THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

I.T.T.A. No. 66 of 2015

ORDER:- (per Hon'ble Sri Justice G. Chandraiah)

This appeal, at the instance of Revenue, is filed against the order of the Tribunal dated 30.10.2014, purporting to raise the following substantial question of law:

> **"1) Whether on the facts and in the circumstances of the case and in law, the Hon'ble Income Tax Appellate Tribunal is justified in confirming the order of CIT (A) and thereby holding that the transactions through journal entry do not attract the provisions of Sec.269T and consequently penalty is not leviable u/s 271E of the I.T. Act, 1961?"**

2. When the matter is taken up for hearing, learned Standing Counsel for the Department submits that earlier, in respect of the family member of the assessee, this Court dismissed I.T.T.A.No. 12 of 2014, wherein it was held as:

> **"We have read the reasoning rendered in the previous judgment. It appears that the assessee challenged the penalty proceedings initiated under Section 271D of the Income Tax Act, 1961 on the ground of illegal borrowings in contravention of Section 269SS of the Act. The learned Tribunal on an earlier occasion found that there is no proof of receipt of such loan from the records and they were only found to be journal entries. The learned Tribunal, in our view, correctly observed that relying on an entry in the journal, no penalty proceedings can be initiated. Hence, it was sent for clarification whether actual flow of money did take place. Therefore, the matter was remanded and no decision was taken on merit."**

3. The reasoning in the said judgment is applicable to the facts and circumstances of the present case.

4. In that view of the matter, the appeal is dismissed. No costs. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

02nd July, 2015

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