

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

**ITA No.846/Del/2020
(Assessment Year: 2011-12)**

M/s. Trendsetters Propmart Pvt Ltd, C/o. S-241, Basement, Greater Kailash-1, New Delhi (Appellant)	Vs.	Addl. CIT, Range-25, New Delhi (Respondent)
PAN:AACCT5284G		

Assessee by :	Ms. Kanika Jain, CA
Revenue by:	Shri Amit Katoch, Sr. DR

Date of Hearing	16/10/2024
Date of pronouncement	18/10/2024

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.846/Del/2020 for AY 2011-12, arises out of the order of the Commissioner of Income Tax (Appeals)-9, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 9/10091/18-19 dated 17.07.2019 against the order of assessment passed u/s 271D of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 27.04.2018 by the Assessing Officer, Add. CIT, Range-25, New Delhi (hereinafter referred to as 'Id. AO').

2. The only effective issue to be decided in this appeal is as to whether the Id CIT(A) was justified in confirming the levy of penalty u/s 271D of the Act in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the material available on record. The scrutiny assessment for AY 2011-12 stood completed in the hands of the assessee u/s 143(3) of the Act on 30.03.2014 wherein, it was noticed that assessee had borrowed unsecured loans from Shri Somvir Singh to the tune of Rs. 17 lakhs which was added as unexplained cash credited u/s 68 of the Act. This addition had attained ultimate finality in the quantum proceedings. Admittedly, unsecured loan of Rs. 17 lakhs included a sum of Rs. 10 lakhs received by the assessee in cash which was in contravention of provisions of Section 269SS of the Act. For this purpose, the Id AO levied penalty u/s 271D of the Act vide order passed on 27.04.2018 and levied penalty of Rs. 10 lakhs thereon. This stood confirmed by the Id CIT(A).

4. The Id AR before us rightly placed reliance on the decision of the Hon'ble Jurisdictional High Court in the case of CIT Vs. RP Singh & Co. Pvt. Ltd reported in 340 ITR 217 (Del) wherein, it was held that once the share application money was treated as undisclosed income of the assessee invoking the provisions of Section 68 of the Act in the quantum assessment proceedings, the very same money cannot be treated as loan simplicitor for the purpose of levying penalty u/s 271D read with Section 269SS of the Act. Similar was the view taken by the Hon'ble Jurisdictional High Court in the case of CIT Vs. Standard Brands Ltd reported in 285 ITR 295 (Del) and Diwan Enterprises Vs. CIT reported in 246 ITR 571v (Del).

5. Respectfully following the aforesaid decisions, we hold that the levy of penalty u/s 271D of the Act would have no legs to

stand in the facts and circumstances of the instant case. Accordingly, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 18/10/2024.

-Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:18/10/2024
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi