IN THE INCOME TAX APPELLATE TRIBUNAL
Pune Bench "B" , Pune

Before Shri I.C. Sudhir (JM)
and Shri D. Karunakara Rao (AM)

ITA No. 386/PN/2010
(Asstt. Year : 2006-07)

Shri Vinay Prakash Naik, ... Appellant
Prop. Savali Enterprises,
890 Sukrawar Peth,
Sahu Chowk,
Pune-2.

v.

I.T.O, Ward 5(3) ... Respondent
Pune

Appellant by : None
Respondent by : Ms. Ann Kapthuama

ORDER

Per I.C. Sudhir, JM

The assessee has questioned first appellate order whereby the Ld CIT(A) has upheld the penalty levied u/s. 271-D of the Act at Rs.2,63,400/- by the A.O.

2. The grievance of the assessee is also that the Ld CIT(A) has levied the penalty on the entire amount worked out in contravention of the provisions of Section 269-SS instead of calculating the penalty on the amount exceeding Rs. 20,000/-.

3. The Ld. D.R. has tried to justify the orders of the authorities below. She submitted that no bonafide reason was shown before the authorities below to justify the violation of the provisions of Section 269-SS.

4. Having gone through the orders of the authorities below, we find that the reason shown by the assessee for the default remained that it is in the business of

labour contract wherein payment is required to be made to the labourers as earlier as possible and under this pressure, he had to take cash loans for making the payment to the labourers, since he had not received payment from the employers in time. The authorities below did not agree with the reason shown as sufficient to justify the default and penalty has been levied. We, however, feel that there is no basis to doubt the above reason shown by the assessee for the default. We, thus, invoking the provisions of Section 273B of the Act hold that there was sufficient reason with the assessee for the default. We, accordingly, direct the A.O to delete the addition of Rs.2,63,400/- made u/s. 271-D of the Act. The Ground is, accordingly, allowed.

5. In result, appeal is allowed.

The order is pronounced in the open Court on 10th August 2011.

Sd/-	Sd/-
(D. KARUNAKARA RAO)	**(I.C. SUDHIR)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Pune, dated the 10th August, 2011

US

Copy of the order is forwarded to :

1. The Appellant
2. The Respondent
3. The CIT-III, Pune
4. The CIT(A)- III, Pune
5. The D.R. "B" Bench, Pune
6. Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Pune