

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No. 63/RPR/2022
निर्धारण वर्ष / Assessment Year : 2015-16

Sandeep Kaur Gill
26/934, Shukla Colony
R.S.Shukla Ward, Raja Talab
Raipur (C.G)-492001
PAN: ADCPG7812K

.....अपीलार्थी / Appellant

बनाम / V/s.

JCIT(Range-3)
Raipur (C.G.)-492001

.....प्रत्यर्थी / Respondent

Assessee by : Shri Bikram Jain, CA
Revenue by : Shri Piyush Tripathi, Sr. DR

सुनवाई की तारीख / Date of Hearing : 18.04.2023

घोषणा की तारीख / Date of Pronouncement : 28.04.2023

आदेश / ORDER**PER RAVISH SOOD, JM:**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 24.12.2021, which in turn arises from the order passed by the JCIT, Range-3, Raipur under Sec.271E of the Income-tax Act, 1961 (in short 'the Act') dated 28.12.2018 for assessment year 2015-16. The assessee has assailed the impugned order on the following grounds of appeal before us:

“1. On the facts and in the circumstances of the case the CIT(A)-NFAC has erred in confirming the order of the JCIT-Range-3, Raipur wherein the Joint Commissioner of Income Tax, Range-3, Raipur has erred in imposing penalty of Rs.671939/- u/s. 271E of the Income Tax Act, 1961. Thus the order passed by the JCIT-Range-3, Raipur and confirmed by the CIT-A(NFAC) is unjustified, unwarranted and uncalled for and deserves to be deleted.

2. The assessee reserves the right to add, amend or alter any grounds of appeal at any time of hearing.

2. Controversy involved in the present appeal lies in a narrow compass i.e., sustainability of the penalty imposed by the JCIT u/s. 271E of the Act.

3. Succinctly stated, the AO while framing the assessment in the case of the assessee for A.Y 2015-16 observed, that the assessee had made cash repayment of loans that were raised by her from M/s. Tata Motors and M/s. Tata Finance Ltd for financing purchase of buses. On the basis of the

information shared by the AO with the JCIT, Range-3, Raipur, the latter called upon the assessee to show cause as to why penalty may not be imposed upon her u/s. 271E of the Act for having repaid the loans in question otherwise than as per the modes prescribed in section 269T of the Act. In reply, it was the claim of the assessee that the monthly installments towards repayment of the aforementioned loans were made in cash because the concerned financiers had insisted her to do so. In order to fortify her aforesaid contention the assessee placed on record a letter dated 05.11.2012 from M/s. Tata Motors Pvt. Ltd., which revealed that she was called upon by the financiers concerned to make repayment of the loans in cash. In the backdrop of the aforesaid facts, it was submitted by the assessee that as she was prevented by a reasonable cause for not making the repayment of the monthly installments of the loans in question through cheque, coupled with the fact that she was ignorant of the provisions of section 269T of the Act, therefore, as per the mandate of section 273B of the Act no penalty in all fairness was liable to be imposed upon her u/s. 271E.

4. The JCIT after deliberating on the explanation of the assessee was however not persuaded to subscribe to the same. It was observed by the AO that there was no justification for the assessee to have gone by the instructions of the financiers which were in contravention of the provisions of section 269T of the Act. Apart from that, it was observed by the JCIT that

even if the concerned financiers considering their past experience with the assessee were not ready to receive the payments from the assessee by cheques, then she could have made the said payments as per the other prescribed modes, i.e by demand drafts or electronic transfers as provided in section 269T of the Act. In so far the claim of the assessee that she was unaware about the mandate of law, it was observed by the JCIT that the said hollow claim of the assessee could not be accepted. It was observed by the JCIT that as the assessee at the relevant point of time was assisted by a Chartered Accountant who had duly audited her books of accounts, therefore, her aforesaid claim did not merit acceptance. Accordingly, the JCIT on the basis of his aforesaid deliberations, being of the view that the assessee had without any reasonable cause repaid the loans in contravention of the provisions section 269T of the Act, therein saddled her with a penalty of Rs.6,71,939/- u/s. 271E of the Act.

5. On appeal, the CIT(A) finding no substance in the contentions of the assessee dismissed the appeal.

6. The assessee being aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

7. We have heard the ld. Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on

record, as well as considered the judicial pronouncements that have been pressed into service by the Learned Authorized Representative (for short 'AR') for the assessee to drive home his contentions.

8. Admittedly, it is a matter of fact borne from record that the assessee during the year under consideration had repaid loans aggregating to Rs.6,71,939/- in cash, as under:-

S.No.	Loan against bus No.	Repayment amount(Rs.)
1	E-3169-Repaid to M/s. Tata Motors Ltd.	2,84,175/-
2	B-010(Body)-Repaid to M/s. Tata Finance Ltd.	93073/-
3	B-0107(Chasis) Repaid to M/s. Tata Finance Ltd.	2,94,691/-
	TOTAL	6,71,939/-

9. On a perusal of the reply filed by the assessee, wherein she had explained the reasons for having repaid the aforementioned loans in a manner other than that prescribed u/s. 269T of the Act, we find that the same has two facets, viz (i) that as the assessee's repayment record was extremely poor as the cheques that were issued by her towards repayment of loans in the past were on several occasions not honored, therefore, the collection agents of the financiers had insisted upon her to make repayment of the monthly loan installments in cash; and (ii) that the assessee was ignorant about the provisions of section 269T of the Act. Before proceeding any further, we

deem it fit to cull out the provisions of section 269T of the Act which reads as under (relevant extract):-

269T. No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it [or any specified advance received by it] otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit[or paid the specified advance], [or by use of electronic clearing system through a bank account [or through such other electronic mode as may be prescribed].....

10. On a perusal of the aforesaid statutory provision, it transpires that the same contemplates the prescribed modes for repayment of a loan exceeding the prescribed amount, viz (i). vide account payee cheque; (ii). vide account payee bank draft; (iii) use of electronic system through a bank account; and (iv) through such other electronic mode as may be prescribed. On the basis of the aforesaid multiple modes of repayment of loan as envisaged in section 269T of the Act, we are of the considered view that even if the financiers on account of the poor track record of the assessee were not ready and willing to receive the monthly installments towards repayment of loans from her through cheques, then she could have safely made the said repayments by way of account payee bank drafts or electronic clearing system through his bank account or any other prescribed electronic mode as provided in Rule 6ABBA of the I.T. Rules, 1962. We are unable to persuade ourselves to subscribe to the explanation of the assessee that as the financiers were not ready to receive the repayment of loans from her vide account payee

cheques, therefore, for the said reason she was compelled to make the said payments in cash.

11. Also we do not find any substance in the claim of the assessee that she was unaware of the provisions of section 269T of the Act. It is a matter of fact borne from record that the assessee at the relevant point of time was availing the services of a Chartered Accountant and had got her accounts for the year under consideration audited from him. Considering the aforesaid factual position, and independent of the settled position of law that an assessee cannot be allowed to plead ignorance of law, we are even otherwise of the considered view that there is no substance and merit in the claim of the assessee that she was oblivion of the modes and manner for repayment of loans as prescribed under section 269T of the Act.

12. Adverting to the support drawn by the assessee from the fact that a similar penalty that was imposed in the case of her nephew, viz Shri Ajay Gill had been vacated by the CIT(A), NFAC, we are of a strong conviction that as the facts involved in every case stand on their independent footing, therefore, her aforesaid claim would be of no assistance.

13. We, thus, on the basis of our aforesaid observations, are of the considered view, that as the assessee had not only failed to comply with the provisions of section 269T of the Act, therein rendering her liable for imposition of penalty u/s. 271E of the Act, but had also failed to come forth

with any reasonable cause which had prevented her to make repayment of the monthly installments of her outstanding loans in a manner other than that prescribed under law, therefore, finding no infirmity in the penalty of Rs. 6,71,939/- imposed by the JCIT u/s. 271E of the Act, uphold the same.

14. Resultantly, the appeal filed by the assessee is dismissed.

Order pronounced in open court on 28th day of April, 2023.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
RAVISH SOOD
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 28th April, 2023

*#Thirumalesh/SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :-

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals), Raipur (C.G)
4. The Pr. CIT, Raipur (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy//

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.