



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, AM.

&

DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No. 694/RJT/2024

(निर्धारणवर्ष / Assessment Year: (2018-19))

(Hybrid Hearing)

Dharti Motors Private Limited Shop No. 4, 1 st Floor Apple Complex, Nr. Bank Of Baroda, Astron Chowk, Tagor Road, Rajkot – 360002	Vs.	DCIT/ ACIT, NFAC, Delhi Income Tax Office, Aayakar Bhavan, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAFCD2145E		
(Appellant)		(Respondent)

Appellant by

: Shri Ankit Anadkat, Ld. AR,

Respondent by

: Shri Abhimanyu Singh Yadav, Ld. Sr. DR

Date of Hearing

: 13/02/2025

Date of Pronouncement

: 17/02/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short "NFAC/Ld. CIT(A)"] vide order dated 08.07.2024, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 271DA of the Income Tax Act, 1961 (in short "the Act"), vide order dated 23.01.2022.

2. Grounds of appeal raised by the assessee are as followed:



"1. That the assessing officer erred and was not justified in levying penalty for violating provisions of section 269ST of the Income Tax Act, 1961 of Rs. 37,46,000/-on the facts and circumstances of the case.

2. That the appellant craves leave to and/or to add to and/or to alter to and/or to delete to and/or to substitute to all or any of the grounds of appeal up to the hearing of the case."

3. Facts of the case that the he Appellant, being a domestic company, was mandated to file Statement of Financial Transactions (SFT) u/s 285BA of the Act, for receiving cash exceeding amounts specified as per Rule 114E of the Income tax Rules, 1962. In the Appellant's case information was received by the AO from the office of DIT (I&CI) Ahmedabad, stating that the Appellant company had received an amount of Rs. 37,46,000/-otherwise than by an account payee cheque or bank draft or use of ECS through a bank account, during the concerned assessment year. The AO observed that since the appellant had violated provisions of section 269ST of the Act, it was liable for levy of penalty u/s 271DA of the Act. Accordingly, show-cause notice for the penalty was issued by the AO on 27.09.2021. However, as the appellant did not reply to the notice, one more opportunity of being heard was given through SCN dated 28.12.2021. As the assessee again remained non-compliant, reference was made to ReFAC (verification unit) on 31.12.2021 for service of notice and to obtain response from the appellant. The verification unit submitted that notice was duly served on the appellant requesting it to respond within 7 days from the service of the same. However, since the appellant remained non-compliant, the AO contended that it has no explanation to offer with respect to levy of penalty u/s 271DA of the Act, and accordingly, penalty of Rs.37,46,000/- was levied on the appellant for default of accepting cash of Rs.37,46,000/- from the above-mentioned four parties, in contravention to the provisions of Section 269ST of the Act.



4. The assessee filed an appeal against the order passed by the Ld. CIT(A) dated 23.01.2022. That the Ld. CIT(A) has dismissed the appeal of the assessee.

5. That the assessee filed an appeal against the impugned order dated 23.01.2022 before us.

6. During the course of hearing, the Ld. AR of the assessee submitted that the appellant could not comply with the notice of the Ld. CIT(A). Ld. AR prayed for an opportunity to explain the case before the Lower Authority.

7. On the contrary, Ld. DR for the revenue, relied on the order of Ld. CIT(A) and not objected the request of the Ld. AR.

8. We have heard both the parties and perused the material on record. We note the Ld. AR has submitted that transaction is duly recorded in books of the parties to the transaction and no black money or tax evasion made in the transaction. We note that before us, the Ld. Counsel for the petitioner has submitted written submission, in respect of the ground No. 1 and 2, wherein it is stated that received cash from the customers i.e., purchaser of Renault Car etc. or amount received for payment of insurance and RTO Tax of their behalf and deducted TDS as per income Tax Act. All transactions were genuine. Further, company reported all the transactions as SFT as per Income Tax Act rule. Appellant company not aware of the same email. There was no intention to violate the rule of Income Tax. And Ld. Counsel has also relied on the certain judgements of the various courts, including Supreme Court. Further the Ld. Counsel was drawn our attention to clarify that Exception u/s. 269ST of the Income Tax Act. There was no mens Rea to violate the provision of law, no revenue loss to the Exchequer, considering the above legal provision of the Act



and various judgement. Since the matter has not been adjudicated by the Lower Authority. The Ld. CIT(A) decided the appeal, without any remand report obtain from the Ld. AO. Hence, the order of the Ld. CIT(A) dated 23.01.2022 is set aside and the remit the matter back to the file of Ld. AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard.

In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17/02/2025.

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER
Rajkot

दिनांक/ Date: 17/02/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot