

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

ITA No. 1966/PUN/2019

निर्धारण वर्ष / Assessment Year : 2013-14

Harshdrai Chaturdas Patel, Shree Laxmi Traders, 573, Shahupuri, Kolhapur-416001 PAN : AODPP5142B	Vs.	JCIT, Range-2, Kolhapur.
Appellant		Respondent

Assessee by
Revenue by

Shri Pratap S. Kulkarni
Shri Prathamesh J. Lawand

Date of hearing

14-08-2020

Date of pronouncement

14-08-2020

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee is directed against the order passed by the CIT(A)-2, Kolhapur on 17-10-2019 confirming the penalty of Rs.12,00,000 imposed by the Assessing Officer (AO) u/s 271E of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') in relation to the assessment year 2013-14.

2. Briefly stated, the facts of the case are that the assessee repaid certain unsecured loans during the year otherwise than through account payee cheque / account payee demand draft. The

AO tabulated six separate loans to two parties, namely, A.S. Kushale, Prop. Shri Ranjeetsingh A. Kusale - Rs.7,00,000 and Ram Ganga Adat Dukan, Prop. Sou. Malutai Dattatraya Patil - Rs.5,00,000. On being called upon to explain as to why the assessee contravened the provisions of section 269T of the Act, the assessee submitted that the amounts were initially repaid through crossed cheques to the creditors in the last week of March, 2013. However, the creditors contacted the assessee for cancelling the crossed cheques as they were Adat agents and wanted to buy jiggery from agriculturists before 31.03.2013, for which cash was required on urgent basis. This led to the cancellation of crossed cheques by the assessee and converting them into bearer cheques. Not convinced, the AO imposed penalty u/s 271E of the Act, for Rs.12,00,000, which came to be affirmed in the first appeal.

3. We have heard both the sides through Virtual Court and gone through the relevant material on record. The facts of the case apropos the issue are the assessee repaid Rs.12,00,000 to two Adat firms initially by means of crossed cheques. Such cheques were issued in the last week of March, 2013. The parties approached the assessee for cancellation of crossed cheques and issuance of bearer

cheques because they wanted to make payments to their agriculturist creditors on urgent basis. Copies of such cheques, initially crossed, have been placed on record. This reason was stated before the AO as well, who without controverting the same, proceeded to impose the penalty. Section 273B of the Act states that no penalty should be imposed under certain sections, including section 271E of the Act, if there is a reasonable cause for the default. As the default in terms of section 269T of the Act was actually committed by the assessee, but in the given circumstances of the case, the reason for such a default can be categorized in the realm of `reasonable cause`, thereby, bringing the case within ambit of section 273B of the Act. We, therefore, order to delete the penalty in terms of section 271E read with section 273B.

4. In the result, the appeal is allowed.

Order pronounced in the Open Court on 14th August, 2020.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

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

पुणे Pune; दिनांक Dated : 14th August, 2020
GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-2, Kolhapur
4. The Pr.CIT-2, Kolhapur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे
“ए” / DR ‘A’, ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	14-08-2020	Sr.PS
2.	Draft placed before author	14-08-2020	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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