

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
(CONDUCTED THROUGH VIRTUAL COURT)**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER &
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No.394/Ind/2022
(Assessment Year: 2012-13)

M/s. Lokmanya Shikshan Sanstha Dewas, 1 C/o Cambridge School, Trilok Nagar, Ujjain Road, Dewas	Vs.	JCIT(Exemption) Bhopal
PAN No.AAAAL3934H		
(Appellant)	..	(Respondent)

Appellant by :	Shri Venus Rawka, C.A.
Respondent by :	Shri P. K. Mishra, CIT D.R.

Date of Hearing	20.03.2023
Date of Pronouncement	31.03.2023

ORDER

PER SUCHITRA KAMBLE - JM:

This appeal is filed by the assessee against the order dated 07.09.2022 passed by the Ld. CIT(A), National Faceless Appeal Centre (in short "NFAC"), Delhi for A.Y. 2012-13.

2. The grounds of appeal raised by the assessee read as under:

"1. That the learned CIT(A) erred in law and facts of the case and passed an order on ex parte basis without giving the assessee the opportunity of being heard.

2. That the Ld. CIT(A) erred in law and the facts of the case and levied the Penalty U/s 271D at Rs. 1,60,000/- & 271E at Rs. 2,20,000/- of the Income Tax Act, 1961 without considering full facts and legal position.

The Penalty levied therefore is totally wrong and illegal on the facts of the case.

3. Ld. CIT(A) erred in levying penalty under section 271D and 271E without appreciating that neither the Assessee accepted nor repaid loan/ deposit in contravention of section 269SS and 269T respectively.

Therefore Ld. JCIT has erred in not appreciating the facts of the case in right perspective.

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4. *That the appellant craves to leave, add, alter or amend any of the ground at or before hearing.”*

3. The assessee is a charitable institution registered under Section 12A (AOP). The assessee filed return of income for A.Y. 2012-13 on 25.03.2013 declaring total income of Rs. NIL. The case was selected for scrutiny and assessment order under Section 143(3) was passed on 27.03.2015. During the assessment proceedings the Assessing Officer found that the assessee society received and made repayment of loan in cash that of Rs. 20,000/- or more in a day which is restricted the provisions of Section 269SS and 269T of the Act. Hence, the penalty under Section 271B & 271E of the Act was levied on 22.09.2017 at Rs. 3,80,000/-.

4. Being aggrieved by the penalty order the assessee filed appeal before the CIT(A). The CIT(A) dismiss the appeal of the assessee.

5. The Ld. A.R. submitted that the CIT(A) dismiss the appeal for non-prosecution and no opportunity of hearing was granted to the assessee. Therefore, the Ld. A.R. requested that the matter may be remanded back to the file of the CIT(A) proper adjudication of the issues contested therein on merit.

6. The Ld. D.R. relied upon the penalty order, assessment order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the CIT(A)

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dismiss the appeal for non-prosecution and has not decided the issues on merit. Therefore, it will be appropriate to remand back the issues contested by the assessee herein to the file of the CIT(A) for proper adjudication of the issues on merit as per law. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced on **31/03/2023** by placing the result on the Notice Board as per Rule 34(4) of the Income Tax (Appellate Tribunal) Rule, 1963.

This Order pronounced in Open Court on /03/2023
Sd/- Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER
Ahmedabad; Dated 31 /03/2023
TANMAY, Sr. PS

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,इंदौर/ DR, ITAT, Indore
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

(Sr. Private Secretary)
ITAT, Indore

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1. Date of dictation 23.03.2023
2. Date on which the typed draft is placed before the Dictating Member 23.03.2023
3. Other Member.....
4. Date on which the approved draft comes to the Sr.P.S./P.S .03.2023
5. Date on which the fair order is placed before the Dictating Member for pronouncement .03.2023
6. Date on which the fair order comes back to the Sr.P.S./P.S .03.2023
7. Date on which the file goes to the Bench Clerk .03.2023
8. Date on which the file goes to the Head Clerk.....
9. The date on which the file goes to the Assistant Registrar for signature on the order.....
10. Date of Despatch of the Order.....