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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 247/2024 & CM APPL. 25249/2024

PRINCIPAL COMMISSIONER OF INCOME TAX - 20 DELHI ..... Appellant

Through: Mr. Abhishek Maratha, SSC with Ms.Nupur, Mr. Parth, Mr. Apoorv, Advs.

versus

M/S DELHI STATE TAXI OPERATORS COOPERATIVE THRIFT CREDIT AND SERVICES SOCIETY LTD ..... Respondent

Through: Mr. C.S. Aggarwal, Sr. Adv. with Mr Ravi Pratap, Ms. Pushpa Sharma, Mr. Uma Shankar, Advs.

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\+ ITA 248/2024 & CM APPL. 25257/2024

PRINCIPAL COMMISSIONER OF INCOME TAX - 20 DELHI ..... Appellant

Through: Mr. Abhishek Maratha, SSC with Ms.Nupur, Mr. Parth, Mr. Apoorv, Advs.

versus

M/S DELHI STATE TAXI OPERATORS CO OPERATIVE THRIFT CREDIT AND SERVICES SOCIETY LTD & ANR. ..... Respondents

Through: Mr. C.S. Aggarwal, Sr. Adv. with Mr Ravi Pratap, Ms. Pushpa Sharma, Mr. Uma Shankar, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **01.05.2024**

1. Having heard Mr. Maratha, learned counsel appearing for the appellant and on going through the order impugned, we find that the solitary question which stands raised is with respect to the imposition of penalty referable to Sections 271D and 271E of the Income Tax Act, 1961 [**'Act'**].

2. The Income Tax Appellate Tribunal on an overall conspectus of the facts which obtained has observed as follows:-

> "18. The case of the assessee has along been that it is a co-operative society engaged in the business of banking by providing credit facility to its members and as such neither section 269SS nor section 269T of the Act is applicable to it. Since inception 63 years ago the assessee was under a bonafide and genuine belief that it being a credit thrift society could accept from its members sums in cash and advance to them such sums in cash and that there is no prohibition to do so. The assessee pleaded before the Ld. JCIT and the Ld. CIT(A) that for its default there existed reasonable cause within the meaning of section 273B of the Act. It was also the submission of the assessee that in none of the earlier years any contravention of the provisions of section 269SS and 269T was pointed out to the assessee by the Department. All these arguments/plea were not judicially acceptable to the Ld. JCIT/CIT(A) for the reason that once a wrong doing is detected, the full force of law has to be applied to remedy/rectify the situation/default. The Ld. DR also emphasised that the practice of cash dealings have been carried out by the assessee without any reasonable cause.
>
> 19. <u>We considered carefully submissions of the parties. It is not in dispute that the assessee is a co-operative society which considers itself, though erroneously, to be engaged in the business of banking as it was providing credit facilities to its members right from inception. It is also an admitted position that the assessee's claim of deduction under section 80P has always been accepted by the department on the basic premise that the assessee has been engaged in carrying on the business of banking or providing credit facilities to its members as stipulated in sub-section 2(a)(i) of section 80P of the Act</u>. It is noteworthy that the provisions of section 269SS and section 269T were brought on the statute book w.e.f. 01.04.1984 which is around 28 years after the assessee society came into existence. <u>But the Department never before the AY 2013-14 presently under consideration raised the issue of violation of the provisions of section 269SS and 269T though assessments were made under section 143(3) of the Act after scrutiny</u>. This gives the

bonafide impression that the Department had accepted, by implication that in the facts and peculiar circumstances of the assessee's case, the provisions of section 269SS and 269T were inapplicable to it. Therefore, the rule of consistency should have been followed in AY 2013-14 also which has not been done. Even the CBDT acknowledged in its Circular F. No. 415/6/2000-IT(Inv.I) dated 25th March, 2004 that it was a widespread belief, even if erroneous that the provisions of section 269SS do not apply to the credit co-operative societies and advised the field officers not to impose penalty under section 271D and 271E indiscriminately and should keep in view the provisions of section 273B of the Act."

3. Bearing in mind the aforesaid view as expressed and which was plausible in the facts and circumstances of the case, we find that the appeal fails to raise any substantial question of law. It shall consequently stand dismissed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 01, 2024/neha