

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H" NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

आ.अ.सं./I.T.A No.8541/Del/2019
निर्धारणवर्ष/Assessment Year: 2015-15

ACIT Circle 27(1) New Delhi	बनाम Vs.	Unilite Plastic Industries P. Ltd. 62, Rama Road, Industrial Area, Najafgarh Road, New Delhi.
		PAN No. AAACU0017A
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

राजस्वकीओरसे /Revenue by	Shri Rajesh Kumar, CIT DR & Shri Sanjay Kumar, Sr. DR
निर्धारितकीओरसे /Assessee by	Shri Kesha Rustagi, Ex-Director

सुनवाईकीतारीख/ Date of hearing:	10.02.2023
उद्घोषणाकीतारीख/Pronouncement on	11.04.2023

आदेश /O R D E R

PER C.N. PRASAD, J.M.

This appeal is filed by the Revenue against the order of the Ld. Commissioner of Income Tax (Appeals)-9, New Delhi dated 19.08.2019 for the AY 2015-16 in deleting the penalty levied u/s 271E of the Income Tax Act, 1961.

2. Briefly stated the facts are that in the course of assessment proceedings for the AY 2015-16 the Assessing Officer observed that

assessee repaid loan or deposit by other than account payee cheque or Demand Draft exceeding the limit of Rs.20,000/- as specified u/s 271T of the Act. The show cause notice was issued u/s 271E of the Act for imposition of penalty. The Director of the assessee company filed a letter dated 12.04.2018 along with ledger account of Bajaj Finance Ltd. for the period of AY 2015-16 stating that in the course of assessment proceedings, it was explained before the Assessing Officer that assessee had not repaid any loan or deposit other than by account payee cheque or Demand Draft exceeding the limit of Rs.20,000/- and there is a typographical error on the part of Auditor who has been wrongly mentioned in Column No. 31(b) of 3CD Report. However, the Additional Commissioner in the absence of any supporting document such as bank statement, confirmation from Bajaj Finance Ltd., etc filed by the assessee, imposed penalty u/s 271E of the Act for failing to comply with the provisions u/s 269T of the Act.

3. On appeal, the Ld.CIT(A) deleted the penalty.
4. Before us, the Ld. DR submits that the Ld.CIT(A) erred in deleting the penalty levied u/s 271E of the Act by admitting additional evidences in contravention of Rule 46A of the Act.
5. On the other hand, Shri Keshav Rustogi, Ex-Director of the assessee company submits that the documents were filed before the Ld.CIT(A) on

the directions of the CIT(A) and considering the documents furnished by the assessee. Penalty was rightly deleted.

6. Heard rival contentions, perused the orders of the authorities below. On reading of the order of the Ld.CIT(Appeals), we observed that in the course of appellate proceedings, the Ld.CIT(Appeals) directed the assessee to file copy of bank account to collaborate the payment to Bajaj Finance, ledger, copy of loan account and considering/verifying the submissions of the assessee and the evidences the penalty levied u/s 271E of the Act was deleted observing as under: -

“5. I have considered the facts of the ground and contention of the AR of the appellant. It is noted that the penalty was levied by the AO on account of carrying out cash transaction over Rs.20000/- in contravention of the provisions of section 269T. The appellant was directed to file the following in support of its contention:-

- *Copy of penalty order*
- *Bank accounts to correlate the payment to Bajaj Firm*
- *Ledger copy of loan a/c*

The appellant submitted the necessary documents, ledger accounts of Bajaj Finance Ltd. and bank statements of Unilite Plastic Industries. The following entries were noted from the bank statement:-

Txn No.	Txn Date	Description	Branch Name	Cheque No.	Dr. Amount	Cr. Amount	Balance
S14133674	11.04.14	ECS/INW/BULK/0000 697419547	-	-	4,48,537.0 0	-	82,659.74
S81866482	12.05.14	ECS/INW/BULK/0000 706355154	-		4,48,537.0 0		1,72,870.74
S16490051	28.05.14	RTGS:SD1131833318: BAJAJ FINANCE LIMITED			13,92,000. 00		2,59,918.74

- *It is also noted that the appellant was sanctioned a housing loan amounting to Rs.3,00,00,000/- by the Citi Bank as evident by the sanction letter placed on record.*
- *Further as claimed by the appellant, Rs.3 crores were directly paid from Citibank to Bajaj Finance Ltd. In support of its claim the appellant has submitted account statement from 07.05.2000 to 07.05.2018 wherein the particular entry is as follows:-*

Date	Value Date	Particulars	Increased By	Decreased By	Due	Paid	Bounce Due	Chg. Paid
28.5.14	28.5.14	Payment Received Vide cheque No.560575 receipt No. 6589638	0.00	30,000,000.00	0.00	0.00	0.00	0.00
28.5.14	28.5.14	Cash received receipt no. NA INR 11,500.00 (40ILAP00304710)	0.00	11,500.00	0.00	0.00	0.00	0.00

From the above, it is crystal clear, that the claim of the appellant is bona fide and genuine. Hence, in view of the documents submitted by the AR of the appellant, the penalty levied is hereby directed to be deleted. The appellant succeeds in this ground of appeal.”

7. On a reading of the Ld.CIT(Appeals) order, we observed as a matter of fact that the claim of the assessee that it had never repaid loan or deposit other than by way of cheque was examined. On examination of the evidences on record, the Ld.CIT(A) gave a finding that the assessee had in fact paid Rs.3 crores directly from Citi Bank to Bajaj Finance.

8. In view of the above finding of the Ld.CIT(A) and in the absence of any contrary evidences brought on record by the Revenue to rebut the

findings of the Ld.CIT(Appeals), we sustain the order of the Ld.CIT(A) and reject the grounds raised by the Revenue.

9. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 11/04/2023

**Sd/-
(G.S. PANNU)
PRESIDENT**

**Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER**

Dated: 11/04/2023

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi