

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष  
Before Shri S.S. Viswanethra Ravi, Judicial Member &  
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./I.T.A. No.1061/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2016-17

Shri Babu Munirathinam,  
No. 45/13, Sriuvallur Road, Perambur,  
Chennai 600 011.

Vs. The Joint Commissioner of  
Income Tax,  
Non Corporate Range 17,  
Chennai.

**[PAN:ANYPM7361H]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Shrenik Chordia, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Shri R.V. Aroon Prasad, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 24.07.2024  
घोषणा की तारीख /Date of Pronouncement : 26.07.2024

**आदेश /ORDER**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order dated 16.02.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2016-17.

2. Ground Nos. 1 to 4 raised in the appeal of the assessee in challenging the action of the Id. CIT(A) in confirming the penalty levied by

the Assessing Officer under section 271D of the Act in the given facts and circumstances of the case.

3. The Id. AR Shri Shrenik Chordia, C.A. submits that the assessment of the assessee was completed under scrutiny accepting the returned income. He drew our attention to page 2 of the assessment order and submits that the Assessing Officer recorded with regard to the cash deposited in ICICI Bank and Central Bank of India. The assessee given explanation to the same as the said deposits were out of money withdrawn from salary, gold loan and person loan, proving the same, certificate issued by the Central Bank of India towards gold loan and personal loan were furnished before the Assessing Officer.

4. The Assessing Officer, Non Corporate Range-17 initiated penalty proceedings under section 271D of the Act for obtaining interest free hand loan from two persons. For violation of the provisions of section 269SS of the Act, penalty of ₹.8,05,000/- was levied for accepting interest free loan.

5. The Id. AR drew our attention to the order of the Id. CIT(A) and argued that the penalty order was confirmed by ignoring the submissions as the said loans were obtained from family members. The Id. AR drew

our attention to the decision of ITAT in the case of Mani Subdaram v. ITO in ITA No. 899/Chny/2023 dated 07.02.2024 at page 24 to 29 of the paper book. The Id. AR, referring to para 6 of the order, argued that the ITAT, Chennai Bench held that no penalty is leviable as the loan in cash if availed from family members. He prayed to cancel the penalty levied by the Assessing Officer and confirmed by the Id. CIT(A).

6. The Id. DR Shri R.V. Aroon Prasad, Addl. CIT relied on the order of the Id. CIT(A).

7. Heard both the parties, perused the material available on record. At the outset, we note that the Assessing Officer in the assessment order clearly recorded regarding cash deposits in ICICI Bank and Central Bank of India. It was explained by the assessee that the said cash deposits were out of salary, gold loans and personal loans obtained from Central Bank of India. On perusal of the impugned order, it was contended that the assessee obtained cash as gift from his father-in-law. The Assessing Officer fully satisfied with the explanation offered by the assessee regarding cash deposit as found in the ICICI Bank and Central Bank of India. The Id. CIT(A) did not accept the submissions of the assessee as the cash obtained in order to purchase of property from his father-in-law as gift, warranting no violation of provisions of section 269SS of the Act.

We find that similar identical issue came up before the Tribunal in the case of Mani Sundaram v. ITO (supra), wherein, the Tribunal, while deciding the issue by placing reliance in the case of Ms. Nanda Kumari v. ITO in TCA No. 968 of 2018 dated 20.12.2018 of Hon'ble Madras High Court, held that no penalty under section 271D of the Act is attracted if the cash obtained from family members as gift. The relevant portions in para 6 of the order are reproduced herein below for ready reference:

6. *We have perused the details furnished by the assessee, wherein, the assessee furnished copies of the confirmation letters from the lender, which were filed before the authorities below and find that assessee's father-in-law as well as assessee's wife, who have confirmed that the loan amount shall be treated as gift. The assessee's mother passed away and produced death certificate. Moreover, the assessee has shown reasonable cause for receiving money towards purchase of machineries. Thus, we are of the opinion that the explanation offered against show cause notice before the authorities below were reasonable and therefore, levy of penalty under section 271D of the Act is untenable. Moreover, on an identical facts and circumstances in similar issue, in the case of Ms. Nanda Kumari v. ITO (supra), the Hon'ble Jurisdictional High Court has also observed and held as under:*

9. *In our considered view, the crucial aspect to be considered is as to whether the assessee had shown reasonable cause for having received money in cash in contravention of the provisions of Section 271D of the Act. The Assessing Officer had no material to show that the case, as projected by the assessee, was false or for that matter, there was no transaction between the assessee and the said Mr.Natesan. In the absence of any material to disbelieve the said property transaction, all that is required to be seen is as to whether the explanation offered was reasonable. Admittedly, the amount was borrowed by the assessee from her maternal uncle and maternal aunt.*

10. *In more or less identical circumstances, a Division Bench of this Court granted relief to the assessee by dismissing the appeal filed by the Revenue in the case of CIT Vs. Smt.M.Yesodha [reported in (2013) 351 ITR 265]. In the said case, the assessee claimed to have taken a loan of Rs.20,99,393/- from her father in law for purchasing a property. The Assessing Officer initiated penalty proceedings under Section 271D of the Act on the ground that the assessee had obtained*

*the said loan in cash from her father in law, which was in contravention of the provisions of Section 269SS of the Act. The assessee contended that the amount received in cash from her father in law was a gift and not a loan. The Assessing Officer rejected the said contention and found that it was a loan and not a gift because the same was shown in the balance sheet of the assessee filed along with the return of income. Accordingly, the Assessing Officer levied penalty equal to the loan amount. This was challenged by the assessee before the CIT(A), who dismissed the appeal and confirmed the order passed by the Assessing Officer. The assessee filed an appeal before the Tribunal, which allowed the assessee's appeal and while doing so, the Tribunal followed the decisions*

- (i) of the Tribunal in the case of M.Raju Vs. ACIT [ITA.No.899/Mds/2006];*
- (ii) of the Pune Bench of the Tribunal in the case of ITO Vs. Sunil M. Kasliwal [reported in (2005) 94 ITD 281]; and*
- (iii) of this Court in the case of CIT Vs. <http://www.judis.nic.in> Lakshmi Trust Co. [reported in (2008) 303 ITR 99],*

*and held that in the facts and circumstances of that case, the levy of penalty was not warranted. The Tribunal further held that the transaction between the father in law and the daughter in law was a genuine transaction and this was not in dispute because the amount was paid for purchase of a property. Before the Division Bench, the Revenue contended that the assessee had nowhere pleaded any reasonable cause as contemplated under Section 273B of the Act and that therefore, the Tribunal was not right in holding that the genuineness of the transaction was not disputed.*

*11. Even before us, Mrs.R. Hemalatha, learned Senior Standing Counsel submits that the provision namely Section 273D of the Act uses the expression 'reasonable cause' and not the expression 'sufficient cause' and that the Authorities below rightly found that the reason given by the assessee was not a reasonable cause.*

*12. However, a similar contention was rejected by the Division Bench in the decision in the case of Smt.M. Yesodha wherein it was held that even though the assessee had not taken a specific plea of reasonable cause, it must be considered as applied to human action and where transactions were bona fide, penalty could not be imposed.*

*13. In the case on hand, the assessee had shown a cause for having received the amount in cash. Therefore, if the assessee had shown a cause, the burden shifts on the Assessing Officer to establish that the cause shown <http://www.judis.nic.in> is not a reasonable cause by*

*examining the cause shown and establish that it lacks bona fides. In the instant case, there is no such finding recorded by the Authorities below or for that matter by the Tribunal. Admittedly, the transaction in the instant case is between the assessee and her maternal uncle and aunt and there is nothing on record to show that the transaction lacks bona fides or the assessee came forward with a false case. In the result, we are of the considered view that the case on hand does not warrant levy of penalty under Section 271D of the Act.*

*14. Accordingly, the appeal filed by the assessee is allowed and the order passed by the Tribunal is set aside. The substantial questions of law are answered in favour of the assessee. No costs.*

*Since facts are identical and respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of Ms. Nanda Kumari v. ITO (supra), we direct the Assessing Officer to delete the penalty levied under section 271D of the Act.*

8. In view of the same as the facts and circumstances of the case in hand are identical to the facts in the case of Mani Sundaram v. ITO (supra) and respectfully following the same, we hold that the order of the Id. CIT(A) in confirming the penalty levied under section 271D of the Act is not maintainable. Accordingly, we direct the Assessing Officer to delete the penalty levied under section 271D of the Act. Thus, the grounds raised by the assessee are allowed.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 26<sup>th</sup> July, 2024 at Chennai.

Sd/-  
(S.R. RAGHUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. VISWANETHRA RAVI)  
JUDICIAL MEMBER

Chennai, Dated, 26.07.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.