

IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH, PUNE

SHRI S.S. GODARA, JM AND DR. DIPAK P. RIPOTE, AM

ITA No. 1214/PUN/2018 A.Y. 2013-14

Vivekanand S. Gavhane, C/o. Raturaj Lodge,
Opp. Bus Stand Barshi 413 401
DIST. SOLAPUR
PAN; AJLPG 1591 J

: Appellant

Vs.

The Jt. C.I.T. Range 2, Solapur

: Respondent

Appellant by : Shri Pratik Sandbhor

Respondent by : Shri S.P. Walimbe

Date of Hearing : 30-06-2022

Date of Pronouncement : 27-07-2022

ORDER

PER S.S. GODARA, JM :

This assessee's appeal for A.Y. 2013-14 is against the CIT(A)- 7, Pune's order dated 13-04-2018 passed in case No. PN/CIT(A)-7/R-2/10625/2016-17 involving proceedings u/s 271D of the Income-tax Act, 1961, in short "the Act".

Heard both the department. Case file perused.

2. It emerges at the outset that the assessee's sole substantive grievance raised in the instant appeal seeks to reverse both the lower authorities' action imposing u/s 271D penalty of Rs. 2,55,000/- for having received loans in cash from his mother Smt. Kumudini Gavhane thereby violating section 269SS of the Act.

3. Both the learned lower authorities vehemently reiterated their respective stands against and in support of the impugned penalty. The Revenue more particularly contended that the Assessing Officer and the CIT(A) hold the assessee to have failed in giving justifiable explanation for having violated the relevant statutory provision involving the receipt of cash loan u/s 269SS of the Act. Mr. Walimbe further sought to highlight the fact that the assessee and his mother maintained their respective bank accounts in the same bank's branch only which duly support's learned lower authorities' stand.

4. We have given thoughtful consideration to foregoing rival contentions and find merit in assessee's stand. It is made clear that there is no dispute about the impugned cash loans having obtained from assessee's mother only. That being the case, various judicial precedents (2022) 137 taxmann.com 395 (Del), Baloo Vs. Dy. CIT (2011) 16 taxmann.com 35 (Cal), CIT vs. Baloj Truees (2008) 167 taxman 27 (Mad) C.I.T. Vs. Laxmi Trust Co. 303 ITR 99 (Mad) held that such a penalty involving cash loans from family members to meet with business exigencies is not sustainable as it should not be held that the same violated the basic tenor of sec. 269SS of the Act. Faced with this situation, we delete the impugned penalty on account of overwhelming genuineness involving facts of the instant case. The assessee succeeds in his instant sole grievance.

5. The assessee's appeal is allowed.

Order pronounced in the open court on 27th day of July 2022.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Pune; Dated, this 27th day of July 2022
 Ankam

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT (A) 7, Pune
4. The PCIT 6 Pune.
5. The D.R. ITAT A' Bench, Pune.
5. Guard File

BY ORDER,

Sr. Private Secretary
 ITAT, Pune.

/// TRUE COPY ///

		Date	
1	Draft dictated on	30-06-2022	Sr.PS
2	Draft placed before author	07-07-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS		Sr.PS
6	Kept for pronouncement on	27-07-2022	Sr.PS
7	Date of uploading of order	27-07-2022	Sr.PS
8	File sent to Bench Clerk	27-07-2022	Sr.PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		