



।आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

**BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT
MEMBER AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

आयकर अपील सं. / ITA Nos.1324, 1326 & 1327/PUN/2024

निर्धारण वर्ष / Assessment Year : 2013-14, 2015-16 & 2014-15

Prakashbapu Patil Gramin Bigar Sheti Sahakari Pat Sanstha Ltd., Sahakari Pat Sanstha Ltd., Savali Miraj, Sangli – 416410. Maharashtra. PAN: AAAAP1616N	V s	The ACIT, Circle-Sangli.
Appellant/ Assessee		Respondent / Revenue

Assessee by	Smt. Deepa Khare – AR
Revenue by	Shri Rajesh Gawali – Addl.CIT(DR)
Date of hearing	19/12/2024
Date of pronouncement	23/12/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

These three appeals filed by the assessee are against the separate orders of Id.Commissioner of Income Tax(Appeals)[NFAC] for Assessment Years 2013-14, 2015-16 & 2014-15; dated 09.04.2024, 10.04.2024 & 09.04.2024 respectively; passed u/sec.250 of the Income tax Act, 1961. Since the issue involved is common, all these three appeals were heard together



and decided by the common order. We will take the A.Y.2013-14 as a lead case.

1.1 The assessee for A.Y.2013-14 has raised the following grounds of appeal :

“1. The learned CIT(A) erred in law and on facts in confirming penalty u/s 271E of the Income Tax Act of Rs 15,67,000/- in respect of deposits from its members.

2. The Id CIT(A) failed to appreciate that the appellant Society is based in rural area and most of the members are illiterate and agriculturists having transactions below Rs 20000/-.

3. The learned CIT erred in law and on facts in not appreciating that the appellant Society was engaged in the providing credit facilities and the transactions were genuine carried out during the ordinary course of business and was prevented by reasonable cause within the meaning of Section 2738.

4. The appellant craves to add, alter, modify or substitute any ground of appeal at the time of hearing.”

Submission of Id.AR :

2. Ld.AR submitted that Assessee is a Co-operative Credit Society registered under Co-operative Society’s Act, Maharashtra. The main object of the Society is lending small loans and accepting deposits from its members. Assessee had not earned any other income and entire income pertains to the said activity. Assessee filed its Return of Income under section 139(1) of the Act for A.Y.2013-14. Ld.Authorised Representative(ld.AR) for the Assessee submitted that this is an appeal against the penalty order



under section 271E of the Act. Ld.AR invited our attention to the penalty order i.e. Paragraph 2 and 3 and explained that nowhere in the penalty order, the Assessing Officer(AO) has specifically stated the so-called repayment made in cash above Rs.20,000/- and persons to whom it was made. The entire case of the Assessing Officer is that Department had received information that assessee had received cash deposits of Rs.15,67,000/- from its member during A.Y.2013-14. Then, the Assessing Officer presumed that Assessee had also repaid the same amount to its members in cash. However, there is no evidence on record to show the same. In the Penal Proceedings, onus was on Department to prove the same. Therefore, penalty under section 271E is not maintainable.

Submission of ld.DR :

3. Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of Assessing Officer and ld.CIT(A)

Findings and Analysis :

4. We have heard both the parties and perused the records. It is observed that Assessee is Co-operative Credit Society.



4.1 The relevant Section 269T and Section 271E are reproduced here as under :

Substitution of new section for section 269T.

99. *For section 269T of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2002, namely:—*

'269T. Mode of repayment of certain loans or deposits.—No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit if—

(a) the amount of the loan or deposit together with the interest, if any, payable thereon, or

(b) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits, is twenty thousand rupees or more:

Provided *that where the repayment is by a branch of a banking company or co-operative bank, such repayment may also be made by crediting the amount of such loan or deposit to the savings bank account or the current account (if any) with such branch of the person to whom such loan or deposit has to be repaid.*

Section 271E

[(1)] If a person repay any [loan or] deposit [or specified advance] provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the [loan or] deposit [or specified advance] so repaid]

[(2)] Any penalty imposable under sub-section (1) shall be imposed by [Joint Commissioner].

4.2 Thus, penalty under section 271E is levied when an Assessee repays any loan or deposit to someone in cash more than Rs.20,000/-. Thus, the most important aspect is that Assessing



Officer has to establish that assessee had made payment more than Rs.20,000/- in cash to some person as repayment of loan or deposit. In this case, we have perused the entire penalty order, however, nowhere Assessing Officer has given the list of persons and amount paid in cash to establish that assessee has violated provisions of Section 269T of the Act. There is only one following sentence in the penalty order which is reproduced here as under :

“Factually, the assessee had made repayment in cash in the name of “Daam Duppat Thev” at Rs.15,67,000/- to its depositors time to time contravening the provisions of sec 269T.”

4.3 From the above sentence of the Assessing Officer, it is very much clear that payment has been made to multiple depositors on various dates. However, Assessing Officer has not specified whether the individuals to whom repayment has been made is more than Rs.20,000/- or not! Assessing Officer has merely clubbed the entire deposit amount, belonging to various depositors. Nowhere Assessing Officer has given the list of individuals to whom amount more than Rs.20,000/- has been repaid. Assessing Officer has merely mentioned in the penalty order in paragraph 2 that Department had information, but no details have been specified. In the penalty order, Assessing Officer has to specify the violation of



the Assessee. Assessing Officer cannot generalise. In this case, we have already stated that nowhere Assessing Officer has mentioned the list of persons to whom Assessee has made repayment more than Rs.20,000/-. In these facts and circumstances of the case, there is no merit in the allegation of the Assessing Officer and hence, there is no merit in the penalty order under section 271E of the Act. Accordingly, grounds of appeal raised by the assessee are allowed.

5. In the result, appeal of the assessee in ITA No.1324/PUN/2024 is allowed.

ITA Nos.1326 & 1327/PUN/2024 :

6. Since we have already discussed the issue the “lead case” at length and the facts of ITA No.1324/PUN/2024 are similar to the facts of ITA No.1326/PUN/2024 and ITA No.1327/PUN/2024, therefore, our decision shall apply *mutatis mutandis* to these two appeals also, accordingly, grounds of appeal raised by the assessee in ITA No.1326 & 1327/PUN/2024 are allowed for statistical purpose.



7. To sum up, all three appeals by the assessee in ITA Nos.1324, 1326 & 1327/PUN/2024 are allowed.

Condonation of Delay :

8. There was a small delay of 3-7 days in filing appeal before the ITAT. We have perused the submission of the assessee and are convinced that there was sufficient cause for delay. Accordingly, Delay is condoned.

Order pronounced in the open Court on 23rd December, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 23rd Dec, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.