

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "D" Bench, Mumbai.

Before Shri Satbeer Singh Godara (JM) & Shri Girish Agrawal (AM)

I.T.A. No. 1154/Mum/2024 (A.Y. 2017-18)

I.T.A. No. 1156/Mum/2024 (A.Y. 2015-16)

I.T.A. No. 1157/Mum/2024 (A.Y. 2014-15)

Rajesh Gala Plot No. 96 Ground Floor Arudh Niwas, Hindu Colony Lane No. 3 Dadar East Mumbai-400 014. PAN : ACEPG8537A (Appellant)	Vs.	CIT(A)/National Faceless Appeal Centre, Delhi Room No. 245A North Block New Delhi- 110001 (Respondent)
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Assessee by	Shri Shashank Mehta
Department by	Smt. Mahita Nair
Date of Hearing	01.07.2024
Date of Pronouncement	10.07.2024

ORDER

Per Satbeer Singh Godara (JM) :-

These assessee's three appeals ITA Nos. 1157, 1156 and 1154/Mum/2024, for assessment years 2017-18, 1015-16 and 2014-15 arise against the National Faceless Appeal Centre "NFAC", Delhi's common DIN & Order No. ITBA/NFAC/250/2023-24/1059664578(1) dated 12.01.2024 in penalty proceedings under section 271D of the Income Tax Act in short "the Act".

Heard both the parties at length. Case files perused.

2. It emerges at the outset with the able assistance coming from both the sides that assessee's identical sole substantive grievance canvassed herein challenges correctness of the learned lower authorities action imposing 271D

penalty (ies) of Rs. 2 lakhs, Rs. 8,30,000/- and Rs. 77,80,000/-; assessment year-wise, respectively.

3. We deem it appropriate to observe herein that the assessee had indeed availed cash loan(s) from the related party M/s. Pramanik Retail Pvt. Ltd., wherein he is a director. Learned DR vehemently supported both the lower authorities action that the above varying cash loans have violated corresponding statutory provision i.e. section 269SS of the Act thereby making it a fit case to impose the consequential section 271D penalty.

4. We find no reason to express our agreement with learned DR's foregoing vehement contentions. A combined perusal of these case files reveals that the assessee had indeed submitted during the course of penalty proceedings itself that the above entity M/s. Pramanik Retail Pvt. Ltd. and group concerns had been undergoing turbulent times and its sundry creditors had stopped supplying the corresponding raw material in regular business activities. The assessee explained before the Assessing Officer that this made M/s. Pramanik Retail Pvt. Ltd., to deposit its cash sales in the bank account so as to avoid adjustment(s) thereof against various outstanding dues. Learned counsel submits that all these developments only formed the main reason for the assessee to manage day-to-day affairs of Pramanik Retail Pvt. Ltd. by taking cash loans , which have resulted in levy of penalty(ies) forming subject matter of adjudication in the three assessment years before us.

4. We find merit in the assessee's arguments challenging the impugned section 271D penalties as neither the Assessing Officer nor the learned Commissioner herein could rebut foregoing factual averments indicating reasons of assessee have availed cash entries/loan from Pramanik Retail Pvt. Limited. Even the "lead" penalty order dated 27.06.2019 herein for A.Y. 2014-15 is fair enough in para 2 that M/s. Pramanik group had indeed overdrawn from its account in the corresponding time period. These clinching

facts duly support the assessee's foregoing plea of financial hardship faced by group concerns wherein he is a director (supra). We accordingly quote section 273B of the Act to conclude that there was a "reasonable" cause for the assessee for not having complied with the rigor of section 269SS of the Act in availing the impugned cash loans herein. We accordingly treat it is a fit case to delete the impugned section 271D consequently penalty (ies) in all these three assessment years. The assessee's identical sole substantive ground herein succeeds in very terms. Ordered accordingly.

5. These assessee's three appeals are allowed in above terms. A copy of this common order be placed in respective case files.

Order pronounced in the open court on 10th July, 2024.

Sd/-
(Girish Agrawal)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Mumbai : 10.07.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,
(Assistant Registrar)
ITAT, Mumbai