

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E" DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.2543/DEL/2022  
Assessment Year 2013-14

<b>Mohit Kumar</b> Nai Basti B-14, H.No.122/1, Near Punjab and Singh Bank Wali Gali Bijnor, Uttar Pradesh.	Vs.	<b>Addl. CIT</b> Range-1 Mordabad
TAN/PAN: CCLPK0105M		
(Appellant)		(Respondent)

Appellant by:	Shri Mayank Kumar, CA		
Respondent by:	Shri R.K. Jain, Sr.DR		
Date of hearing:	13	03	2024
Date of pronouncement:	19	03	2024

**ORDER**

**PER PRADIP KUMAR KEDIA-AM:**

The captioned appeal has been filed by the assessee concerns imposition of penalty of Rs.2,26,500/- under Section 271E of the Act on account of contravention of provisions of Section 269T of the Act.

2. As per the penalty order passed under Section 271E of the Act by the Assessing Officer, the assessee made repayment of loan in cash of Rs.2,26,500/- on 26.11.2012 to M/s. Mahindra & Mahindra Financial Services Ltd. during the A.Y. 2013-14 in violation of provisions of Section 269T of the Act. The AO noted that Section 269T of the Act prohibits any person to repay any loan or deposit or specified sum otherwise than by account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account. In view of repayment of loan in cash, the AO invoked provisions of Section 271E of the Act and imposed penalty of Rs.2,26,500/- on the assessee.

3. The CIT(A) confirmed the penalty imposed by the AO in the first appeal.

4. Aggrieved, the assessee has knock the door of the Tribunal claiming existence of reasonable cause contemplated under Section 273B of the Act for non-compliance of Section 269T of the Act giving rise to imposition of penalty under Section 271E of the Act. In the course of hearing, the ld. counsel for the assessee pointed out that the assessee is an individual and farmer, the assessee entered into running a car on hire to transport school children and got finance the same from M/s. Mahindra & Mahindra Financial Services Pvt. Ltd. During the year under consideration, the assessee found that it was not profitable to ply car on hire. Consequently, he sold the car on 25.11.2012 (Sunday) and repaid the loan of Rs.2,26,500/- out of exact sale proceeds of Rs.2,26,500/- arose on sale of car. The ld. counsel submitted that to execute the transfer process in the name of the buyer, the assessee was required to urgently get an NOC from the financier M/s. Mahindra & Mahindra Financial Services Pvt. Ltd. and therefore, the loan was repaid in cash on the next day from the sale proceed of such car under compulsion.

4.1 The ld. counsel adverted to Section 273B of the Act and contended that the imposition of penalty under Section 271E is not automatic and where the assessee is able to demonstrate existence of reasonable cause for default under Section 269T, the penalty under Section 271E is not attracted.

4.2 The ld. counsel submitted that the default committed is technical or venial which does not cause any prejudice to the interest of Revenue as no tax evasion was involved. The *bona fides* and genuineness of transaction is apparent from the evidences filed

and thus existence of reasonable cause is implicit in the present set of transaction. The Id. counsel thus sought relief in the matter.

5. The Id. DR for the Revenue, on the other hand, relied upon the order of the CIT(A) and submitted that the assessee ought to have complied with the provisions of Section 269T and it was not beyond control of the assessee to remit money through banking channel instead of repayment in cash. The Id. DR thus submitted that no interference with the order of the CIT(A) is called for.

6. We have given our careful consideration to the respective submissions and perused the penalty order passed under Section 271E of the Act and the first appellate order passed under Section 250 of the Act. The case laws cited have been perused. The imposition of penalty under Section 271E is in controversy.

7. It is the case of the assessee that while the repayment of loan to the financier of car under hire is in cash, the circumstances exists which compelled the assessee to discharge the liability of the financier immediately and obtain NOC to carry out the transaction of sale of car. The assessee points out that the car was sold on 25.11.2012 and to obtain the NOC from the financier, the whole amount by way of sale of car was deposited with the financier to complete the transaction. The nexus between the receipt from sale of car and immediate deposit, on the first working day available, with the financier, establishes the *bona fides* of the action of the assessee.

8. Under these circumstances, it can be safely presumed that the breach of Section 269T is only technical or venial and does not necessarily cause any prejudice to the interest of the Revenue. The penalty of 100% under such circumstances is highly disproportionate to the nature of default committed. The assessee, to our mind, has

successfully demonstrated the existence of reasonable cause in the facts of the case. The urgent needs existing in the transaction appears probable cannot be outrightly disbelieved. The assessee is thus exonerated from the clutches of penalty imposed under Section 271E of the Act. The AO is directed to reverse and delete the penalty imposed in question.

9. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open Court on 19/03/2024**

**Sd/-**

**[CHALLA NAGENDRA PRASAD]  
JUDICIAL MEMBER**

DATED: /03/2024

*Prabhat*

**Sd/-**

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**