

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'A' BENCH, HYDERABAD.**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.365/Hyd/2022 (Assessment Year : 2009-10)		
Shri Indupuru Srinivasula Reddy, Nellore. PAN AAWPI4316D	Vs.	Income Tax Officer, Ward 4, Hyderabad.
(Appellant)		(Respondent)
Appellant By :		None.
Respondent By :		Shri KPRR Murthy, (D.R.)
Date of Hearing :		13.10.2022
Date of Pronouncement :		14.10.2022

O R D E R

Per Shri Inturi Rama Rao, A.M. :

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Dt.29.06.2022 for the Assessment Year 2016-17 confirming the levy of penalty u/s. 271D of the Income Tax Act, 1961 (in short 'the Act'). When the appeal was called, none appeared on behalf of the assessee despite due service of notice of hearing.

2. We have heard the learned Senior DR and had carefully gone through the order of the NFAC which confirmed the levy of penalty. On perusal of the impugned order, it is clear that the assessee had offered an explanation and made a detailed submission, and explained the circumstances under which loan was accepted in cash otherwise than through prescribed mode, violating the provisions of section 269SS of the Act. However, the NFAC order without discussing as to how the explanation offered by the assessee is not acceptable, simply confirmed the levy of penalty u/s. 271D of the Act after citing certain judicial precedents.

2.1 Thus order of the CIT (Appeals), NFAC is not a speaking one and merely confirmed the levy of penalty without discussing the factual situation, and as to how factual situation of case, fits into the ratio of cases cited by the CIT (Appeals). Thus the order of the learned CIT (Appeals) is bereft of discussion of facts and reasoning. Hence the order of the learned CIT (Appeals) cannot be sustained in the eyes of law and accordingly we set aside

the same and remand the matter back to the NFAC and decide the matter in accordance with law after affording due opportunity of hearing to the assessee.

3. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 14th Oct., 2022.

Sd/-

(LALIET KUMAR)

Judicial Member

Hyderabad, Dt.14.10.2022.

Sd/-

(INTURI RAMA RAO)

Accountant Member

* Reddy gp

Copy to :

1.	Shri Indupuru Srinivasula Reddy, C/o M.V. Prasad, C.A., D.No.60-7-13, Ground Floor, Siddhartha Nagar, 4 th Lane, Vijayawada-520 010
2.	Income Tax Officer, Ward-4, Nellore.
3.	CIT(Appeals), National Faceless Appeal Centre, Delhi.
4.	DR, ITAT, Hyderabad.
5.	Guard File.

By Order