

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयंतभाई, लेखा सदस्य के समक्ष

BEFORE: HON'BLE SHRI SANDEEP GOSAIN, JM &
HON'BLE SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 464/JP/2023
निर्धारण वर्ष/Assessment Year : 2011-12.

Vijayendra Agarwal 255, Kalidas Marg, Sindhi Colony, Bani Park, Jaipur.	बनाम Vs.	The JCIT, Range-3, Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. AEQPA 7007 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None

राजस्व की ओर से / Revenue by : Shri A. S. Nehra (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 17/10/2023

उद्घोषणा की तारीख / Date of Pronouncement: 30/10/2023

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

This appeal by the assessee is directed against the order dated 22.05.2023 of Id. CIT (A), National Faceless Appeal Centre (NFAC), Delhi passed under section 250 of the IT Act, 1961 for the assessment year 2011-12. The assessee has raised the following grounds :-

1. That the impugned order passed by the learned Commissioner of Income-tax (Appeals) is against law and facts of the case.
2. That the learned Commissioner of Income-tax (Appeals) passed the impugned order without proper appreciation of the facts.

3. That the learned Commissioner of Income-tax (Appeals) erred in passing the non speaking impugned order and avoided judicial precedents referred by the appellant.
4. That the impugned appeal order confirmed the penalty without deciding the following issues :-
 - (a) The order of assessing officer is without jurisdiction,
 - (b) The cash Rs. 80,000/- was deposited bonafidely and without having malafide intention to get any unlawfully gain.
5. That the assessee craves his right to amend, alter or add any ground before hearing of the appeal.

2. The brief facts of the case are that assessment in the case of Shri Vijayendra Agarwal has been completed by the ITO for the assessment year 2011-12 on 28.03.2014 under section 143(3) of the IT Act. During the assessment proceedings, the AO noticed that the assessee had accepted cash loan of Rs. 80,000/- from his mother Smt. Manorama Agarwal during the financial year 2010-11 relevant to assessment year 2011-12 in contravention of provisions of section 269SS of the IT Act. The matter was referred to the Joint Commissioner of Income-tax, Range-3, Jaipur. The JCIT issued show cause notice under section 271D of the IT Act asking the assessee to explain the reasons for acceptance of Rs. 80,000/- in cash from Smt. Manorama Agarwal, which is in violation of provisions of section 269SS. In response to the show cause notice, the assessee filed submissions wherein the appellant submitted that the cash received from his mother Smt. Manorama Agarwal was a gift on the occasion of his marriage function on 05.02.2011. The AO did not consider the explanation acceptable and levied penalty of Rs. 80,000/- under section 271D of the IT Act, 1961 which is equal to the amount of specified sum taken or accepted.

On appeal, the Id. CIT (A) dismissed the appeal of the assessee by confirming the penalty order.

Aggrieved, the assessee preferred appeal before us.

3. Before us, none appeared on behalf of the assessee when the case was called for hearing. On perusal of the adjournment application filed by the Id. Counsel, we find that no reasonable cause has been given for seeking adjournment. Therefore, the application stands dismissed and we have decided to dispose off the matter ex-parte. We have heard the Id. D/R, perused the material on record and gone through the orders of the lower authorities. At the outset, we find that the Id. CIT (A) after verification of the capital account, detailed submissions and the case laws cited before him, observed that the books of accounts clearly indicate this was a loan and not a gift. The Id. CIT (A) decided the matter by observing in page 7 of his order as under :-

" I have considered the grounds of appeal, gone through the submissions of the appellant and seen the order of the AO. I observe that AO had claimed that the appellant had accepted cash loan of Rs. 80,000/- from Smt. Manorama Agarwal during the F.Y. 2010-11. It is observed that JCIT, Range-3 has recorded a finding that the impugned amount was a loan and not a gift. This was verified from the capital account of the appellant wherein the amount of Rs. 80,000/- is shown as a loan. The details in respect of both the appellant as well as Smt. Manorama Agarwal from the books of accounts clearly indicate as held by the AO that this was a loan not a gift. Accordingly, the penalty of Rs. 80,000/- u/s 271D levied in contravention of the provisions of section 269SS is confirmed."

In the totality of facts and in the circumstances of the case, and the fact that before us neither anybody appeared on behalf of the assessee nor filed details/submission, we find no infirmity in the order of the Id. CIT (A), which we upheld.

4. In the result, this appeal of the assessee is dismissed.

Order pronounced in the open court on 30/10/2023.

Sd/-

(राठौड़ कमलेश जयंतभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-

(संदीप गोसाईं)
(SANDEEP GOSAIN)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 30/10/2023.

Das/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Vijayendra Agarwal, Jaipur.
2. प्रत्यर्थी / The Respondent- The JCIT, Range-3, Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 464/JP/2023}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar

