

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'G' : NEW DELHI)**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.1170/Del./2022
(ASSESSMENT YEAR : 2017-18)**

Saroj Sethi,
B – 413, Street No.04,
Majlis Park, Adresh Nagar,
Delhi – 110 033.

vs. JCIT, Range 36,
New Delhi.

(PAN : BAMPS2809C)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None
REVENUE BY : Shri Abhishek Kumar, Senior DR

Date of Hearing : 20.10.2022
Date of Order : 20.10.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee arises out of the order of the National Faceless Appeal Centre (NFAC) dated 25.03.2022 and pertains to Assessment Year 2017-18.

2. The issue raised is that Id. CIT (A) erred in sustaining the penalty of Rs.5,80,000/- under section 271D of the Income-tax Act, 1961 (for short 'the Act').

3. Brief facts of the case are that in this case, assessee has received cash pursuant to transfer of immovable property. This was held to be in violation of section 269SS of the Act and upon the same, penalty u/s 271D of the Act was levied in an ex-parte order. Before the Id. CIT (A), assessee raised grounds including that of non-granting of opportunity of being heard. However, Id. CIT(A) referred to the amendment in Section 269SS and proceeded to confirm the penalty.

4. Against this order, assessee has come up in appeal before us. We have heard Id. DR for the Revenue and perused the record. None appeared on behalf of the assessee despite notice.

5. We note that in this case, assessee has received cash consideration against sale of immovable property which is hit by the provisions of section 269SS as amended from 01.06.2015. The assessee before the authorities below has raised the ground that this was noted only from the bank statement and such addition cannot be made u/s 68 of the Act which are to be done with reference to entries in books of accounts. We note that assessee is an old lady and in the appeal, the assessee has raised a ground of non-granting of opportunity before the AO and Id. CIT (A). We note that the addition has been made on account of amendment in provisions of section 269SS which prohibited receipt of cash in sale of immovable property w.e.f. 01.06.2015. No doubt, in this case, the deed has been registered after the said date, however in absence of the sale deed, we are

unable to comment whether amount involved was received prior to the date of amendment or thereafter. This will be crucial in fastening the liability u/s 271D upon the assessee. In our considered opinion, interest of justice will be served if an opportunity of being heard before the authorities below is acceded to the assessee. Hence, we remit this issue to the file of AO. AO should decide the issue afresh in the light of our observations as above. Needless to add, an opportunity of being heard is to be provided to the assessee.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 20th day of October, 2022 after the conclusion of the hearing.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 20th day of October, 2022
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**