

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'E' : NEW DELHI)**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCE)

**ITA NO.1172/DEL/2018
(ASSESSMENT Year 2013-14)**

M/s. Malik Movies Organiser Pvt. Ltd., vs. Addl.CIT, Range 16,
4/1436, Gali No.2, Shalimar Park, New Delhi.
Bhola Nath Nagar,
Delhi – 110 032.

(PAN : AAECM3356Q)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Shri Manu Chaurasiya, Senior DR

Date of Hearing : 03.11.2021

Date of Order : 25.11.2021

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, M/s. Malik Movies Organiser Pvt. Ltd.
(hereinafter referred to as 'the assessee') by filing the present
appeal sought to set aside the impugned order dated 21.11.2017
passed by the Commissioner of Income-tax (Appeals)22, New
Delhi confirming the penalty levied u/s 271D of the Income-tax
Act, 1961 (for short 'the Act') on the grounds inter alia that :-

“1. That in the facts and circumstances of the case and in law, Ld. CIT(A) erred in upholding levy of penalty by relying upon department circular by ignoring judgment of jurisdictional High Court.

2. That in the facts and circumstances of the case and in law, Ld. CIT(A) erred in not adjudicating grounds other than ground on limitation..”

2. Briefly stated the facts necessary for adjudication of the controversy at hand are : On the basis of completed assessment under section 143(3) of the Act at the income of Rs.23,120/-, wherein Assessing Officer (AO) noticed that the assessee has received unsecured loan in cash to the tune of Rs.6,00,000/- in contravention of the provisions contained u/s 269SS of the Act, initiated the penalty proceedings u/s 271D of the Act. Declining the contentions raised by the assessee, AO proceeded to levy the penalty to the tune of Rs.6,00,000/- equal to 100% of amount of loan or deposit so taken by the assessee in cash u/s 271D of the Act.

3. Assessee carried the matter before the Id. CIT (A) by way of filing the appeal who has confirmed the penalty by dismissing the appeal. Feeling aggrieved by the order passed by the Id. CIT (A), the assessee has come up before the Tribunal by way of filing the present appeal.

4. Assessee has not preferred to put in appearance despite issuance of the notice and consequently, we proceeded to decide the present appeal with the assistance of the Id. DR as well as on the basis of documents available on the file.

5. We have heard the Id. Departmental Representative for the Revenue to the appeal, gone through the documents relied upon and orders passed by the Revenue authorities below in the light of the facts and circumstances of the case.

6. Undisputedly, Shri Sanjay Malik being Director of the assessee company had received cash loan of Rs.6,00,000/- out of cash gift received on 18.03.2013 from his father Shri Iqbal Singh Malik, aged 82 years, out of the sale proceeds of agricultural land. It is also not in dispute that assessee company has taken the defence that it has to issue a bank guarantee of Rs.5,00,000/- to Delhi Doordarshan Kendra immediately within 2 – 3 days and Shri Sanjay Malik was having no sufficient time and as such, keeping in view the contingency, he deposited the cash into the bank account and from FDR bought a cheque to be given as bank guarantee. It is also not in dispute that AO has verified the aforesaid transactions claimed by the assessee.

7. From the assessment order, penalty order and impugned order passed by the Id. CIT(A), we have gathered that cash loan of

Rs.6,00,000/- has been received by Shri Sanjay Malik, Director of the assessee company from his father, Shri Iqbal Singh Malik, aged 82 years, out of the sale proceeds of agricultural land. We have also gathered that aforesaid amount of Rs.6,00,000/- was out of the cash gift received by the assessee on 18.03.2013 and deposited the aforesaid amount of Rs.6,00,000/- in his bank account out of which assessee company has got issued a cheque in favour of Delhi Doordarshan Kendra for bank guarantee on 20.03.2013 so as to get from Delhi Doordarshan Kendra a 50% advance against the making of TV serials of 13 episodes on 31.03.2015.

8. However, on the other hand, Id. DR for the Revenue relied upon the order passed by the AO as well as Id. CIT (A) and contended that assessee has failed to bring on record any genuine reason for accepting the loan in cash.

9. We are of the considered view that when in the instant case undisputedly AO has verified the claim of the assessee as to taking loan of Rs.6,00,000/- in cash from his father out of the sale proceeds of the agricultural land sold by him to deposit the bank guarantee with Delhi Doordarshan Kendra which he has actually deposited by way of cheque on 20.03.2013 so as to enable him to get a 50% advance against making TV serials of 13 episodes on 31.03.2015, it was a genuine reason and contingency exercised by

the assessee company as a purely business prudence. Moreover when source of the cash receipt of Rs.6,00,000/- is not in dispute and transaction between Shri Sanjay Malik and his father Shri Iqbal Singh Malik has also not been disputed by Revenue and it has not prejudiced the interest of the Revenue in any manner as no tax avoidance and tax evasion has been alleged or proved, we find that AO/ld.CIT(A) have erred in levying/confirming the penalty. Consequently, impugned order passed by the Id. CIT (A) is set aside and penalty levied by AO and confirmed by Id. CIT(A) is ordered to be deleted. Resultantly, the appeal filed by the assessee is allowed.

Order pronounced in open court on this 25th day of November, 2021.

**Sd/-
(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

Dated the 25th day of November, 2021.

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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Ghaziabad.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**