

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.548/Nag./2024
(Assessment Year : 2018-19)

Shri Sant Gajanan Maharaj Urban
Co-operative Credit Society
Main Road, Chikli, Buldhana 443 201
PAN - AAHAS1170M

..... Appellant

v/s

Income Tax Officer
Ward-2, Khamgaon

..... Respondent

Assessee by : Shr Himesh Demble
Revenue by : Shri Sandipkumar Salunke

Date of Hearing - 21/01/2025

Date of Order - 17/02/2025

ORDER

PER K.M. ROY, A.M.

This appeal by the assessee is emanating from the impugned penalty order 12/09/2024, passed under section 271D of the Income Tax Act, 1961 ("the Act") by the Assessment Unit, levying penalty ₹ 63,52,742, for the assessment year 2018-19.

2. In its appeal, the assessee has raised following grounds:-

"1. That in facts and circumstances of the case and as per the prevailing law, the order passed u/s 271D of the I.T. Act, 1961 by the Ld. A.O is bad in law, devoid of proper reasoning and illegal.

2. That, in facts and circumstances of the case the Ld. A.O. has erred in imposing penalty of Rs. 63,52,742/- u/s 271D of the I.T. Act, 1961.

3. That, in facts and circumstances of the case the Ld. A.O. erred in ignoring the fact that the provisions envisaged u/s 269SS gets triggered only when

deposits or loans or advance received from another person. Merely accepting cash from the members of the co-operative society does not partake the nature of loan or deposits as the payer and recipient represent each other in trust & fiduciary capacity.

4. That, in the facts and circumstances of the case, the Ld. A.O. has not taken into consideration the fact that the assessee being a cooperative society is engaged in the activity of providing credit facilities to its members by accepting deposits from its members.

5. That, in the facts and circumstances of the case, the Ld. A.O. erred in imposing the penalty without taking into account that the assessee society was prevented by sufficient cause within the provisions envisaged u/s 273B of the I.T. Act, 1961.

6. That, in the facts and circumstances of the case, the order u/s 271D of the I.T. Act, 1961 is framed on 13.09.2024 sans providing any denovo notice before framing the order, the last notice was issued on 17.05.2024.

7. The assessee craves leave to, add to, alter, amend, modify, substitute, delete and/or rescind any of the grounds of the appeal on or before the final hearing of the appeal."

3. Before us, the learned Authorised Representative for the assessee submitted a letter dated 20/01/2025, with a request to grant permission to withdraw its appeal, the contents of which are reproduced below:–

"The case of the assessee is fixed on 21.01.2025 at Sr. No. 56. In this regard, it is respectfully submitted before your honor that the appeal has inadvertently been filed before your honor against the penalty order framed by the Hon'ble JCIT u/s 271D of the I.T. Act, 1961 vide DIN No. ITBA/PNL/F/271D/2024-25/1068643188(1) dated 12.09.2024.

Being Aggrieved by the order passed by the Hon'ble JCIT, the assessee has duly filed an appeal before the Hon'ble CIT(A) via Form-35 vide acknowledgement no. 595604530091024 dated 09.10.2024.

In light of this error, it is humbly requested before your honor that to kindly allow us to withdraw the appeal."

4. In view of the above, the appeal filed by the assessee is dismissed.

5. In the result, assessee's appeal stands dismissed in limine.

Order pronounced in the open Court on 17/02/2025

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

NAGPUR, DATED:

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur