

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 5802/DEL/2019**  
**[Assessment Year: 2014-15]**

Smt. Sumit Juneja, Hotel Arjun, 5084 Main Bazar, Pahar Ganj, New Delhi. PAN- AIEPJ3047J	<u>Vs</u>	Income-tax Officer, Ward-62(5), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	<b>None</b>	
<b>Department represented by</b>	<b>Shri Om Parkash</b>	
<b>Date of hearing</b>	<b>22.02.2023</b>	
<b>Date of pronouncement</b>	<b>28.02.2023</b>	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-20, New Delhi, dated 30.07.2018, pertaining to the assessment year 2014-15. The assessee has raised following grounds of appeal:

1. *On the facts & circumstances of the case the learned Additional Commissioner of Income Tax has erred in imposing the penalty of Rs.5,50,000/- on account of repayment of loans in cash. The penalty imposed by the Id. Assessing officer of Rs. 5,50,000/- in violation of section 269T of the Income Tax Act, 1961 are based on conjecture, personal surmise and purely on adhoc basis.*

*The accounts of the assessee were duly audited by the chartered accountant*

*as per the requirement of the Act and the payments made to Smt. Sugandha Juneja was for medical purpose, to Sh. Deepak was due to some personal reasons and payments made to Smt. Sumit Juneja Ghai who is the proprietor herself cannot be treated as loans, these were the drawings of the proprietor. Therefore imposition of penalty on account of repayment of loans in cash seems purely adhoc, personal opinion, biased and against the law.*

2. *The assessee craves leave to add/alter/amend any of the grounds of appeal on or before the date of hearing.*

2. At the time of hearing no one attended the proceedings. It is seen from the record that no one has been attending the proceedings despite various opportunities. Therefore, the case of the assessee is taken up for hearing in the absence of the assessee and is being decided on the basis of material available on record.

3. Facts giving rise to the present appeal are that in this case return of income for the assessment year under consideration was filed on 28.11.2014 electronically declaring income of Rs. 15,46,770/-. The case of the assessee was picked up for scrutiny assessment and the assessment u/s 143(3) of the Act was framed on 30.11.2016. The Assessing Officer while framing the assessment made disallowance of the expenses debited in the P&L A/c amounting to Rs. 12,10,583/-; disallowance of interest on TDS amounting to Rs. 12,625/- and disallowance by invoking the provisions of Section 40A(3) of the Act amounting to Rs. 82,341/-, thus assessed income at Rs. 28,52,020/-. Aggrieved against this

the assessee preferred appeal before the learned CIT(Appeals), who after considering the submissions dismissed the appeal. The Assessing Officer also initiated penalty proceedings u/s 271E of the Act for violation of the provisions of Section 269T of the act and vide penalty order dated 30.6.2017 imposed penalty of Rs. 5,50,000/- u/s 271E of the Act. Aggrieved against this imposition of penalty the assessee had filed appeal before the learned CIT(Appeals) who by considering the submissions dismissed the appeal. Now the assessee is in appeal against sustaining the penalty of Rs. 5,50,000/-.

4. Learned DR supported the orders of the authorities below.

5. I have heard the learned DR and perused the material available on records. The assessee has neither filed the order imposing penalty nor any other material for explaining why impugned penalty needs to be deleted. The learned CIT(Appeals) has given finding on fact by observing as under:-

*“6.3 The contention of the Assessing officer and the submission of the appellant has been considered. During the course of appellate proceedings, the appellant was asked to produce the audit report u/s 44AB of the Act which reveals that books of accounts in the form of ledger, cash books, journal, sale register, purchase register and bank book was maintained by the appellant and after audit of this, the auditor has mentioned in column 31(b) of 3CD Form that the amount of repayment was made exceeding the limit specified in Section 269T in cash. During the course of appellate proceedings the appellant has produced the affidavit and copy of pass port and Aadhar card in respect of the claim that Sumit Juneja and Sumit Ghai was one and the same person. However, from the perusal of the balance sheet of 'M/s. Chotti Fashions' of which the appellant is the proprietor, it is gathered that the appellant has maintained two accounts one in the form of*

*capital account of Rs. 18,16,842/- and the other in the form of unsecured loan where amount of Rs 2,00,000/- was shown by the appellant where the name of Sumit Ghai has been mentioned in the balance sheet as on 31/03/2013. As per the audit report of A.Y. 2014-15, the auditor has clearly mentioned that this amount of Rs. 2,00,000/- was paid in cash to Sumit Ghai. Even if the plea of the appellant is correct that Sumit Juneja and Sumit Ghai is one and the same person, if the appellant is maintaining two accounts one as capital account and the other as loan account definitely the provision of Section 269T will attract and the plea of the appellant that by mistake the entry of capital account was shown in the unsecured loan is not correct and an afterthought. In this light, I find no substance in the submission of the appellant and the Assessing officer's action to impose penalty u/s 271E of the Act on the account of repayment of Rs. 2,00,000/- is upheld.*

*6.4 Further the plea of the appellant that the money of Rs. 3,00,000/- was returned to Sugandha Juneja for the treatment of her mother could not be supported by any documentary evidence except the discharge summary of Sir Ganga Ram Hospital which suggests that during this period the mother of the appellant was admitted for five days in Sir Ganga Ram Hospital however, no surgery was done. This plea of the appellant is also not acceptable in the light of the fact that as per the submission of the appellant the sister of the appellant was working with British High Commission and was fully aware about the consequences of cash transactions in this manner. During the course of the appellate proceedings the appellant was asked to produce the receipt of Sir Ganga Ram Hospital for checking the mode and amount of payment which the appellant could not produce. In this light no reasonable cause was found for the repayment of Rs. 3,00,000/- to the sister of the appellant in cash.*

*6.5 Further the appellant could not give any details of justification for the repayment of Rs. 50,000/- given to Shri Deepak and even during the appellate proceedings except making such submission the appellant could not produce any evidence that Shri Deepak has not accepted cheque and only insisted for cash payment.*

*6.6 In this light, reliance is placed in the case of **M. Sougoumarin v. ACIT 95 taxmann.com** 240 of Hon'ble High Court of Madras where the Hon'ble Court has held that where assessee had obtained and repaid loans in cash exceeding Rs. 20 thousand on regular basis and no business exigency or*

*urgency had been established to follow a prolonged and persistent system of accepting and repaying loans only in cash, penalty order passed under section 271D & 271E was to be confirmed.*

*Hence, I find no reason to interfere in the decision of the Assessing officer and the penalty of Rs.5,50,000/- imposed by the Assessing Officer u/s 271E of the Act is confirmed.”*

6. The assessee grossly failed to rebut the above finding on fact recorded by learned CIT(Appeals). In the absence of such explanation, no interference is called for. Thus, the grounds raised by the assessee are dismissed.

7. Appeal of the assessee is dismissed.

Order pronounced in open court on 28<sup>th</sup> February, 2023.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI