

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri T. R. Senthil Kumar, Judicial Member**

**ITA No: 1793 & 1794/Ahd/2025
Assessment Year: 2011-12**

Neetaben Patel 27B, Surajdev Society- 2, Manjalpur, Vadodara-390011 Gujarat PAN: AOTPP2903A (Appellant)	Vs	Income Tax Officer Ward-1(2)(2), Vadodara (Respondent)
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**Assessee Represented: Shri Parin S Shah, A.R.
Revenue Represented: Ms. Ketaki Desai, Sr.D.R.**

Date of hearing : 11-02-2026
Date of pronouncement : 17-02-2026

आदेश/ORDER

PER: T.R. SENTHIL KUMAR, JUDICIAL MEMBER

These two appeals are filed by the Assessee as against two orders both dated 17-03-2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the penalties levied under section 271D and 271E of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the same Assessment Year 2011-12.

2. Brief facts of the case is that the assessee is an individual and a widow survived with two sons after the death of her husband and holding certain agricultural lands. For the Asst. Year 2011-12, the assessee has not filed the Return of Income. Whereas information received from the department, assessee made cash deposit in three of her bank accounts with Allahabad Bank, Bank of Baroda and State Bank of India aggregating to Rs.11,58,000/- between 01-09-2010 to 02-11-2010. Since assessee has not filed the Return of Income, the return was reopened by issuing a notice u/s. 148 of the Act on 27-03-2018.

2.1. In response, the assessee filed Return of Income on 26-04-2018 declaring total income of Rs.16,090/- from salary pension and agricultural income of Rs.2,94,000/-. The assessee explained the cash deposits made in her bank accounts were cash loans received from friends and relatives in requirement Bank Loan for her Son's study in Australia. The cash loans deposited in bank account as fixed deposit of Rs. 22,00,000/- on 16-08-2010 and the Allahabad Bank vide sanction order dated 16-08-2010 sanctioned term loan of Rs.19,80,000/-. After the loan was sanctioned the cash was withdrawn from the bank account and returned back to the lenders who are the assessee's friends and relatives. The assessing officer considered the above explanation of the assessee however made unexplained cash deposit of Rs.10,00,000/- and demanded tax thereon.

3. Assessee filed an appeal against the reassessment order which is pending. In the meantime the Joint Commissioner of Income Tax

based on the information received from the assessing officer initiated penalty proceedings u/s. 271D for accepting of cash loan and also penalty action u/s. 271E for repayment of cash loans to various parties. Ld. JCIT issued a show cause notice as to why not levy penalty u/s. 271D and u/s. 271E of the Act for contravening the provisions of Section 269SS and 269T of the Act namely receiving cash loans and repayment of loans exceeding Rs. 20,000 per transaction. The assessee vide letter dated Nil submitted on 18-10-2019 stated that all the amounts were taken from Farmers and friends and provided their affidavit. Further explained that they are farmers and have income from agricultural source and for the purpose of bank loan to be availed by the assessee's son higher education at Australia. However Ld. JCIT not satisfied with the above reply thereby imposed penalty of Rs. 16,70,000/- of each u/s. 271D and u/s. 271E of the Act respectively.

4. Aggrieved against the same, the assessee filed an appeal before Ld. CIT(A) who has confirmed the levy of penalties by observing as follows:

“6.5 The appellant has not submitted any reasonable explanation for the above cash loans. Even if the reason for accepting cash loans provided by the appellant is accepted then also the appellant has not submitted any explanation/justification that why the loans were taken in cash and not through banking channels. Besides, the appellant has not submitted any evidence to support her above story for accepting cash loans. Thus, the order imposing penalty u/s 271D is confirmed.

6.6 In view of the above, the grounds of appeal are dismissed.”

5. Aggrieved against the appellate order, the assessee is in appeal before us raising the following Grounds of Appeal:

1. The order passed by lower authorities is invalid, bad in law and required to be quashed.

2. Ld. NFAC erred in law and on facts in confirming penalty of Rs.16,70,000/- u/s. 271D of the Act ignoring submission of the appellant.

3. Ld. NFAC erred in law and on facts in confirming penalty without recording proper satisfaction and beyond a period of limitation.

6. Ld. Counsel submitted that the assessing officer has not recorded the initiation of penalty proceedings in the reassessment order thereby the penalty levied u/s. 271D and 271E are bad in law and relied upon various case laws. Perusal of the penalty order makes it clear, the assessee was issued with a show cause notice dated 04-07-2019 as to why not impose penalty u/s. 271D and 271E for contravening the provisions of Section 269SS and 269T of the Act for acceptance and repayment of cash loans above Rs. 20,000/- per transaction. Further reading of Sections 271D & 271E makes it clear, opportunity of hearing be given to the assessee before imposing penalty on the above provisions. Moreover the assessing officer being an ITO has no authority to issue notice u/s. 271D & 271E of the Act. Therefore the ITO informed about the cash loans transaction to the JCIT and he in turn given the opportunity of hearing to the assessee by issuing a show cause notice dated 04-07-2019 which has also replied by the assessee. Thus the argument of the assessee Counsel is hereby rejected.

7. Further it is seen from the assessment order the explanation offered by the assessee as follows:

"With reference to above, further with reference to our earlier submission and based on personal hearing held with your good self and further in connection with deposits made in cash in Allahabad Bank on 26th & 28th of August, 2010 and 20th December, 2010 and in Bank of Baroda on 01 of September, 2010 & 01st of November, 2010 we submit as under:

Since, the entire work of the assessee had been finished in connection with the extension of working limits of the son of assessee, assessee made the entire withdrawal of amounts borrowed by her by way of assistance from her various family members and family friends so as to return the amounts back, however after withdrawal was made by the assessee, it was known that certain persons from whom amounts had been received (to be more specific Hitesh Patel & Kaushik Patel) were not in the town and since almost a sum of Rs. 5 lacs had to be paid to them assessee decided to re deposit the funds and to withdraw them as and when they arrive back considering the fact that she stayed alone most of the time and so as to be safe with the amounts. Hence, assessee deposited the sum back to Allahabad Bank and later withdrawal was made upon arrival of Hitesh Patel & Kaushik Patel.

In connection with deposit of cash of Rs. 3 lacs on 23rd December, 2010 in Allahabad Bank, we would like to submit to your goodself that the said deposition had been made out of withdrawal of cash by assessee from Allahabad Bank on 20th of December, 2010 of Rs. 4.80 lacs. The said fact can be confirmed from bank statement of Allahabad Bank, copy of which has already been submitted to your goodself.

Further, in connection with deposition of Rs. 1.58 lacs in the account of Bank of Baroda on 01 of September, 2010, we would like to submit to your goodself that assessee is a farmer and being a farmer assessee was eligible for loan at concessional rate as per State Governments scheme for farmers. Under the scheme, every farmer based on their land holdings was to receive funds as per government's criterion which are to be repaid within next 365 days and once the loan is repaid the person becomes eligible for obtaining loan other time. In case of assessee, assessee paid back the loan of Rs. 1.61 lacs (cash withdrawn from Bank of India on 27 August, 2018 towards the same) received by her on 01 of September, 2010 and since the loan was paid assessee was eligible to obtain further loan of Rs. 1.59 lacs which assessee withdrawn in cash and the said cash was deposited with Bank of India. Copy of bank statement of loan account is enclosed herewith for your reference.

Further, in connection with deposition of Rs. 2 lacs in the account of Bank of Baroda, assessee had withdrawn a sum of Rs. 2.10 lacs in October, 2010 to pay the amount to her daughter Mrs. Nirali Patel, however her daughter suggested her to give the same amount by way of cheque so as to be legally compliant for any future adversities. Hence, the assessee re deposited sum of

Rs. 2 lacs in her account with Bank of Baroda and provided a cheque of Rs. 2 lacs on the very next day to Mrs. Nirali Patel, Copy of bank statement confirming the above facts has already been provided to your goodself."

7.1. However this explanation offered by the assessee was neither considered by the assessing officer during the reassessment proceedings as well as the JCIT during the penalty proceedings. Further the Assessing Officer did not dispute term loan sanctioned by Allahabad Bank on 16-08-2010 for higher education of assessee's son at Australia. Thus assessee has clearly proved the genuineness for the cash loans availed by her from relatives and friends for the above term loan and after sanctioned of the term loan, she has withdrawn the money from the above bank accounts and repaid it to the relatives and friends, which in our considered view is a reasonable cause within the meaning of Section 273B of the Act.

7.2 Their Lordships of the Supreme Court in the case of Assistant Director of Inspection v. Kum. A.B. Shanthi (2002) 122 Taxman 574/255 ITR 258 (SC) while upholding the constitutional validity of Sections 269SS and 271D of the Act held that notwithstanding anything contained in the provisions of Section 271D. no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provision, if he proves that there was reasonable cause for such failure and if the assessee proves that there was reasonable cause for failure to take a loan otherwise than by account payee cheque or account payee demand draft, then the penalty may not be levied. Their Lordships further held that by virtue of Section 273B of the Act, the authority vested with the power to impose penalty has got discretionary power, and observed as under: -

"19. It is important to note that another provision, namely, section 2738 of the Act was also incorporated which provides that notwithstanding anything contained in the provisions of section 271D, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provision if he proves that there was reasonable cause for such failure and if the assessee proves that there was reasonable cause for failure to take a loan otherwise than by account payee cheque or account payee demand draft, then the penalty may not be levied. Therefore, undue hardship is very much mitigated by the inclusion of section 273B. If there was a genuine and bona fide transaction and if for any reason the taxpayer could not get a loan or deposit by account payee cheque or demand draft for some bona fide reasons, the authority vested with the power to impose penalty has got discretionary power,"

7.3. Therefore, a combined reading of the provisions contained in Sections 271D and 271E of the Act and Section 273B of the Act makes it abundantly clear that if the assessee shows reasonable cause for the failure to comply with any provision referred thereto, the penalty for its violation of Section 269SS and 269T of the Act shall not be imposable on the assessee. The word 'reasonable cause' has not been defined in the Act. Therefore, in the context of the penalty provisions, the words 'reasonable cause' would mean a cause which is beyond the control of the assessee 'Reasonable cause' obviously means a cause which prevents a reasonable man of ordinary prudence acting under normal circumstances, without negligence or inaction or want of bona fides.

7.4. The Delhi High Court in the matter of Azadi Bachao Andolan v. Union of India [2001] 116 Taxman 249/252 ITR 471 (Delhi) defined the words 'reasonable cause' as under:-

"6... Reasonable cause, as applied to human action is that which would constrain a person of average intelligence and ordinary prudence. The expression "reasonable" is not susceptible of a clear and precise definition, for an attempt to give specific meaning to the word "reasonable" is trying to count what is not number and measure what is not space. It can be described as rational according to the dictates of reason and is not excessive or immoderate. The word "reasonable" has in law the prima facie meaning of

reasonable with regard to those circumstances of which the actor, called on to act reasonably, knows or ought to know" (See Re. A Solicitor, (1945) KB 368). Reasonable cause can be reasonably said to be a cause which prevents a man of average intelligence and ordinary prudence, acting under normal circumstances, without negligence or inaction or want of bona fides.

8. In our considered opinion, bona fide belief coupled with the genuineness of the transactions would constitute a reasonable cause. Furthermore, the transaction which was bona fide and not aimed to avoid any tax liability would constitute a reasonable cause within the meaning of Section 273B of the Act for not imposing penalties u/s.271D & 271E of the Act. Applying the above judicial precedents, we have no hesitation in cancelling the penalties levied u/s. 271D and 271E of the Act.

9. In the result, the appeals filed by the Assessee are hereby allowed.

Order pronounced in the open court on 17 -02-2026

Sd/-

(DR. BRR KUMAR)

VICE PRESIDENT *True Copy*

Ahmedabad : Dated 17/02/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

Sd/-

(T.R. SENTHIL KUMAR)

JUDICIAL MEMBER

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद