

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "B" BENCH

**Before: Shri Waseem Ahmed, Accountant Member  
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1620/Ahd/2019  
Assessment Year 2014-15**

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| The DCIT,<br>Circle-1(1)(1), Vadodara<br><br>(Appellant) | Vs | Analytical<br>Technologies Ltd. E-<br>67-68, Ravi Park,<br>Opp. Sainath Park,<br>Vasna Road,<br>Vadodara-390015<br>PAN: AAGCA4017N<br>(Respondent) |
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**Appellant by : Shri Mehul K. Patel, A.R.  
Respondent by : Shri Sudhendu Das, Sr.D.R.**

Date of hearing : 21-07-2022  
Date of pronouncement : 27-07-2022

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

The present appeal has been filed by the Revenue against the order dated 16.08.2019 passed by the Commissioner of Income Tax (Appeals)-1, Vadodara, as against the Penalty order passed under section 271D of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2014-15.

2. The sole ground raised by the Revenue is that the Id. CIT(A) erred in deleting the penalty amounting to Rs. 1,20,54,566/- u/s. 271D of the Income Tax Act, 1961 without appreciating the findings of the A.O. and without considering the provisions of Section 269SS of the Act.

2.1. The brief facts of the case is that the assessee is a company engaged in the business of manufacturer of Pharma Instruments. For the Assessment Year, 2014-15, the assessee filed its Return of income on 01.04.2015 declaring total income under normal provisions of the Act of Rs. 58,38,324/-. The assessment was completed on 23.11.2016 by making addition on account of Late Payment of employee's contribution, Short Credit of receipt as per 26AS and Short Credit of Interest as compared to 26AS and assessed income of Rs. 59,91,520/-. While doing so and perusal of bank statement, there was cash deposit in the bank account of Rs. 1,00,000/- on 25.11.2016 which is contravention of the provisions of Section 269SS (b) of the Act and therefore a proposal was referred to the Joint CIT for levying penalty u/s. 271D of the Act.

2.2. Thus a notice u/s. 271D r.w.s. 274 of the Act was issued on 03.01.2017 for initiating penalty for cash payment of Rs. 1,00,000/- paid to Shri Patnam Swathi for contravention of provisions of section 269SS of the Act. It is thereafter the Addl. CIT issued another show cause notice u/s. 271D on 18.05.2017 for contravention of provisions of section 269SS for the loans to Shri Sivaprasad Patnam and Shri Raja Rajeshwari Patnam.

2.3. In response to the show cause notice , the assessee replied that in the Assessment order passed u/s. 143(3) dated 23.11.2016, the assessing officer proposed to initiate penalty proceedings u/s. 271D related to the cash transaction of Rs. 1,00,000/- made to Shri Patnam Swathi only. However, the Joint CIT by way of second show cause notice dated 18.05.2017, proposed to levy penalty u/s. 271D for the transactions made with Shri Sivaprasad Patnam of Rs. 1,08,30,091/- and Shri Raja Rajeshwari Patnam a sum of Rs. 14,24,863/-. The assessee explained that the entries relate to Sivaprasad Patnam are several unsecured loans taken in the name of Sivaprasad Patnam being the Director of the assessee company and transferred to the company account. None of the transaction is by way of cash and all the loans were availed only through banking channels. The ledgers of the loan account were submitted during the assessment proceedings. Therefore the Assessing Officer has not initiated any penalty proceedings for contravention of Section 269SS. Similarly in the case of Smt. Raja Rajeshwari Patnam , there was an account in the name of HPLC Solutions for which she was a proprietor and another account in the name of Raja Rajeshwari Patnam in the creditors, both were transferred to loan account by way of journal entries. The ledger of the loan account were submitted during the assessment proceedings, so the Assessing Officer has not initiated any proceeding are contravention of Section 269SS of the Act. However, the above explanation was not properly considered by the Additional CIT and levied a penalty of Rs. 1,21,54,566/- u/s. 271D of the Act for violation of provisions of Section 269SS of the Act.

3. Aggrieved against the same, the assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) held that perusal of the penalty order, it transpires that the A.O. could not take cognizance of 'journal entry' made in appellant's books of account. Ledger A/c of Sivaprasad Patnam in the books of the company/assessee clearly supports source of fund originated from ICICI Bank by way of loan in the name of director. Tally software did not allow data entry in correct format, which necessitated the assessee to pass journal entry. Journal entry does not in any way in this case, indicate cash transaction between the Director and the assessee company. Otherwise to say, Director of Sivaprasad patnam availed mortgaged loan from ICICI bank and since the company needed funds. Hence, ICICI Bank transferred loan directly to the assessee company. However, only in the case of Swati Patnam (wife of Director Sivaprasad Patnam), the assessee itself admitted in the written submission that the assessee company has taken CASH loan of Rs. 1,00,000/- which is contravention of Section 269SS and therefore penalty is restricted only to that transaction and balance loan received vide passing JV entry amounting to Rs. 1,20,54,566/- does not fall within the provisions for contravention of Section 269SS and therefore deleted the penalty levied u/s. 271D to the loan of Rs. 1,20,54,566/-. Thus, CIT(A) partly allowed the appeal of the assessee.

4. Aggrieved against the same, the revenue is in appeal before us raising the sole Ground of Appeal:

1. *"On the facts and in the circumstances of the case and in law, whether the Id.CIT(Appeals) erred in deleting the penalty amounting to Rs.1,20,54,566/-under*

*section 271D of the Income Tax Act, 1961 without appreciating the findings of AO and without considering the provisions of section 269SS of the ACT"*

5. The ld. D.R. appearing for the Revenue supported the penalty order passed by the Additional CIT and pleaded to sustain the penalty levied u/s. 271D of the Act.

6. The ld. D.R. appearing for the assessee submitted that there is no contravention of Section 269SS of the Act relating to the loan transactions made through banking channel, the same are availed by the Director and passed to the assessee company through 'journal entry' wherein penalty u/s. 271D cannot be levied. The ld. CIT(A) after going through the 'journal entry' made by the assessee and difficulty faced in the Tally software, which necessitated the assessee to pass journal entry. All these transactions have routed through ICICI Bank Ltd., Kotak Mahindra Prime Ltd. and therefore no violation of section 269SS . Thus the order passed by the Ld. CIT(A) does not require any interference and therefore the Revenue appeal is liable to be dismissed.

7. We have given our thoughtful consideration and perused the materials available on records. The assessee clearly established that the loan availed by the Director Sivaprasad Patnam is transferred to the assessee company because of its company is urgent need of cash/finance. The same were being availed by way of loan from various banks and directly credited into the account of the assessee company and necessary journal entries have been made in the book of the assessee company. Thus, there is no

violation of Section 269SS of the Act. Therefore no question of levying penalty u/s. 271D of the Act relating to the journal entry amounting to Rs. 1,20,54,566/-. Thus, the finding made by the Ld. CIT(A) purely factual in nature, which does not require any interference and the same is hereby upheld. Thus the grounds raised by the Revenue is hereby rejected and the appeal is dismissed.

8. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 27 -07-2022

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER True Copy**  
**Ahmedabad : Dated 27/07/2022**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद