarely covered in favour of the assessee by the decision of the Hon'ble High Court.
7. We have carefully considered the rival contentions and also perused the orders of the lower authorities. On careful perusal of the order of the Id CIT(A), in 6.2 of the order where the penalty is deleted following the order of the hon'ble jurisdiction High court has held as under:-

*"6.2 I have considered the penalty order, the submissions of the appellant and the orders of my predecessor in appellant's own case for AYs 1993-94, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05 & 2005-06 wherein penalty imposed by Additional CIT has been deleted the on the same issue of levy of penalty u/s 271E holding the appellant to have reasonable cause as contemplated in Section 273B. The facts of the present case are the same as in earlier years and I find no reason to differ with the view taken by my predecessor. I have also gone through the order of Hon'ble Delhi High Court in the case of M/s Sahara India Mutual Benefit Company Limited (an associate concern) for AYs 1993-94, 1999- 00 & 2000-01. In the said order the Hon'ble Court, referring to its order dated 20.09.2012 in the appellant's own case of penalty u/s 271D upholding the decisions of CIT(A) and Hon'ble ITAT on the ground that appellant had reasonable cause, dismissed the revenue's appeal holding that no substantial question of law arose as there was no infirmity in the orders passed by the authorities below. The facts in that case are similar to the facts in the present case and, therefore, the ratio of Hon'ble High Court ruling in that case will be applicable to this appeal also. It has been held by the Hon'ble Supreme Court in Union of India v. Kamlakshi Finance Corp. Ltd. [AIR 1992 SC 711] and Khalid Automobiles v. Union of India [4 SCC (Suppl.) 653] that the decisions of the jurisdictional High Court and the Tribunal are binding on the income-tax authorities without any reservation. The decisions given earlier by the CIT(A) in appellant's own case and Hon'ble High Court in a connected case are applicable on facts and in law to the present case and are binding. The two provisions u/s 269SS and 269T, and consequential penalties u/s 271D and 271E, are also pari materia. In the circumstances, I hold that appellant had reasonable cause as contemplated u/s 273B and was entitled to the exemption from levy of penalty u/s 271E. Accordingly, these grounds of appeal are allowed and the penalty levied is cancelled."*

8. As the issue is squarely covered by the decision of Honourable delhi high court in assessee's own case for earlier years, which has been followed by the dl CIT (A) , we do not find any infirmity in his order in deleting the above penalty. Accordingly, the appeal of the revenue is dismissed.  
Order pronounced in the open court on 20/02/2019.

-Sd/-

(H.S.SIDHU)  
JUDICIAL MEMBER

-Sd/-

(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER

Dated: 20/02/2019  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi