

आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.322/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2013-14)

ACIT Corporate Circle-3(1), Chennai.	बनम/ Vs.	M/s. Stahl India Private Ltd. 1A, Sargunar Salai, Chrompet, Chennai-600 044.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AACCS-3208-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Shri D.Hema Bhupal (JCIT) -Ld. Sr. DR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri Sriram Seshadhri (CA)- Ld. AR

सुनवाईकी तारीख/Date of Hearing	:	26-07-2023
घोषणाकी तारीख /Date of Pronouncement	:	26-07-2023

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by deletion of penalty u/s 271E for Rs.106.73 Lacs for Assessment Year (AY) 2013-14 by first appellate authority vide impugned order dated 16.01.2023, the revenue is in further appeal before us. The impugned order has been passed by learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] on 16-01-2023 in the matter of impugned penalty levied by Ld. Assessing Officer [AO] u/s. 271E of the Act vide

order dated 28-02-2022. The grounds taken by the Revenue read as under:

1. The order of the learned CIT(A) is contrary to law and facts and circumstances of the case.
2. The Ld. CIT(A) erred in holding that the penalty levied u/s.271FE does not sustain as there is no violation of section 269t of the IT Act 1961, in this case.
3. The Ld. CIT(A) ought to have appreciated the fact that the decision rendered in the case of Pr. Commissioner of Income Tax Vs. Shakti Foundation reported in (2019) 107 taxman.com 459 has not been accepted by the Revenue and SLP has been filed before the Supreme Court, which has been admitted by the Supreme Court.

Having heard rival submissions and after perusal of case records, the appeal is disposed-off as under.

2. The Ld. AO levied impugned penalty u/s 271E for violation of provisions of Sec.269T on the ground that the assessee repaid amount of Rs.106.73 Lacs to M/s Sri Manjubhasini Chemicals (P) Ltd. (SMCPL) otherwise than by way of account payee cheque or bank draft.
3. Upon further appeal, Ld. CIT(A) deleted the penalty on the ground that the amount payable to SMCPL was adjusted against amount receivable on sales made by assessee to SMCPL. The repayment to SMCPL was made by way of book entry and there was no movement of money in the form of cash or any other means. Therefore, the provisions of Sec.269T would not apply and the impugned penalty would not survive in terms of various judicial decisions. Aggrieved, the revenue is in further appeal before us.
4. We find that the basic facts are not in dispute. Upon perusal of tabulation made in para 6.2 and findings rendered in para 6.3 of the impugned order, it could be seen that the total outstanding against SMCPL has fully been adjusted by way of book entry against sales made

by assessee to that entity. There was no money transaction. Therefore, the ratio of judicial decisions including the decision of Hon'ble Rajasthan High Court in the case of **Pr. CIT vs. Shakti Foundation (107 Taxmann.com 459)** as well as other decisions of other High Courts would apply supporting the view taken by Ld. CIT(A). Hence, no interference is warranted in the same.

5. The appeal stand dismissed.

Order pronounced on 26th July, 2023.

Sd/-

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखासदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 26-07-2023

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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्था/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF