

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA.No.1611/Hyd/2025

Assessment Year 2015-2016

Mahesh Kenchannagundu, NANDYAL – 518 186 Andhra Pradesh PAN CVPPK8350K (Applicant)	vs.	The Income Tax Officer, Ward-1, NANDYAL – 518 501. Andhra Pradesh. (Respondent)
निर्धारिती द्वारा/Assessee by :	Sri Bhargava Duggani, CA	
राजस्व द्वारा/Revenue by :	MS Reema Yadav, Sr. AR	
सुनवाई की तारीख/Date of hearing:	05.03.2026	
घोषणा की तारीख/Pronouncement:	11.03.2026	

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

This appeal by the Assessee is directed against the Order dated 28.08.2025 of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC], Delhi, for the assessment year 2015-2016.

2. The assessee has raised the following grounds of appeal:

- *“The order of the learned Assessing Officer is erroneous both on facts and in law.*
- *That the penalty under Section 271D is not maintainable as the appellant accepted loans in cash from agriculturists who have agricultural income only and are covered under the exception as per proviso to Section 269SS.*
- *That sufficient evidence was filed establishing the identity and agricultural income source of the lenders, which was not duly considered.*
- *That the penalty levied is contrary to settled judicial principles laid down in the following decisions:*
 - *CIT v. Panchsheel Owners Associations (2017) 395 ITR 380 (Guj. HC) Penalty deleted where cash loan was genuine and reasonable cause for acceptance proved.*
 - *Narendrakumar Chunilal Soni vs. JCIT, ITAT Ahmedabad Penalty deleted for genuine cash loans from agriculturists with no taxable income.*
 - *Maa Khodiyar Construction (Gujarat HC) No penalty for genuine cash loan from agriculturists.*
 - *ITAT Cochin Bench ITA No. 22/Coch/2012 Cash loans between agriculturists not hit by Section 269SS, hence penalty under Section 271D not sustainable.*
- *That the appellant had reasonable cause under Section 273B for accepting cash loans, thereby exempting him from penalty. The Commissioner of Income Tax (Appeals) has ignored the proviso to Section 269SS and judicial precedents supporting exemption for agriculturists even after providing the supporting documents.*

- *As the appellant has no other way and he is bound to accept loan from the agriculturists in cash because they don't have bank accounts in their names.*
- *That the authorities below failed to apply the exception and rightful Interpretation of law, causing miscarriage of justice.*
- *That the penalty imposed under Section 271D be deleted and the appeal allowed.*
- *Any other ground that may be urged at the time of hearing.”*

3. We have heard the learned Authorised Representative of the Assessee as well as learned DR and considered the relevant material on record. At the outset, we note that the penalty u/sec.271D of the Income Tax Act [in short "the Act"], 1961 has been levied by the Assessing Officer in respect of cash loan of Rs.9 lakhs taken by the assessee in violation of sec.269SS of the Act. However, we find from the assessment order passed u/sec.147 r.w.s.143(3) that the Assessing Officer has not accepted the source of cash deposit in the bank account as cash loan of Rs.9 lakhs claimed by the assessee and made the addition on account of the cash deposit of Rs.8,00,888/- in the bank account of the assessee in Para nos.4.6.2 as under:

“4.6.2. It is seen from the records available that the assessee has made time deposits amounting to Rs.8,00,888/-in Andhra Bank during F.Y. 2014-15 relevant to the A.Y. 2015-16. In this regard the assessee was requested during the E-assessment proceedings to furnish the information/documents/explanation regarding the transaction. But the assessee has failed to furnish the source of the same. The assessee has submitted his reply however he is unable to explain the transaction. In this regard the assessee is asked to explain as to why an amount of Rs.8,00,888/- should not be added to the total income of the assessee per provisions of the income tax act for the year under consideration. The assessee has submitted that Rs.8,00,000/- is from hand loans obtained from the various persons. On verification of submission made it is found that the assessee has taken cash loan from 6 person for Rs.1,50,000/-. However, the assessee has not provided the creditworthiness of the said persons. The assessee is unable to substantiate the source of investment in time deposits. Accordingly, an amount of Rs.8,00,888/-is hereby added to the total income of the assessee as unexplained investment under section 69 for the year under consideration and taxed by invoking the section 115BBE of the Income Tax Act, 1961 at the rate of 30%. In this case Penalty proceeding u/s 271 (1)(c) of the act is initiated separately on this issue for concealment of such income. (Addition: Rs.8,00,888/-).”

4. Thus, when the Assessing Officer asked the assessee to explain the source of Rs.8,00,888/- deposited in the bank account, the assessee submitted that the source of the same was hand loans obtained from various persons. The

assessee furnished the details of the 06 persons, from whom loan of Rs.1,50,000/- for each was claimed to have been taken by the assessee. However, the Assessing Officer has rejected this claim of the assessee as not substantiated and accordingly, addition of Rs.8,00,888/- was made on account of unexplained investment u/sec.69 of the Act. Despite the rejection of the claim of the loan of Rs.9 lakhs in cash, the Assessing Officer also recorded the satisfaction for initiation of the penalty proceedings u/sec.271D of the Act, which in our view is contradictory as on one hand the Assessing Officer has not accepted the loan of Rs.9 lakhs as claimed by the assessee and on the other hand, the Assessing Officer has initiated the penalty u/sec.271D of the Act for the said loan taken in cash by treating the same as violation of sec.269SS of the Act. The assessee has also challenged the addition made by the Assessing Officer before the learned CIT(A) which is pending adjudication. Thus, in the facts and circumstances of the case, when the Assessing Officer has not accepted the claim of the assessee of taking loan of Rs.9 lakhs in cash from various persons, then, initiation of

proceedings u/sec.271D of the Act is highly arbitrary and unjustified and are contrary to the order of the Assessing Officer itself. Accordingly, the levy of penalty u/sec.271D is not sustainable as it is not based on undisputed transaction of cash loan of Rs.9 lakhs. Further, the penalty u/sec.271D could have been levied only after the claim of the assessee is accepted by the Appellate Authority. Hence, the penalty levied by the Assessing Officer u/sec.271D of the Act is deleted. Since we have deleted the penalty on merits, therefore, the other grounds raised by the assessee become infructuous.

5. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 11.03.2026.

Sd/-
[MADHUSUDAN SAWDIA]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 11th March, 2026

VBP

Copy to:

1.	Mahesh Kenchannagundu, 2/30, Sale Peta, Kothapeta, Illuri Kotha Peta SO, NANDYAL-518 186 Andhra Pradesh
2.	The Income Tax Officer, Ward-1, 25/182-3, Sanjeeva Nagar, NANDYAL – 518 501. Andhra Pradesh.
3.	The Pr. CIT, Kurnool.
4.	The DR, ITAT, “SMC” Bench, Hyderabad.
5.	Guard file.

BY ORDER