

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.1259/Kol/2023
Assessment Year: 2020-21

M/s Ramesh Chandra Parekh.....Appellant
City Centre,
19, Synagogue Street,
Kolkata-1.
[PAN: AADFR2844L]

vs.

Assessment Unit, Income Tax Department..... Respondent

Appearances by:

Shri J. M. Thard, Advocate, appeared on behalf of the appellant.

Shri Amuldeep Kaur, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 24, 2024

Date of pronouncing the order : January 31, 2024

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 05.10.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has agitated the confirmation of penalty levied by the Assessing Officer u/s 271DA of the Act on account of violation of provisions of section 269ST for accepting cash payment more than the prescribed limit of Rs.2,00,000/- in an aggregate from a person in respect of a single transaction.

3. The ld. counsel, at the outset, has submitted that the aforesaid violation of provisions of section 269ST was not intentional, rather, the

same has occurred due to some inadvertence. He has submitted that one customer namely Gaytri Agarwal, PAN: ALAPA4178, had purchased a diamond necklace from the assessee for Rs.244000/- on 07.05.2019 which was on Akshay Tritiya which is considered as an auspicious day for Indians especially Hindus for purchasing gold and jewellery and that there was rush of customers on that day. The said Gaytri Agarwal was a known customer of the assessee and had made a part-payment in cash of Rs.44,000/- on the said day and thereafter, on 09.05.2019, she made payment of Rs.40000/- through banking channel and the remaining amount of Rs.160000/- was paid in cash on 09.05.2019. The ld. counsel has submitted that out of the total bill amount of Rs.244000/-, because the payment was made on two different dates, inadvertently only a sum of Rs.4000/- in excess of the prescribed limit of Rs.2 lakh was received in cash in relating to the said sale of necklace. It has been further submitted that the customer, Gaytri Agarwal was an Income Tax assessee and the PAN number was also quoted in the invoice and the entire transaction was duly accounted for. The confirmation was also furnished from the said customer to the Assessing Officer. There was neither any intention or deliberate act to violate the provisions of section 269ST of the Act nor it was a case of any concealment of income or receipt and that even the PAN number of the customer was duly disclosed in the bill. The ld. counsel, therefore, has submitted that due to aforesaid circumstances, the penalty was not attracted in the said case as the assessee had duly explained the reasons for which the aforesaid default had taken place.

4. Considering the above submissions of the ld. counsel for the assessee, since in this case neither there was any attempt to conceal the transaction nor there was any attempt or effort to avoid any tax liability either by the assessee or by the customer and since a small

amount of Rs.4000/- has been received in excess of the cash limit prescribed of Rs.2 lakh due to inadvertence and due to rush of the customers on the Akshay Tritiya day and further since the amount was paid by the customer through banking channel as well as cash and despite due to diligence, the aforesaid default has occurred, therefore, we do not think it fit case for levy of penalty u/s 271DA of the Act and the same is deleted.

5. In the result, the appeal of the assessee stands allowed.

Kolkata, the 31st January, 2024.

Sd/-

[गिरीश अग्रवाल /Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 31.01.2024.

RS

Copy of the order forwarded to:

1. M/s Ramesh Chandra Parekh
2. Assessment Unit, Income Tax Department
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches