

**IN THE INCOME TAX APPELLATE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD
BEFORE SHRIVIJAY PAL RAO, JUDICIAL MEMBER
AND SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

ITA No.46/Alld./2019
Assessment Year: 2012-13

M/s. H.K. Infraventure Pvt. Ltd. 17, Industrial Colony, Naini, Allahabad-211008, U.P.	v.	Joint Commissioner of Income Tax, Central Circle, Varanasi, U.P.
PAN:AACCH6249K		
(Appellant)		(Respondent)

Appellant by:	Shri Praveen Godbole, C.A.
Respondent by:	Shri Ramendra Kumar Viswakarma, CITD.R.
Date of hearing:	15.09.2022
Date of pronouncement:	13.12.2022

ORDER

PER SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER:

This appeal, filed by assessee, being ITA No.46/Alld./2019, is directed against an appellate order dated 19.03.2019 in Appeal No.55/ACIT/CC/Alld./CIT(A)-III/Lko./17-18 passed by learned Commissioner of Income Tax (Appeals)-III, Lucknow (hereinafter called "theCIT(A)"), for assessment year(ay):2012-13, the appellate proceedings had arisen before learned CIT(A) from Penalty order dated 12th December, 2017 passed by learned Joint Commissioner of Income-tax, Varanasi (hereinafter called "the JCIt") under Section 271D of the Income-tax

Act,1961(hereinafter called “ the Act”) .We have heard both the parties through physical hearing mode in Open Court proceedings.

2. The grounds of appeal raised by assessee in ITA No. 46/Alld./2019 for assessment year 2012-13, in memo of appeal filed with Income-Tax Appellate Tribunal, Allahabad Bench, Allahabad(hereinafter called “ the tribunal”) , reads as under:-

“1- That in any view of the matter penalty order dated 12-12-2017 passed u/s 271D of the IT Act by JCIT,CC, Varanasi by imposing a penalty of Rs. 1,10,02,000/- is bad both on the fact and in law as well as without justification.

2- That in any view of the matter the Ld. CIT (A) is highly unjustified and incorrect in confirming the penalty by ignoring the correct facts and her observations in the order dated 19-03-2019 are totally incorrect and contrary to the actual facts as the CIT (A) failed to consider correct facts, cited case law and affidavit, hence the penalty so levied and maintained arbitrarily is liable to be delete in the facts and circumstances of the case.

3- That in any view of the matter since the entire transaction between the company and its director was held genuine in respect of Rs. 60 Lakh as deleted by the CIT (A) in the light of facts and evidence. Therefore the penalty so imposed on that count is unjustified and wrong, hence the same is liable to be deleted.

4- That in any view of the matter the allegation of the Assessing officer that there was contravention of section 269SS of the IT Act is totally wrong and misleading specially when the transaction routed through banking channel and the payment for purchase of stamps was made to the state Government. Therefore the imposition of penalty is unwarranted in the fact and circumstances of the case.

5- That in any view of the matter the transaction between the company and director does not fall under the category of loan or deposit and also there was no element of interest, hence the imposition of the penalty is unjustified and wrong, therefore the same is liable to be deleted in the facts and circumstances of the case.

6- That any view of the matter since the transaction between the company & director has taken place on extreme urgency which was beyond control of the appellants

company and these facts were brought to the knowledge of the lower authorities alongwith supportive affidavit also but the lower authorities ignored the same and made & maintained the penalty arbitrarily which is highly unjustified and illegal, therefore the so imposed & maintained penalty is liable to be deleted.

7- That in any view of the matter in compliance to the show cause notice explanation was offered requesting thereby to provide 10 days time to furnished further explanation but the lower authority failed in it and moreso the transaction is recorded in books and in whole of the transaction there was no rotation or movement of any unaccounted money in any manner, hence on that count the penalty so made & maintained is wrong, therefore the same is liable to be deleted in the facts and circumstances of the case.

8- That in any view of the matter imposition & maintenance of the such penalty is totally incorrect and injustice in the facts & circumstances of the case and the appellat reserves his right to take any further ground before hearing of the appeal.”

3. The brief facts of the case are that during the course of assessment proceedings conducted by the AO under Section 143(3) read with Section 143(2) of the 1961 Act for the impugned assessment year in the case of the assessee, it was observed by the AO that the assessee had accepted cash loan of Rs. 1,10,00,000/- from Shri Hemant Kumar Sindhi, Allahabad on various dates, in contravention of provisions of Section 269SS of the 1961 Act , and for such default the assessee is liable to be penalized under Section 271D of the Act. The details of such cash loans taken by the assessee,are as under:

<i>Amount (Rs.)</i>	<i>Date</i>	<i>Nature of Receipt</i>
<i>10,00,000</i>	<i>26.9.2011</i>	<i>In cash</i>
<i>50,00,000</i>	<i>4.10.2011</i>	<i>In cash</i>
<i>50,00,000</i>	<i>4.11.2011</i>	<i>In cash</i>
<i>Total Rs. 1,10,00,000</i>		

4. The AO i.e. ACIT, Central Circle, Allahabad made reference / proposal to the office of the Joint Commissioner of Income Tax ,Central Range, Varanasi vide Letter No. ACIT/CC/Alld/2017-18/581 dated 20.09.2017 for initiation of penalty proceedings against the assessee under the provisions of Section 271D of the 1961 Act for contravention of provisions of Section 269SSof the 1961Act. The Ld. JCIT,Varanasi initiated penalty proceedings against the assessee u/s 271D of the 1961 Act and a show cause notice was issued to the assessee on 21.09.2017 to explain the case and to show cause as to why penalty under Section 271D may not be imposed upon the assessee. This notice was duly served on the assessee through AO. The hearing was fixed for 09.10.2017,but the assessee did not appear in compliance to notice before the ld. JCIT nor any compliances were made as no reply /communication was sent by the assessee. The ld. JCIT gave further opportunity to the assessee for compliance. The assessee submitted reply before ld. JCIT vide letter dated 25.11.2017 vide dak in the office of the AO on 28.11.2017 , in which the assessee sought further 10 days time for furnishing reply on the issues. However, the assessee submitted in the aforesaid reply that no cash loan was taken by the assessee company from Shri Hemant Sindhi, Director and the amount was actually deposited by the aforesaid Director in cash in the bank account of the assessee to the tune of Rs. 60,00,000/- , while remaining amount of Rs. 50,00,000/- was paid by Director in cash for purchase of stamps. The assessee claimed that no cash was increased in the cash book of the company on account of

these transactions, and hence provisions of Section 269SS are not applicable and prayers were made to drop penalty proceedings. The relevant part of the submission of the assessee is reproduced hereinunder:-

“यह कि जहाँ तक संदर्भित नोटिस द्वारा संबंधि तमामले में आयकर अधिनियम की धारा 271डी के तहत जुर्माना लगाने की बात कही जा रही है वह गलत है क्योंकि मामले के तथ्यों की सत्यता के आलोक में वैसा कोई जुर्माना लगाने का कानून कोई औचित्य ही नहीं है क्योंकि श्री हेमंत कुमार सिंघी ने कम्पनी को रुपये साठ लाख नगद में नहीं दिये हैं बल्कि उक्त राशि का उन्होंने कंपनी के बैंक खाते में जमा किये हैं इसलिए वह राशि कंपनी के कैश बुक में उस राशि से रोकड़ नहीं बढ़ी है बल्कि यह राशि बैंक स्टेटमेंट में प्रदर्शित हो रही है अर्थात् कंपनी के बहियों में जो बैंक का लेजर है उसके उक्त राशि प्रदर्शित हो रही है न कि कैश बुक में। इसी प्रकार रुपये पचास लाख की राशि श्री हेमंत कुमार सिंघी द्वारा स्टैम्प पेपर खरीदने में व्यय किया गया है न कि कंपनी को दिया गया है अर्थात् यह राशि सरकार के कोष में गयी है। इस प्रकार कुल राशि रु 1,10,00,000/- के संबंध में यह कहना कि कंपनी रुपये एक करोड़ दस लाख नगद का लोन लिया है पूर्णतः गलत है क्योंकि उक्त राशि बैंक खाते व सरकार के कोष में दर्ज है जो विभाग के रिकार्ड पर भी मौजूद है। इस संबंध में विभिन्न न्यायालयों के निर्णय भी हैं कि जहाँ नगद राशि बैंक खाते या सरकारी कोष में जमा की गयी है वहाँ आयकर अधिनियम की धारा 271डी के तहत जुर्माना लगाने का कोई औचित्य नहीं बनता। यदि श्रीमान् चाहें तो हम उन निर्णयों की छाया प्रति भी प्रस्तुत कर सकते हैं। अतः उक्त तथ्यों के आलोक में प्रार्थना है कि संबंधित नोटिस को निरस्त किया जाये।”

The Ld. JCIT waited for the response of the assessee for more than 15 days, as requested by the assessee vide letter dated 25.11.2017 wherein the assessee submitted that reply explaining the issues will be filed within next 10 days, but, however, no further reply was filed by the assessee, and Ld. JCIT confirmed/upheld penalty of Rs. 1,10,02,000/- by rejecting the contentions of the assessee that it had not taken any cash loan from the Director, but the Director has deposited cash in the bank account of the assessee company and also paid amount in cash for purchase of stamp paper . The ld. JCIT observed that the assessee has not filed any judicial pronouncement to support its claim ,and there is no such exemption to the Director u/s 269SS that payments may be made by Director, on behalf of the company from his own cash. The ld. JCIT also rejected the argument of the assessee that cash was not increased in cash book of the assessee,

which contention of the assessee was held by ld. JCIT to be against the principles of accountancy. The ld. JCIT observed that when the amount was paid in cash by the Director and the same was deposited in the bank account of the assessee company, it is clear case of cash loan accepted/ taken by the assessee company. It was observed by Ld. JCIT that since cash was deposited in the bank account of the assessee company, it is required to be entered in cash book otherwise there will be shortage or negative cash balance in the cash book, which is against the principles of accountancy . It was also observed by the Ld. JCIT that similarly the liability of the assessee company , paid by the Director , in cash , from own sources is also a cash loan accepted/taken by the assessee company. The ld. JCIT observed that its entry is also required to be appropriately entered in the cash book. The ld. JCIT observed that the assessee has not denied these loans and rather the assessee has shown these transactions under the “unsecured loans” in its books of account. The relevant copy of the ledger account of Shri Hemant Kumar Sindhi in the books of the assessee company were reproduced by ld. JCIT in his order dated 12.12.2017,which is reproduced as hereinunder:

H.K. INFRAVENTURES PVT. LTD. - (11-12)
 INDUSTRIAL COLONY
 NAINI
 ALLAHABAD
 Hernant Kumar Sindh U/L
 Lender Account
 (Unsecured Loans)
 Apr-2011 to 31-Mar-2012

Date	Particulars	Vch Type	Vch No/Excise	Inv.No	Debit	Cred
2-9-2011	By ING VYSYA BANK LIMITED Cheque/DD 561507 Being Amount Received Via Ch. No. 561507	Receipt	2-9-2011 45,00,000.00 Dr	3		45,00,000.00
26-9-2011	By ING VYSYA BANK LIMITED Cash Being Cash deposited	Receipt	26-9-2011 10,00,000.00 Dr	4	Cash	10,00,000.00
27-9-2011	By ING VYSYA BANK LIMITED Cheque/DD Being cash Deposited into bank.	Receipt	26-9-2011 50,00,000.00 Dr	5	Cash	50,00,000.00
15-10-2011	By ING VYSYA BANK LIMITED Cheque/DD 000076 CH NO 000076 OF ICICI BANK, NAINI, ALLD.	Receipt	15-10-2011 9,00,000.00 Dr	6		9,00,000.00
16-10-2011	By ING VYSYA BANK LIMITED Cheque/DD 000077 CH NO 000077 OF ICICI BANK, NAINI, ALLD.	Receipt	16-10-2011 9,00,000.00 Dr	7		9,00,000.00
18-10-2011	By ING VYSYA BANK LIMITED Cheque/DD Being Ch. Received from Sh. Hernant Kr. Sindh and deposited	Receipt	18-10-2011 40,00,000.00 Dr	8		40,00,000.00
11-11-2011	By Cash Being Cash Received	Receipt		9		2,000.00
11-11-2011	By Cash Being Cash Received for Stamp Paper Purchase	Receipt		10	Cash	50,00,000.00
11-11-2011	To ING VYSYA BANK LIMITED Cheque 823059 Ch. No. 823059 Paid Via RTGS UTR No. VYSAH11325704538	Payment	11-11-2011 10,00,000.00 Cr	13	10,00,000.00	
	By ING VYSYA BANK LIMITED Cheque/DD Being RTGS Made Canceled	Receipt	21-11-2011 10,00,000.00 Dr	12		10,00,000.00
22-11-2011	To ING VYSYA BANK LIMITED Cheque 823060 Ch No. 823060 and UTR No. VYSAH11326721018	Payment	22-11-2011 10,00,000.00 Cr	14	10,00,000.00	
30-3-2012	By ING VYSYA BANK LIMITED Cheque/DD Being Amount Received via NEFT UTR No. vjbn120900083268	Receipt	30-3-2012 1,00,000.00 Dr	15		1,00,000.00
	To Closing Balance					
					20,00,000.00	2,24,02,000.00
					2,04,02,000.00	
					2,24,02,000.00	2,24,02,000.00

The Ld. JCIT referred to the provision of Section 269SS of the 1961 Act and observed that provision of Section 269SS is clear and unambiguous . The Ld. JCIT observed that the assessee cannot take shelter of direct cash deposit by the director in its bank account or payment of its liability in cash for its default or violation of Section 269SS, as there is no such exemption in the law . The Ld. JCIT observed that there is further entry of cash receipt of Rs. 2,000/- dated 4.11.2011, on which also penalty is leviable u/s 271D , and hence the assessee is liable to

penalty u/s 271D of Rs. 1,10,02,000/-, which was imposed by ld. JCIT vide penalty order dated 12.12.2017 passed u/s 271D of the 1961 Act for contravention of provisions of Section 269SS of the 1961 Act.

5. Aggrieved by penalty of Rs. 1,10,02,000/- imposed by ld. JCIT vide penalty order dated 12.12.2017 passed u/s 271D for contravention of Section 269SS, the assessee filed first appeal with Ld. CIT(A), and submitted as under:

“That in the above noted case in respect of imposition of the penalty u/s 271D of the IT Act our written submission was filed earlier in form of a paper book containing 189 pages. In continuation of the same, it is further submitted that the assessee has not violated the provisions of section 269SS of the IT Act in any manner because the transaction between the Company and director does not fall under the category of ‘Loan or Deposit’ and there was no element of any interest. In this regard even in the observation in the appellate order dated 26-03-2018 at para no. 3 to 6 are relevant and copy of the said order is already enclosed in the paper book. There is no material whatsoever on record giving any inkling of the transaction being of the dubious nature. The urgency about the business necessity or commercial exigencies are solely within the domain of the trade. The provision of Rule 2(b) (ix) of the company (acceptance of deposit) Rule 1975 provides that “Deposit” does not include any amount received from a Director or Share holder of a Private Limited Company. Accordingly the cash transaction directly deposited by the Director in Company's Bank account cannot be called “Loan or Deposit” as such there was no violation of the provision of Section 269SS of the IT Act.

That from the above facts, submission (already made in earlier book) and cited case laws it is clear that the transaction between the Company and Director is genuine and has no tax effect, hence the penalty u/s 271D of the IT Act is not leviable in the facts and circumstances of the case.”

Thus, as could be seen main contention of the assessee before Ld. CIT(A) was that the transactions between the Company and the Director does not fall under

the category of 'loan or deposit' and there is no element of any interest. It was also submitted that the urgency about the business necessity or commercial exigencies are solely within the domain of the trade and hence the transaction of cash directly deposited by the Director in company's bank account cannot be called "loan or deposit" as such there was no violation of the provision of Section 269SS of the Act.

6. The Ld. CIT(A) considered the contentions of the assessee, and rejected the same by dismissing appeal filed by the assessee, by holding as under:

"7. I have considered the facts & circumstances of the case. I have considered the finding of the JCIT in the penalty order and the submissions of the appellant made during appellate proceedings. It is noted that the assessee had accepted cash loan of Rs. 1,10,02,000/- from Shri Hemant Kumar Sindhi in contravention of section 269SS of the Act, details of which are as under:-

<i>Amount</i>	<i>Date</i>	<i>Nature of receipt</i>
10,00,000/-	26.09.2011	In Cash
50,00,000/-	04.10.2011	In Cash
50,00,000/-	04.11.2011	In Cash
2,000/-		In Cash
Total	1,10,02,000/-	

8. The Ld. AO moved a proposal vide office letter No. ACIT/CC/Alld/2017-18/581 dated 20.09.2017 for initiation of penalty u/s 271D of the Act for violation of the provisions of section 269SS of the Act with respect to the cash loan received of Rs. 1,10,02,000/- from Shri Hemant Kumar Sindhi, Director of the company. The JCIT Central Range, Varanasi held that in view of provisions of section 269SS of the Act, the appellant cannot take shelter of direct cash deposit by the director in its bank account and payment of its liability in cash, for its default, for violation of section 269SS hence the assessee is liable for penalty u/s 271D of the Act. Accordingly penalty u/s 271D of Rs. 1,10,02,000/- equal to the amount of cash loan was imposed.

9. *The assessee has raised following issues in the written submission:*

i. *From the assessment order it will appear that there was no satisfaction recorded regarding penalty proceeding u/s 271D of the Act, hence no penalty could be levied.*

ii. *The assessee has contended there is no violation u/s 269SS since a director of the company had deposited the amount directly in the company's bank account with ING Vysya Bank by withdrawing the amount from his personal books. The transaction of Rs 60,00,000/- added by the AO as para 4(ii) of the assessment order has been treated as genuine by First Appellate Authority.*

iii. *That apart from 60 lacs a further sum of Rs. 50 Lacs has been deposited in bank account due to urgent need of funds in the company regarding purpose of property. Thus the transaction of Rs. 1,10,02,000/- is through books and banking channels & is a genuine transaction*

iv. *The assessee was not aware about the provisions of section 269SS of I.T.Act.*

10. *On perusal of the assessment order, I find the AO has noted that bank statement of account no. 300 with ING Vyasya Bank & ledger account of Hemant Sindhi, director filed by the assessee has been perused which shows that the assessee has taken cash loan of Rs. 10 lacs on 26.09.2011, 50 lacs on 04.10.2011, 50 lacs on 04.11.2011. Thus a total of Rs.1,10,02,000/- cash loan taken by the assessee in cash which is in contravention to provisions of section 269SS. The reply of the assessee is not acceptable & the matter will be separately referred to JCIT, Central Range, Varanasi for initiation of penal action as per Act.*

11. *Considering the above, I find that the AO has recorded the satisfaction for initiation of penal action u/s 271D of the Act. Hence appellant's contention in this regard that no satisfaction has been recorded by the AO is devoid of any merit and found to be unacceptable.*

12. *It is relevant to examine the provisions of section 269SS of the Act, which are extracted as below:*

269SS of the Act.

[Mode of taking or accepting certain loans, deposits and specified sum.

269SS. No person shall take or accept from any other person (herein referred to as the depositor) , any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if-

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more:

13. A plain reading of the provisions of section 269SS of the Act makes it clear that section 269SS prescribes all modes of transaction and transactions other than through account payee cheque/draft is violative of section 269SS, if the amount of loan or deposit is twenty thousand or more.

14. Therefore appellant's contention that there is no violation of section 269SS of the Act since a director of the company had deposited the amount directly in the company's bank account by withdrawing from his personal books is found to devoid of merit and is found unacceptable.

15. Further assessee's contention that the assessee was not aware of the provisions of section 269SS of the Act, cannot be accepted, since ignorance of law cannot be accepted as a reason for non compliance with the provisions of section 269SS of the Act, as held in the case of *Motilal Padmapat Sugar Mills Co. Ltd. Vs State of UP (118 ITR 326)(SC)*, and further the appellant is assisted by professional C.A. on tax matters.

16. Considering the facts & circumstances of the case I find the assessee has accepted cash loan of Rs. 1,10,02,000/- from Shri Hemant Kumar Sindhi, Allahabad on various dates, which is in contravention of the provisions of section 269SS of the Act. Accordingly penalty imposed

by the AO equal to the amount of cash loan of Rs. 1,10,02,000/- is held to be justified and is hereby upheld.

Ground No.5 is routine and general in nature hence not adjudicated.

17.. In the result, the appeal is dismissed.”

7. Aggrieved by the appellate order dated 19th March, 2019 passed by Id. CIT(A), the assessee filed second appeal with tribunal. The Ld. Counsel for the assessee opened arguments before the Bench ,and submitted that this appeal has arisen from the penalty order passed under Section 271D of the Act for alleged violation of provision of Section 269SS of the Act, wherein penalty of Rs. 1,10,02,000/- was imposed by Ld. JCIT which stood upheld by Ld. CIT(A), for the assessment year 2012-13. It was submitted by ld. Counsel for the assessee that transaction between the assessee company and the Director namely Mr. Hemant Kumar Sindhi to the tune of Rs. 1,10,02,000/- were made in cash. Our attention was drawn to the penalty order passed by ld. JCIT, as well appellate order passed by ld. CIT(A). It was submitted that following are the cash loans granted by Mr. Hemant Kumar Sindhi , Director to the assessee during the year under consideration, as detailed hereunder:

<i>Amount</i>	<i>Date</i>	<i>Nature of receipt</i>
10,00,000/-	26.09.2011	In Cash
50,00,000/-	04.10.2011	In Cash
50,00,000/-	04.11.2011	In Cash
2,000/-		In Cash
Total	1,10,02,000/-	

It was submitted that provisions of Section 269SS read with Section 271D were invoked by Revenue, to levy penalty of Rs. 1,10,02,000/-. It was submitted that Rs. 60,00,000/- was deposited by Director of the assessee company namely Mr. Hemant Kumar Sindhi in the assessee's bank account on 26.09.2011 (Rs. 10 lacs) and 4.10.2011 (Rs. 50 lacs) , while Rs. 50,00,000/- and Rs. 2000 were paid in cash by Mr. Hemant Kumar Sindhi, Director on 04.11.2011 for purchase of stamp paper for the assessee company, which stamp papers were used by assessee company for registration of property purchased by assessee company. It was also submitted that the amount of Rs. 1,10,02,000/- was received in cash from Director of the assessee company which was not a loan. Our attention was drawn to Page No.4/para 9 of the learned CIT(A) appellate order, wherein, the contention of the assessee are recorded. It was submitted that the AO while framing quantum assessment in the hands of the assessee, also made additions to the tune of Rs. 60,00,000/- as income of the assessee, with respect to cash deposits of Rs. 10,00,000/- and Rs. 50,00,000/- by Mr. Hemant Kumar Sindhi, Director , on 26.09.2011 and 04.10.2011 respectively. The assessment order passed by the AO framing quantum assessment against the assessee for the impugned assessment year is placed in paper book filed by the assessee, at page 99-106. Our attention was also drawn to Page No. 78-83 of the Paper-book filed by the assessee, wherein in the appellate order passed by Id. CIT(A) against quantum assessment is placed (page 71-98/pb), wherein Id. CIT(A) deleted the additions of Rs.

60,00,000/- made by the AO in the hands of the assessee as income with respect to cash deposited by Mr. Hemant Kumar Sindhi, Director in the bank account of the assessee. It was also submitted that Rs. 50,00,000/- and Rs. 2,000/- which was paid in cash by Mr. Hemant Kumar Sindhi, Director of the assessee company on 04.11.2011 , for purchase of stamp paper on behalf of the assessee for registration of the property purchased by the assessee company, was never added by AO as income in the quantum assessment. The ld. Counsel for the assessee relied upon following judicial pronouncements to support its contentions:

- a) Judgment and Order passed by Hon'ble Allahabad High Court in the case of CIT v. Dimple Yadav, reported in (2015) 280 CTR (All) 309.
- b) Judgment and Order passed by Hon'ble Gujarat High Court in the case of CIT v. Panchsheel Owners Association , reported in (2017) 395 ITR 380(Guj.).
- c) Judgment and Order passed by Hon'ble Gujarat High Court in the case of Dr. Rajaram L. Akhani v. ITO, reported in (2017) 395 ITR 497(Guj.).
- d) Judgment and Order passed by Hon'ble Supreme Court in the case of CIT v. Hissaria Brothers, reported in (2016) 386 ITR 719(SC).
- e) Judgment and Order passed by Hon'ble Supreme Court in the case of CIT v. Jai Laxmi Rice Mills, reported in (2015) 379 ITR 521(SC).

- f) Appellate Order dated 29.02.2016 passed by ITAT, Chandigarh Bench SMC, in the case of Chawla Chemtech Private Limited v. JCIT, reported in (2016) 158 ITD 48(Chd.-trib.)
- g) Appellate Order dated 09.01.2019 passed by ITAT, Jaipur B Bench DB, in the case of Sunil Kumar v. Addl. CIT, in ITA no. 203 & 204/JP/2018, reported in (2019) 33 NYPTTJ 26(JP)
- h) Judgment and Order passed by Hon'ble Punjab and Haryana High Court in the case of CIT v. Speedways Rubber Private Limited, reported in (2010) 326 ITR 31(P&H HC).
- i) Appellate Order dated 21.10.2021 passed by ITAT, Jaipur A Bench DB, in the case of Smt. Meera Devi Kumawat v. JCIT, in ITA no. 1201(JP) of 2019, reported in (2022) 193 ITD 250(JP-trib.)
- j) Appellate Order dated 05.12.2019 passed by ITAT, Mumbai G Bench DB, in the case of Surendra Engineering Corporation v. JCIT, in ITA no. 2386(Mum) of 2017, reported in (2020) 180 ITD 708(Mum-trib.)
- k) Appellate Order dated 01.07.2015 passed by ITAT, Hyderabad Bench SMC, in the case of ITO v. Sunder Synthetics Private Limited, reported in (2015) 41 ITR(Trib.) 618(Hyd.-trib.)

Our attention was also drawn by ld. Counsel for the assessee to page number 21 of paper book filed by the assessee, which is a ledger account of Mr. Hemant Kumar

Sindhi in the books of the assessee, and it was contended that Rs. 60 lacs was deposited by Mr. Hemant Kumar Sindhi in the bank account of the assessee company, while Rs. 50 lacs and Rs. 2,000/- cash was paid by Mr. Hemant Kumar Sindhi to assessee company to purchase stamp paper for registration of property. Our attention was also drawn to page 22-23 of paper book, which are the bank statements of the assessee company, where Rs. 60 lacs cash stood deposited, Rs. 10 lacs cash on 26.09.2011 and Rs. 50 lacs cash on 04.10.2011. It was submitted that even Rs. 60 lacs deposited cash in bank account was utilized for purchase of property situated at 17 Stanley Road, Civil Lines, Allahabad, from Sindhu Sahkari Avas Samiti. It was submitted that there was an exigency and hence cash was received from the Director of the company namely Mr. Hemant Kumar Sindhi. The Id. Counsel for the assessee drew our attention to the affidavit dated 31.01.2017 executed by Mr. Hemant Kumar Sindhi, Director, which is placed in paper book at page 34-37, in which averments are made by Mr. Hemant Kumar Sindhi confirming, inter-alia, deposit of Rs. 60 lacs in cash by him in the bank account of the assessee company. Our attention was also drawn to paper book/page 38, wherein letter dated 20.01.2017 written by Mr. Hemant Kumar Sindhi to Id. CIT(A)-III, Lucknow is placed, wherein he reiterated that Rs. 60 lacs in cash was deposited by him in the bank account of the assessee company. Our attention was also drawn to page 39-40/paper book, wherein Balance Sheet as at 31.03.2012 of Mr. Hemant Kumar Sindhi is placed, wherein an advance of Rs. 2,04,02,000/- paid

by Mr. Hemant Kumar Sindhi to the assessee company is reflected as outstanding as at 31.03.2012. It was submitted that an addition of Rs. 60 lacs towards cash deposit by Mr. Hemant Kumar Sindhi in bank account of the assessee company as was made by AO to the income of the assessee in quantum assessment proceedings, stood deleted by Id. CIT(A).

7b. The Id. CIT-DR in rebuttal drew our attention to page 100 /paper book, which is an assessment order passed in quantum, and our attention was drawn to para 4(i) and 4(ii), and it was submitted that total transaction of Rs. 1,10,00,000/- in cash being received by assessee company from Mr. Hemant Kumar Sindhi who was Director of the assessee company, was confirmed by the assessee to have been paid in cash to the company . Out of total as above, cash of Rs. 60 lacs received by way of deposit in the bank account of the assessee company was not found recorded in the cash book. The Id. CIT-DR would argue that addition of Rs. 60 lacs was made by AO in quantum assessment. Our attention was drawn to assessment order dated 28.03.2016 passed by AO u/s 153A read with Section 143(3) of the 1961 Act , for assessment year 2012-13 in the case of the assessee. It was submitted that satisfaction was recorded by AO in the assessment order , recording contravention of Section 269SS with respect to cash loan to the tune of Rs. 1.10 crores taken by assessee from Mr. Hemant Kumar Sindhi, which stood recorded in para 4(i) of the assessment order. The AO also considered reply of the

assessee, but the explanation submitted by assessee stood rejected by the AO ,and it is stated in assessment order by AO that the matter will be separately referred to the JCIT, Central Range, Varanasi , for initiation of penal action as per Act. (Para 4(i) of AO order, dated 28.03.2016 passed by AO u/s 153A read with Section 143(3) of the 1961 Act). It was submitted that penalty order u/s 271D read with Section 269SS levying penalty of Rs. 1,10,00,000/- was passed by ld. JCIT on 12.12.2017. It was submitted that if there is contravention of Section 269SS , then penalty u/s 271D is leviable, even if cash transactions are genuine. It was submitted that in the instant case, there is contravention of Section 269SS, and hence penalty u/s 271D is leviable. It was submitted that Mr. Hemant Kumar Sindhi, Director has shown this amount of Rs. 1,10,02,000/- paid in cash to the assessee company, as advance in his balance sheet, while the assessee company has shown the same in its books of accounts as loan from Director. Our attention was drawn to page 39-43 of paper book. The ld. CIT-DR relied upon judgment and order of Hon'ble Supreme Court in the case of Attar Singh Gurumukh Singh v. ITO, reported in (1991) 191 ITR 667(SC). The ld. CIT-DR would also rely on judgment and order of Hon'ble Delhi High Court in the case of CIT v. Samora Hotels Private Limited, reported in (2012) 211 Taxman 189(Delhi). It was submitted by ld. CIT-DR that Director of the company is covered under the provisions of Section 269SS read with Section 271D , and if contravention of Section 269SS takes place, then penalty u/s 271D is leviable. The ld. CIT DR relied upon order passed by ITAT,

Chennai in the case of Thenamal Chhajar v. JCIT, reported in (2005) 96 ITD 210(Chennai), and it was submitted that the assessee in the instant case before us is not able to demonstrate urgency/reasonable cause for accepting cash loan of Rs. 1,10,02,000/- , and prayers were made to confirm the same . It was submitted that cash loan of Rs. 60 lacs was taken one month earlier than when the property purchased by the assessee was registered in favour of the assessee, and hence there was no urgency whatsoever in taking cash loans. The ld. CIT-DR relied upon the judgment and order of Hon'ble Madras High Court in the case of Kasi Consultant Corporation v. DCIT, reported in (2009) 311 ITR 419(Mad. HC). The ld. CIT-DR also relied upon judgment and order of Hon'ble Madras High Court in the case of P. Baskar v. CIT, reported in (2012) 340 ITR 560(Mad. HC), and it was submitted that no material whatsoever is brought on record by the assessee to show real urgency in receiving cash loans of Rs. 1,10,02,000/- from Mr. Hemant Kumar Sindhi, and hence penalty u/s 271D read with Section 269SS was rightly levied/confirmed by ld. CIT(A). The ld. CIT-DR also relied upon following judicial pronouncements :

- a) Judgment and Order passed by Hon'ble Allahabad High Court in the case of Chaubey Overseas Corporation v. CIT, reported in (2008) 303 ITR 9(All. HC).

- b) Judgment and Order passed by Hon'ble Punjab and Haryana High Court in the case of CIT v. Sunil Goyal, reported in (2005) 274 ITR 53(P&H HC).
- c) Appellate order passed by Delhi-tribunal in the case of Ajay Goel v. ACIT, reported in (2010) 126 ITD 89(Del-trib.)
- d) Appellate order passed by Pune-tribunal in the case of ITO v. Sunil M Kasliwal, reported in (2005) 94 ITD 281(Pune-trib.(TM))
- e) Appellate order passed by Delhi-tribunal in the case of Mehak Singh v.ITO, reported in (2010) 127 ITD 1(Del-trib.)
- f) Judgment and Order passed by Hon'ble Jharkhand High Court in the case of Bhalotia Engineering Works Private Limited v. CIT, reported in (2005) 275 ITR 399(Jharkhand- HC).

The ld. CIT DR distinguished the decisions relied upon by ld. counsel , as under:

- a) Sunil Kumar v. Addl. CIT(supra)- It was submitted by ld. CIT-DR that in this case urgency was shown for making payment for excise duty and the person was not having bank account, and it was submitted that in the instant case before the Bench, no such urgency was shown by the assessee.
- b) CIT v. Jai Laxmi Rice Mills(supra)-It was submitted by ld. CIT-DR that in this case , satisfaction was recorded by the AO in the assessment order, but the assessment order was set aside and in subsequent assessment

order , no such satisfaction was recorded . It was submitted that in the instant case before the Bench, satisfaction was duly recorded by AO, and hence facts are entirely different.

c) Smt Meera Devi Kumawat(supra)- It was submitted by ld. CIT-DR that in this case , the transaction was between husband and wife, and there was pooling of family funds. It was submitted that the facts in the instant case before the Bench are entirely different.

d) Surender Engg. Corpn.(supra)- It was submitted by ld. CIT-DR that in this case, urgency was shown as payments were required to be made urgently to creditors, while in the instant case before Bench, no such urgency is shown, and the funds remained with the assessee for more than one month.

7c. The ld. Counsel for the assessee in rejoinder submitted that the contention of ld. CIT-DR that funds remained with assessee for one month is not correct . It was submitted that cash received by assessee from Mr. Hemant Kumar Sindhi to the tune of Rs. 1,10,00,000/- was used immediately for the purchase of property. Our attention was drawn to page 106 of the paper book, which is infact the last page of assessment order for the impugned year, and it is submitted that at the end of the assessment order , no such satisfaction is recorded by AO as to invocation of

Section 271D read with Section 269SS. It was submitted that all the transactions are genuine transactions, and were through banking channel.

7d. The ld. CIT-DR rebutted by saying that genuineness of transaction is not relevant, if the amount is received in contravention of Section 269SS, then penalty is leviable under Section 271D .It was submitted that satisfaction was duly recorded by AO in assessment order, which was earlier brought to attention of the Bench during hearing. The reliance was placed by ld. CIT-DR on the Judgment and order passed by Hon'ble High Court of Gauhati in Associated Engineering Enterprise v. CIT, reported in (1995) 216 ITR 366(Gauhati),Appellate order passed by ITAT, Delhi Bench in the case of Prabhavshali Chit Fund Company Private Limited v. CIT, reported in (1994) 49 ITD 566(Del-trib.)and Appellate order passed by ITAT, Pune Bench in the case of Balaji Traders v. DCIT, reported in (2001)78 ITD 368(Pune-trib.).

8.We have considered rival contentions and perused the material on record including cited case laws. We have observed from assessment order passed in quantum that there was search and seizure operations carried on by Revenue u/s 132 of the 1961 Act on 05.12.2013 in the case of Mr. Hemant Kumar Sindhi , Dinesh Kumar Pahuja Group, residential premises of partners , directors and proprietors of the group. The assessee was also searched on 05.12.2013 wherein warrant of authorization was executed at the office premises of the assessee.

Thereafter , the case of the assessee was centralized with Assistant Commissioner of Income Tax , Central Circle, Allahabad vide orders dated 08.05.2014 passed u/s 127 of the Commissioner of Income Tax, Allahabad. The assessee had shown total receipts of Rs. Nil during the year under consideration . The statutory notices u/s 153A, 143(2) and 142(1) were duly issued by the AO , as are recorded in the assessment order dated 28.03.2016 passed by AO u/s 153A r.w.s. 143(3) of the 1961 Act(assessment order in quantum placed in paper book filed by assessee/page 99-114). The assessee filed its return of income on 25.09.2015 in pursuance to notice issued by AO u/s 153A, declaring 'Nil' income. The quantum assessment was framed by AO at assessed income of Rs. 7,12,32,250/- as against returned income of Rs. Nil declared by assessee , vide assessment order dated 28.03.2016 passed u/s 153A read with Section 143(3). During the course of assessment proceedings, it was observed by AO from bank statement of the assessee vide account number 300 with ING Vysya Bank and ledger account of Hemant Sindhi, Director of the assessee company filed by assessee, that the assessee has taken cash loan of Rs. 10 lacs on 26.09.2011 , Rs. 50 lacs on 04.10.2011 , Rs. 50 lacs on 04.11.2011 and also Rs. 2000/- on 04.11.2011, which as per AO was in contravention of provisions of Section 269SS. The AO confronted the assessee about the same, and the assessee submitted vide reply dated 27.01.2016 that Mr. Hemant Kumar Sindhi, Director deposited money in cash with assessee company as the assessee needed money urgently , and as per information

of the assessee Mr. Hemant Kumar Sindhi is Director of the assessee and Section 269SS is not applicable, and prayers were made not to impose penalty u/s 271D. The AO after considering aforesaid reply of the assessee at para 4(i), page 2 of the assessment order, recorded satisfaction as under:

“The reply of the assessee is not acceptable and the matter will be separately referred to the JCIT, Central Range, Varanasi for initiation of penal action as per Act.”

Thus , the contentions of the assessee that no satisfaction was recorded by AO in the assessment order in quantum for impugned assessment year , stands rejected, as we have observed that the AO expressly dealt with contravention of Section 269SS and its consequences vide Section 271D , with respect to cash loan of Rs. 1,10,00,000/- received by the assessee company from Mr. Hemant Kumar Sindhi, Director. We order accordingly.

Proceeding further, the AO i.e. ACIT, Central Circle, Allahabad made reference / proposal to the office of the Joint Commissioner of Income Tax ,Central Range, Varanasi vide Letter No. ACIT/CC/Alld/2017-18/581 dated 20.09.2017 for initiation of penalty proceedings against the assessee under the provisions of Section 271D of the 1961 Act for contravention of provisions of Section 269SS of the 1961 Act. The Ld. JCIT,Varanasi initiated penalty proceedings against the assessee u/s 271D of the 1961 Act and a show cause notice was issued to the

assessee on 21.09.2017 to explain the case and to show cause as to why penalty under Section 271D may not be imposed upon the assessee. On non compliance by assessee, ld. JCIT issued further notices, which are duly recorded in penalty order dated 12.12.2017. The assessee claimed before ld. JCIT that no cash loan was taken by assessee company from Shri Hemant Sindhi, Director and the amount was actually deposited by the aforesaid Director in cash in the bank account of the assessee to the tune of Rs. 60,00,000/- , while remaining amount of Rs. 50,00,000/- was paid by Director in cash for purchase of stamp papers. The assessee claimed that no cash was increased in the cash book of the company on account of these transactions, and hence provisions of Section 269SS are not applicable , and prayers were made to drop penalty proceedings. The assessee despite seeking 10 days time to give further reply, did not file any further reply with in the stipulated time . The Ld. JCIT , after waiting for 15 days for assessee to file its reply but having received no reply from assessee, confirmed/upheld penalty of Rs. 1,10,02,000/- by rejecting the aforesaid contentions of the assessee. The ld. JCIT observed that there is no such exemption to the Director u/s 269SS that payments in cash may be made by Director, on behalf of the company from his own cash. The ld. JCIT also rejected the argument of the assessee that cash was not increased in cash book of the assessee, which contention of the assessee was held by ld. JCIT to be against principles of accountancy. The ld. JCIT observed that when the amount was paid in cash by the Director and the same was deposited in the

bank account of the assessee company, it is clear case of cash loan accepted/ taken by the assessee company. It was observed by Ld. JCIT that since cash was deposited in the bank account of the assessee company, it is required to be entered in cash book otherwise there will be shortage or negative cash balance in the cash book, which is against the principles of accountancy . It was also observed by the Ld. JCIT that similarly the liability of the assessee company , paid by the Director , in cash , from own sources is also a cash loan accepted/taken by the assessee company. The ld. JCIT observed that its entry is also required to be appropriately entered in the cash book. The ld. JCIT observed that the assessee has not denied these loans ,and rather the assessee has shown these transactions under the head “unsecured loans” in its books of account. The relevant copy of the ledger account of Shri Hemant Kumar Sindhi in the books of the assessee company were reproduced by ld. JCIT in his penalty order dated 12.12.2017,which is reproduced as hereinunder:

HK INFRAVENTURES PVT. LTD. - (11-12)
17, INDUSTRIAL COLONY
NAINI
ALLAHABAD

Hemant Kumar Sindhi U/L
Ledger Account

1-Apr-2011 to 31-Mar-2012

Date	Particulars	Vch Type	Vch No./Excise Inv.No.	Debit	Page 1 Credit
9-2011	By ING VYSYA BANK LIMITED Being Amount Received Via Ch. No. 561807	Receipt	3		45,00,000.00
9-2011	By ING VYSYA BANK LIMITED Being Cash deposited	Receipt	4		10,00,000.00
10-2011	By ING VYSYA BANK LIMITED Being cash Deposited into Bank.	Receipt	5		50,00,000.00
10-2011	By ING VYSYA BANK LIMITED CH. NO. 000076 OF ICICI BANK, NAINI, ALLD.	Receipt	6		9,00,000.00
10-2011	By ING VYSYA BANK LIMITED CH. NO. 000077 OF ICICI BANK, NAINI, ALLD.	Receipt	7		9,00,000.00
10-2011	By ING VYSYA BANK LIMITED Being Ch. Received from Sri Hemant Kr. sindhi and deposited.	Receipt	8		40,00,000.00
1-2011	By Cash Being Cash Received.	Receipt	9		2,000.00
-2011	By Cash ५/१/११ Being Cash Received for Stamp Paper Purchase. Date of Receipt ५/१/११	Receipt	10		50,00,000.00
-2011	To ING VYSYA BANK LIMITED Ch. No. 823059 Paid Via RTGS UTR No. VYSAH1132570453d	Payment	13	10,00,000.00	
	By ING VYSYA BANK LIMITED Being RTGS Made Cancelled	Receipt	12		10,00,000.00
2011	To ING VYSYA BANK LIMITED Ch No. 823060 and UTR No. VYSAH11326701018	Payment	14	10,00,000.00	
2012	By ING VYSYA BANK LIMITED Being Amount Received via NEFT UTR no. vijbh120900088268	Receipt	13		1,00,000.00
To	Closing Balance			20,00,000.00	2,24,02,000.00
				2,04,02,000.00	
				2,24,02,000.00	2,24,02,000.00

The Ld. JCIT referred to the provision of Section 269SS of the 1961 Act and observed that provision of Section 269SS is clear and unambiguous . The ld. JCIT observed that the assessee cannot take shelter of direct cash deposit by director in its bank account or payment of its liability in cash for its default or violation of

Section 269SS, as there is no such exemption in the law . The ld. JCIT observed that there is further entry of cash receipt of Rs. 2,000/- dated 4.11.2011, on which also penalty is leviable u/s 271D , and hence the assessee is liable to penalty u/s 271D of Rs. 1,10,02,000/-, which was imposed by ld. JCIT vide penalty order dated 12.12.2017 passed u/s 271D of the 1961 Act for contravention of provisions of Section 269SS of the 1961 Act. The assessee being aggrieved filed first appeal before ld. CIT(A). Before ld. CIT(A), the assessee made submissions that the transactions between the Company and the Director does not fall under the category of 'loan or deposit' and there is no element of any interest. It was also submitted that the urgency about the business necessity or commercial exigencies are solely within the domain of the trade and hence the transaction of cash directly deposited by the Director in company's bank account cannot be called "loan or deposit" as such there was no violation of the provision of Section 269SS of the Act. The assessee also referred to provision of Rule 2(b) (ix) of the company (acceptance of deposit) Rule 1975 provides that "Deposit" does not include any amount received from a Director or Share holder of a Private Limited Company. Accordingly the cash transaction directly deposited by the Director in Company's Bank account cannot be called "Loan or Deposit" as such there was no violation of the provision of Section 269SS of the 1961 Act. The Ld. CIT(A) rejected the contentions of the assessee and dismissed the appeal filed by the assessee, by holding as under:

“12. It is relevant to examine the provisions of section 269SS of the Act, which are extracted as below:

269SS of the Act.

[Mode of taking or accepting certain loans, deposits and specified sum.

269SS. No person shall take or accept from any other person (herein referred to as the depositor) , any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if-

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more:

13. A plain reading of the provisions of section 269SS of the Act makes it clear that section 269SS prescribes all modes of transaction and transactions other than through account payee cheque/draft is violative of section 269SS, if the amount of loan or deposit is twenty thousand or more.

14. Therefore appellant's contention that there is no violation of section 269SS of the Act since a director of the company had deposited the amount directly in the company's bank account by withdrawing from his personal books is found to devoid of merit and is found unacceptable.

15. Further assessee's contention that the assessee was not aware of the provisions of section 269SS of the Act, cannot be accepted, since ignorance of law cannot be accepted as a reason for non compliance with the provisions of section 269SS of the Act, as held in the case of

MotilalPadmapat Sugar Mills Co. Ltd. Vs State of UP (118 ITR 326)(SC), and further the appellant is assisted by professional C.A. on tax matters.

16. *Considering the facts & circumstances of the case I find the assessee has accepted cash loan of Rs. 1,10,02,000/- from ShriHemant Kumar Sindhi, Allahabad on various dates, which is in contravention of the provisions of section 269SS of the Act. Accordingly penalty imposed by the AO equal to the amount of cash loan of Rs. 1,10,02,000/- is held to be justified and is hereby upheld.*

Ground No.5 *is routine and general in nature hence not adjudicated.*

17. *In the result, the appeal is dismissed."*

Now, the assessee being aggrieved by appellate order passed by Id. CIT(A) dismissing its appeal has filed second appeal with tribunal. Proceeding further, the admitted position is that the assessee received Rs. 1,10,02,000/- in cash from Mr. Hemant Kumar Sindhi, Director during the impugned assessment year, as detailed hereunder:

<i>Amount</i>	<i>Date</i>	<i>Nature of receipt</i>
<i>10,00,000/-</i>	<i>26.09.2011</i>	<i>In Cash</i>
<i>50,00,000/-</i>	<i>04.10.2011</i>	<i>In Cash</i>
<i>50,00,000/-</i>	<i>04.11.2011</i>	<i>In Cash</i>
<i>2,000/-</i>	<i>04.11.2011</i>	<i>In Cash</i>
Total	1,10,02,000/-	

The amount of Rs. 10,00,000/- on 26.09.2011 as well an amount of Rs. 50,00,000/- , aggregating to Rs. 60,00,000/- was received in cash by assessee company from Mr. Hemant Kumar Sindhi, Director , which stood deposited in cash by Mr. Hemant Kumar Sindhi in Bank account number 300 maintained by assessee company with ING Vysya Bank. Subsequently after receipt in bank, the said amount of Rs. 60 lacs

was utilized by assessee for making payment to M/s Sindhu Sahkari Awas Samiti, towards part payment for purchase of property situated at 17, Stanley Road, Civil Lines, Allahabad. Further , Rs. 50 lacs and also Rs. 2,000/- in cash was paid by Mr. Hemant Kumar Sindhi, Director of the assessee company for purchase of stamp paper on 04.11.2011 on behalf of the assessee company , which stamp papers were used by assessee company for registering the purchased property situated at 17, Stanley Road, Civil Lines, Allahabad, U.P., in its favour on 04th November 2011 itself . The aforesaid property is claimed by assessee to have been purchased for Rs. 1,50,00,000/- from M/s Sindhu Sahkari Awas Samiti, vide registered sale deed executed on 04.11.2011, and it is claimed by assessee that the entire amount of Rs. 1,50,00,000/- was paid to M/s Sindhu Sahkari Awas Samiti through banking channel. Incidentally, during the aforesaid search conducted by Revenue u/s 132(1) , a document Annexure LP-5 Page 124 was seized from the residence of Mr. Dinesh Kumar Pahuja , which is the ledger account of M/s Sindhu Sahkari Awas Samiti in the books of the assessee company from 01.04.2011 to 31.03.2014, which is reproduced by AO in its assessment order dated 28.03.2016 , which reflect that total payment of Rs. 7,62,02,250/- was made by assessee in the financial year 2011-12 to Sindhu Sahkari Awas Samiti , which included cash payments of Rs. 6,12,02,250/- , apart from Rs. 1,50,00,000/- paid by assessee through banking channel to aforesaid M/s Sindhu Sahkari Awas Samiti for registering the property as sale consideration. There was further cash payments to

the tune of Rs. 2,92,40,000/- recorded in the said seized document to have been made by assessee to said Sindhu Sahkari Awas Samiti, in financial year 2012-13 ,as per aforesaid seized documents. The assessee is claiming that it purchased the aforesaid property for Rs. 1,50,00,000/- , while the rate adopted by Sub-Registrar for charging of stamp duty was Rs. 7,28,92,000/- (circle rate), duly recorded in the registered sale deed dated 04.11.2011. The additions to the income of the assessee to the tune of Rs. 6,12,022,50/- was made by AO for the year under consideration towards unexplained expenditure while framing assessment order dated 28.03.2016 , being undisclosed cash paid for purchase of aforesaid property. The ld. CIT(A) has confirmed the aforesaid addition of Rs. 6,12,022,50/- made by AO in quantum assessment , vide appellate order dated 26.03.2018. However, it will not be appropriate on our part at this stage to comment on merits of this addition, as the second appeal is filed by assessee with Allahabad-tribunal against the said addition , vide Appeal in IT(SS) A 172/Alld/2018 for ay: 2012-13, which is pending before Allahabad-tribunal, but the proven and relevant factum of huge differential between the circle rate and the purchase consideration itself is glaring and raises eyebrows. The aforesaid seized document Annexure LP-5 Page 124 , is reproduced hereunder:

HK-IPL
 17, INDUSTRIAL COLONY
 NAINI
 ALLAHABAD
 Sindhu Sahkari Avas Samiti
 Ledger Account,
 1251/LA Civil Station,
 Kastoorba Gandhi Marg
 Allahabad
 1-Apr-2011 to 31-Mar-2014

HW-5
 L-5
 124-124

Date	Particulars	Vch Type	Vch No.	Debit	Page 1 Credit
3-9-2011	To ING VYSYA BANK LIMITED <i>Being Advance given via RTGS Ch. No. 823052</i>	Payment	1	40,00,000.00	
	To ING VYSYA BANK LIMITED	Payment	2	45,00,000.00	
26-9-2011	To ING VYSYA BANK LIMITED <i>Being Advance given via RTGS Ch. No. 823053 & 54 Cancelled.</i>	Payment	3	10,00,000.00	
10-10-2011	To ING VYSYA BANK LIMITED <i>Ch. No. 823055 paid as advance</i>	Payment	5	50,00,000.00	
18-10-2011	To Cash	Payment	6	1,00,00,000.00	
20-10-2011	To ING VYSYA BANK LIMITED	Payment	8	5,00,000.00	
29-10-2011	To Cash <i>Being Cash paid.</i>	Payment	9	1,00,00,000.00	
3-11-2011	To Cash	Payment	10	2,50,00,000.00	
4-11-2011	To Cash	Payment	12	1,00,00,000.00	
6-11-2011	To Cash <i>Being Cash paid.</i>	Payment	15	x 59,52,250.00	
3-12-2011	To Cash <i>Being Cash Paid.</i>	Payment	20	2,50,000.00	
	By Closing Balance			7,62,02,250.00	7,62,02,250.00
				7,62,02,250.00	7,62,02,250.00
1-4-2012	To Opening Balance			7,62,02,250.00	
23-4-2012	To Cash	Payment	18	1,50,00,000.00	- 1 Cr
11-9-2012	To Cash <i>Being Cash paid.</i>	Payment	112	52,00,000.00	
22-10-2012	To Cash	Payment	191	5,00,000.00	
12-12-2012	To Cash <i>cash paid.</i>	Payment	256	31,00,000.00	
13-3-2013	To Cash	Payment	397	54,40,000.00	
31-3-2013	By Land Purchase	Journal	301	10,54,42,250.00	
				10,54,42,250.00	10,54,42,250.00

It is also pertinent to mention that Mr. Hemant Kumar Sindhi surrendered Rs. 12.01 crores during search. It is also pertinent to mention that the assessment u/s 153A read with Section 143(2) was framed by AO for the impugned year in the case of Mr. Hemant Kumar Sindhi, wherein income assessed was Rs.

20,33,71,410/- as against returned income of Rs. 1,21,51,450/- .(Refer assessment order dated 28.03.2016 in the case of Mr. Hemant Kumar Sindhi/page44-67-paper book filed by the assessee) . This, we have elaborated to bring complete background.

Coming back, the assessee has shown in its books of accounts , the amount received from Mr. Hemant Kumar Sindhi, Director as loan payable to said Mr. Hemant Kumar Sindhi as at 31.03.2012, while Mr. Hemant Kumar Sindhi, Director has shown the said amount as 'Advances' outstanding to be recoverable from assessee company as at 31.03.2012, as are discernible from the Balance Sheets of Mr. Hemant Kumar Sindhi as well of the assessee for the year ended 31.03.2012, filed in paper book/page 39-43. It is pertinent to mention that AO also made additions to the tune of Rs. 60,00,000/- with respect to cash deposited by Mr. Hemant Kumar Sindhi, Director in the bank account no.300 of the assessee maintained with ING Vysya Bank , being Rs. 10 lacs on 26.09.2011 and Rs. 50 lacs on 04.10.2011, as income in the hands of the assessee vide assessment order in quantum. This addition of Rs. 60 lacs as was made by the AO, stood deleted by Id. CIT(A), and we are informed by both the rival parties that this deletion of Rs. 60 lacs by Id. CIT(A) has attained finality, as Revenue has not filed any appeal against the aforesaid relief granted by Id. CIT(A). The proceeds of these cash loans/deposits were used by the assessee company for purchasing/registering the

property situated at 17, Stanley Road, Civil Lines, Allahabad, U.P , purchased from M/s Sindhu Sahkari Awas Samiti, and registered in favour of assessee company . Out of above Rs, 1,10,02,000/- , Rs. 10,00,000/- and Rs. 50,00,000/- was deposited by Mr. Hemant Kumar Sindhi , Director in the bank account number 300 maintained by assessee company with ING Vysya Bank, on 26.09.2011 and 04.10.2011 respectively, while Rs. 50,00,000/- and Rs, 2,000/- was paid in cash by Mr. Hemant Kumar Sindhi, Director for purchasing stamp paper which was utilized by assessee company for registering purchased property situated at 17, Stanley Road, Civil Lines, Allahabad, in its favour. Before Proceeding further, it will be profitable at this stage to reproduce provisions of Section 269SS, 271D and 273B ,as were in force at the relevant times, which reads as under:

“CHAPTER XX-B

REQUIREMENT AS TO MODE OF [ACCEPTANCE, PAYMENT OR] REPAYMENT IN CERTAIN CASES TO COUNTERACT EVASION OF TAX

[Mode of taking or accepting certain loans and deposits.

269SS. *No person shall, after the 30th day of June, 1984, take or accept from any other person (hereafter in this section referred to as the depositor), any loan or deposit otherwise than by an account payee cheque or account payee bank draft if,—*

- (a) the amount of such loan or deposit or the aggregate amount of such loan and deposit ; or*
- (b) on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid ; or*
- (c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),*

is [twenty] thousand rupees or more :

Provided *that the provisions of this section shall not apply to any loan or deposit taken or accepted from, or any loan or deposit taken or accepted by,—*

- (a) Government ;
- (b) any banking company, post office savings bank or co-operative bank ;
- (c) any corporation established by a Central, State or Provincial Act ;
- (d) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) ;
- (e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette :

[Provided further that the provisions of this section shall not apply to any loan or deposit where the person from whom the loan or deposit is taken or accepted and the person by whom the loan or deposit is taken or accepted are both having agricultural income and neither of them has any income chargeable to tax under this Act.]

Explanation.—For the purposes of this section,—

- (i) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949), applies and includes any bank or banking institution referred to in section 51 of that Act ;]
- (ii) "co-operative bank" shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949) ;
- (iii) "loan or deposit" means loan or deposit of money.]”

“[Penalty for failure to comply with the provisions of section 269SS.

271D. [(1)] *If a person takes or accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so taken or accepted.]*

[(2) Any penalty imposable under sub-section (1) shall be imposed by the [Joint] Commissioner.]”

“[Penalty not to be imposed in certain cases.

273B. *Notwithstanding anything contained in the provisions of [clause (b) of sub-section (1) of] [section 271, section 271A, [section 271AA,] section 271B [, section 271BA], [section 271BB,] section 271C, [section 271CA,] section 271D, section 271E, [section 271F, [section 271FA,] [section 271FB,] [section 271G,]] clause (c) or clause (d) of sub-section (1) or sub-section (2) of section 272A, sub-section (1) of section 272AA] or [section 272B or] [sub-section (1) [or sub-section (1A)] of section 272BB or] [sub-section (1) of section 272BBB or] clause (b) of sub-section (1) or clause (b) or clause (c) of sub-section (2) of section 273, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.]”*

The intention behind bringing the provisions of Section 269SS in the statute is explained by CBDT in Circular No. 387 dated 06.07.1984, as under :

“Prohibition against taking or accepting certain loans and deposits in cash

32.1 *Unaccounted cash found in the course of searches carried out by the Income-tax Department is often explained by taxpayers as representing loans taken from or deposits made by various persons. Unaccounted income is also brought into the books of account in the form of such loans and deposits and taxpayers are also able to get confirmatory letters from such persons in support of their explanation.*

32.2 *With a view to countering this device, which enables taxpayers to explain away unaccounted cash or unaccounted deposits, the Finance Act has inserted a new section 269SS in the Income-tax Act debarring persons from taking or accepting, after 30th June, 1984, from any other person any loan or deposit otherwise than by an account payee cheque or account payee bank draft if the amount of such loan or deposit or the aggregate amount of such loan and deposit is Rs. 10,000 or more. This prohibition will also apply in cases where on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), and the amount or the aggregate amount remaining unpaid is Rs. 10,000 or more. The prohibition will also apply in cases where the amount of such loan or deposit, together with the aggregate amount remaining unpaid on the date on which such loan or deposit is proposed to be taken, is Rs. 10,000 or more.*

32.3 *The prohibition will, however, not apply to any loan or deposit taken or accepted from, or any loan or deposit taken or accepted by, the following, namely :*

- (a) Government ;*
- (b) any banking company, post office savings bank or any co-operative bank ;*
- (c) any corporation established by a Central, State or Provincial Act ;*
- (d) any Government company as defined in section 617 of the Companies Act, 1956 ;*
- (e) such other institution, association or body or class or institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette. ”*

If we analyze the aforesaid statutory provision, the title of Chapter XXB stipulates requirements as to mode of acceptance, payment or repayment in certain cases to counteract evasion of tax. Thus, these statutory provisions were introduced as a

measure to counter check evasion of taxes, which are infact anti tax-evasion measure. Section 269SS clearly stipulate that no person shall, after the 30th day of June, 1984, take or accept from any other person any loan or deposit otherwise than by an account payee cheque or account payee bank draft. Then the statute provide outer limit for exclusion of an amount which is less than Rs. 20000/- (including outstanding amount to be considered for reckoning this limit). Further , there are exclusion provided for certain category of exempt transactions such as with Government, banking company etc. as provided in Section 269SS. Presently, we are not concerned with the exclusion, as in the instant case, the assessee who is a private limited company has received loan/deposit of Rs. 1,10,02,000/- in cash during the year under consideration from Mr. Hemant Kumar Sindhi who is admittedly Director of the assessee company. Section 2(31) of the 1961 Act, defines persons to include, inter-alia, individual and company . Thus, both company and its directors are distinct persons u/s 2(31). CBDT circular no. 387 of 1984 stipulates prohibition against taking or accepting certain loans and deposits in cash. It is stated in the circular that unaccounted cash found in the course of searches carried out by the Income-tax Department is often explained by taxpayers as representing loans taken from or deposits made by various persons. Unaccounted income is also brought into the books of account in the form of such loans and deposits and taxpayers are also able to get confirmatory letters from such persons in support of their explanation. Thus, with a view to countering this

device, which enables taxpayers to explain away unaccounted cash or unaccounted deposits, the Finance Act has inserted a new section 269SS in the Income-tax Act debarring persons from taking or accepting, after 30th June, 1984, from any other person any loan or deposit otherwise than by an account payee cheque or account payee bank draft if the amount of such loan or deposit or the aggregate amount of such loan and deposit is Rs. 10,000 or more(in the relevant year limit was Rs. 20000 or more) . This prohibition will also apply in cases where on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), and the amount or the aggregate amount remaining unpaid is Rs. 10,000 or more(in the relevant year limit was Rs. 20000 or more). The prohibition will also apply in cases where the amount of such loan or deposit, together with the aggregate amount remaining unpaid on the date on which such loan or deposit is proposed to be taken, is Rs. 10,000 or more (in the relevant year limit was Rs. 20000 or more). Thus, it could be seen that this provision was introduced as an anti tax evasion device. It is also pertinent to mention that Explanation to Section 269SS defines "loan or deposit" means loan or deposit of money. Thus, the loan or deposit are very widely worded to mean all types of loans or deposits. The assessee has raised an argument that deposits under Companies (Acceptance of Deposits) Rules, 1975 under the Companies Act, 1956 excludes deposits by Directors, and hence cash loan/deposits by Mr. Hemant

Kumar Sindhi, Director of Rs. 1,10,02,000/- . We are afraid that this contention of the assessee is fallacious and is rejected . The Companies Act, 1956 was amended by introducing Section 58A and 58B of Companies (Amendment)Act ,1974. These provisions were introduced in Parliament for enactment under the Companies(Amendment) Bill, 1972 in which clause(6) dealt with this subject. In the notes on clauses appended to the Bill, it was explained that

“ it has been the practice of companies to take deposits from the public at a high rate of interest . Experience has shown that in many cases deposits so taken by the companies have not been refunded on the due dates.In many such cases either the companies have gone into liquidation or the funds are depleted to such extent that the companies are not in a position to refund the deposits. It is considered necessary to control the Companies inviting deposits from the public. The issue of an advertisement in such form and in such manner as may be prescribed including therein a statement showing the financial position of the company seeking deposits from the public is being made obligatory. Provision has also been made for the Central Government to make rules in consultation with the Reserve Bank of India. Penal provisions have also been included . There is also a provision for the refund of the amount of deposits received by a company in violation of the requirement of the law. The provisions of the Act relating to a prospectus are also made applicable to the issue of such advertisement as contemplated in this clause. The clause will be applicable to all companies other than banking companies and those specified by the Government in consultation with the Reserve Bank of India.”

It is true that Rule 2(b)(ix) of Companies (Acceptance of Deposits) Rules,1975 provides that any deposits received by a private limited company from its Directors shall not be considered as deposits, which provides as hereunder:

“2. Definitions.- In these Rules, unless the context otherwise requires,-

(b) "deposit" means any deposit of money with, and includes any amount borrowed by, a company, but does not include-

(ix) any amount received by a private company from a person who, at the time of the receipt of the amount, was a director, relative of director or member:

Provided that the director or member, as the case may be, from whom money is received, furnishes to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting from others;

Explanation.-For the removal of doubts, it is hereby declared that any deposit received or renewed by a company before the commencement of the Companies (Acceptance of Deposits) Amendment Rules, 1978, shall continue to be governed by the rules applicable at the time of such deposit or renewal as the case may be."

It is to be understood that both the legislations operate in different filed, while deposits as covered under the Companies Act read with Companies (Acceptance of Deposits) Rules, 1975 are regulatory measures to control and regulate raising of deposits from Public by the Companies as it was observed that the Companies were raising deposits from Public and thereafter defaulting in repayments. The exemption was provided to Private Limited Companies raising deposits from their directors, to relax them from regulatory controls so far as deposits raised from Directors so that they can raise funds for their business purposes from their Directors without any regulatory controls. The Private Limited companies are those companies which do not have broad public participation, and mostly funds are deployed by promoters/directors, and that too most of them are family governed entities. Thus, these Private Limited Companies were allowed to raise

deposits from their directors without any regulatory controls(still rider/control was provided that the amounts are not being given by Director out of funds acquired by borrowing or accepting from others). While , on the other hand purpose and purport of Section 269SS is to have a statutory regulations in place under the 1961 Act as an anti tax evasion devise , as it was observed that undisclosed/unaccounted cash were introduced in the garb of loan or deposits, and even confirmations were obtained to give colour to these unaccounted cash as disclosed cash. Thus , both the legislation operates in altogether different fields, and merely because acceptance of deposits from Directors by private limited company are exempted under Companies(Acceptance of Deposits) Rules, 1975, will not exempt cash deposits by Director under the provisions of Section 269SS, otherwise the whole purpose of introducing Section 269SS as anti tax evasion device will be defeated. Further Explanation to Section 269SS itself provides that 'loan or deposit' means loan of deposit of money. The language used to define loan or deposit in Section 269SS is of the widest amplitude , and even exemptions are provided in first and second proviso to Section 269SS, which , incidentally does not cover Director of Private Limited Company and hence Director of the private limited company will be covered within the strict rigours of Section 269SS and for violation thereof penalty consequences as stipulated u/s 271D shall be applicable . If the language used in the taxing statute is plain , simple and unambiguous, then there is no scope for intendment and literal meaning is to be followed. Thus, this

contention of the assessee is rejected. The assessee has raised another contention that cash was deposited in bank account of the assessee company, to the tune of Rs. 60 lacs and hence Section 269SS is not violated and even the cash was not entered in the cash book. We are afraid this contention of the assessee is again not tenable, as the amount was advanced by Mr. Hemant Kumar Sindhi to the assessee in cash to the tune of Rs. 60 lacs by depositing in the assessee's bank account, which is advanced in cash which is by any other mode than by account payee cheque or account payee bank draft as is required and stipulated u/s 269SS, and hence is in contravention of provisions of Section 269SS. Further, this plea cannot be accepted, because otherwise the whole purpose and purport of Section 269SS shall be lost if this plea is accepted, because Section 269SS was introduced as anti tax evasion measure to see that transactions exceeding threshold monetary limits are routed through the banking channel so that there is no camouflaging of the undisclosed income to give colour to it as legitimate money. In the circular no. 387 of 1984, it is, inter-alia, clearly mentioned that unaccounted income is also brought into the books of account in the form of such loans and deposits accepted otherwise than through account payee cheque or account payee bank drafts and taxpayers are also able to get confirmatory letters from such persons in support of their explanation. So, the purpose and purport of introducing Section 269SS was to compulsorily have the transactions exceeding threshold limits through banking channels by way of account payee bank draft or account payee cheque. The assessee

as well as Mr. Hemant Kumar Sindhi, Director are based in Allahabad , U.P., which is having all the necessary requisite banking facilities available , and it could not be claimed that these transactions of Rs. 1,10,02,000/- could not be carried through banking channel as per the modes prescribed u/s 269SS. The assessee has claimed urgency in accepting/receiving aforesaid amount of Rs. 1,10,02,000/- by cash from Mr. Hemant Kumar Sindhi as payments were to be made for purchase/registration of property , which in our considered view, the assessee could have easily carried out the property transactions by complying with the modes prescribed u/s 269SS , and in our case there was no such urgency shown by the assessee, otherwise if the contentions of the assessee is accepted then every taxpayer will claim urgency in every business transaction and then Section 269SS will become otiose. Moreover, it is on four different occasion , the assessee received cash loan/deposits from Mr. Hemant Kumar Sindhi, Director, and it is not an isolated transaction where the assessee can take shelter of urgency. Thus, this contention of the assessee is also rejected and we hold that the assessee is not able to show reasonable cause as is contemplated u/s 273B. The assessee has also claimed that the amount received by it aggregating to Rs. 1,10,02,000/- is not a loan or deposit to fall u/s 269SS. We are afraid that this contention of the assessee is again not tenable. Reference is drawn to decision of Hon'ble Madras High Court in the case of Abdul Hamid Sahib v. Rahmat Bi(AIR 1965 Mad 427), wherein the Hon'ble Court held as under:

“ The terms ‘loan’ and ‘deposit’ are not mutually exclusive terms. There are number of common features between the two. In a sense, a deposit is also a loan with something more. Both are debts payable. But when the repayment is to be, in our opinion, furnished the real point of distinction between the two concepts. A loan is repayable the minute it is incurred. But this is not so with a deposit. Either the repayment will depend upon the maturity date fixed therefor or the terms of the agreement relating to the demand, on making of which the deposit would become repayable . In other words, unlike a loan, there is no immediate obligation to repay in the case of deposit . That we think , is the essence of the distinction between a loan and a deposit.”

Thus, clearly an amount of Rs. 1,10,02,000/- advanced in cash by Mr. Hemant Kumar Sindhi to assessee falls within the meaning of ‘loan or deposit’ , and since the same was advanced in cash in contravention of Section 269SS, penalty provided u/s 271D shall be leviable. Further, the assessee has claimed that the aforesaid transaction’s in cash are recorded in the books of the assessee as well Mr. Hemant Kumar Sindhi and these transactions are genuine, and hence Section 269SS has no applicability. We are afraid that this contention is also not acceptable, as that if the transaction would not have been genuine , then obviously the amount shall be treated as undisclosed income in the hands of the assessee and brought to tax , which in fact to the extent of Rs. 60 lacs was added by the AO, which later stood deleted by Id. CIT(A) and such deletion has attained finality. Now, what remains is that these are the loan or deposits made in cash by Mr. Hemant Kumar Sindhi, Director to the assessee company , which as per modes prescribed u/s 269SS ought to have been received by the assessee from Mr. Hemant Kumar Sindhi through prescribed modes viz. account payee cheque or account payee draft , which the

assesse contravened as it received Rs. 1,10,02,000/- on four different occasions in cash, and hence consequences as prescribed u/s 271D shall follow for infringement of Section 269SS. The assessee has also raised the contention that it was not aware of provisions of Section 269SS, we are afraid that this contention of the assessee is also not acceptable. Ignorance of law is no excuse, but it is equally true that all the citizens are not expected to know all the laws. The assessee is a company and is duly assisted by professionals. The accounts of the assessee are audited, and it was undertaking a major property transaction and could not be said that it was now aware of the provisions. Moreover, its Director/Promoter Mr. Hemant Kumar Sindhi as is emerging from his assessment order, is engaged in the business as Civil Contractor for last several years, and has surrendered income of Rs. 12.01 crores during search conducted by Revenue u/s 132(1), and the said surrender pertains to following years, as is emerging from assessment order dated 28.03.2016 passed by AO while framing his assessment (page 44-67/paper book), as under:

Assessment Year	Surrendered amount
2008-09	Rs. 83,30,360/-
2009-10	Rs. 2,33,92,364/-
2010-11	Rs. 2,46,65,756/-
2011-12	Rs. 74,09,729/-

2012-13	Rs. 1,34,17,605/-
2013-14	Rs. 99,74,384/-
2014-15	Rs. 3,29,15,800/-

Total	12,01,00,000/-

Thus , this contention of the assessee that it is not aware of the provisions of Section 269SS is rejected.

At this stage , it is pertinent to refer to judgment and order of Hon'ble Supreme Court in the case of Assistant Director of Inspection v. Kum. A B Shanthi , reported in (2002) 122 Taxman 574(SC), wherein Hon'ble Supreme Court observed as under:

“8. The contention of the appellant's counsel has no force. The object of introducing section 269SS is to ensure that a taxpayer is not allowed to give false explanation for his unaccounted money, or if he has given some false entries in his accounts, he shall not escape by giving false explanation for the same. During search and seizures, unaccounted money is unearthed and the taxpayer would usually give the explanation that he had borrowed or received deposits from his relatives or friends and it is easy for the so-called lender also to manipulate his records later to suit the plea of the taxpayer. The main object of section 269SS was to curb this menace. As regards the tax legislations, it is a policy matter, and it is for the Parliament to decide in which manner the legislation should be made. Of course, it should stand the test of constitutional validity.

12. Another contention urged by the appellant's counsel in Civil Appeal No. 4478 of 2000 is that the Parliament had no legislative competence to enact section 269SS. The source of power for enactment of section 269SS is traceable to Entry 82 in List I of the Seventh Schedule and this according to the appellant's counsel can relate only to tax on

income other than agricultural income and the expression 'income' in that Entry has to be interpreted according to its natural and grammatical meaning and if that be so, the union has no legislative power to enact section 269SS.

13. Entry 82 in List I of the 7th Schedule reads as follows :

"82. Taxes on income other than agricultural income."

14. The contention of the appellant's counsel is that the amount which is received as loan or deposit need not necessarily be the 'income' of the tax-payer and, therefore, any legislation made by treating the loan or deposit as 'income' is not a valid constitutional legislation. It is settled law that the heads of legislation given in the List should not be constructed in a narrow or pedantic way. If any Legislature makes any ancillary or subsidiary provision which incidentally transgresses over its jurisdiction for achieving the object of such legislation, it would be a valid piece of legislation. The entries in a legislative list should be given their fullest meaning and the widest amplitude and be held to extend to all ancillary and subsidiary matters which can fairly and reasonably be said to be comprehended in them. It is only when a Legislature which has no power to legislate, or the legislation is camouflaged in such a way as to appear to be within its competence when it knows it is not, then alone it can be said that the legislation so enacted is a colourable legislation and that there is no legislative competence. The law relating to taxation can very well be enacted under Entry 82 in List I of the Seventh Schedule. If any legislation which intended to achieve the collection of income-tax and to make it easier and systematic is enacted, such legislation would certainly be within the competence of the Legislature.

19. It is important to note that another provision, namely, section 273B of the Act was also incorporated which provides that notwithstanding anything contained in the provisions of section 271D, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provision if he proves that there was reasonable cause for such failure and if the assessee proves that there was reasonable cause for failure to take a loan otherwise than by account payee cheque or account payee demand draft, then the penalty may not be levied. Therefore, undue hardship is very much mitigated by the inclusion of section 273B. If there was a genuine and bona fide transaction and if for any reason the taxpayer could not get a loan or deposit by account payee cheque or demand draft for some bona fide reasons, the authority vested with the power to impose penalty has got discretionary power.

20. In that view of the matter, we do not think that section 269SS or 271D or the earlier section 276DD is unconstitutional on the ground that it was draconian or expropriatory in nature."

Thus, Hon'ble Supreme Court observed in the aforesaid judgment and order upheld the constitutional validity of Section 269SS. In the instant case before us, we have already held that there was no valid and reasonable cause for assessee to have received loan or deposit of Rs. 1,10,02,000/- in cash from its Director namely Mr. Hemant Kumar Sindhi, more so Allahabad(Now Prayagraj), U.P. is having all the requisite banking facilities available, and there was no reason and justification for the assessee to have taken loan or deposit of Rs. 1,10,02,000/- in cash from Mr. Hemant Kumar Sindhi and no such urgency was there to receive such a huge amount in cash.

Reference is also drawn to judgment and order of Hon'ble Madras High Court in the case of Vasan Healthcare Private Limited v. Addl. CIT, reported in (2019) 103 taxmann.com 26(Mad.HC). SLP filed against the above judgment and order, stood dismissed by Hon'ble Supreme Court in 125 taxmann.com 266(SC). The Hon'ble High Court held as under:

“17. Section 269SS was inserted by the Finance Act, 1984 with effect from 01.04.1984 made operative from 01.07.1984. The said provision states that no person shall after the 30th day of June, 1984, take or accept from any other person, any loan or deposit otherwise than by an account payee cheque or account payee bank draft.

20. In Asstt. Director of Inspection v. Kum. A.B. Shanthi [2002] 255 ITR 258/122 Taxman 574 (SC), one of the questions, which arose for consideration before the Hon'ble Supreme Court, was the constitutional validity of Section 269SS. The Hon'ble Supreme Court held that the object of introducing Section 269SS is to ensure that a tax payer is not allowed to give false explanation for his unaccounted money or if he has given false entries in his accounts, he shall not escape by giving false explanation

for the same. It was further held that the main object of Section 269SS was to curb the menace of unaccounted money upon being unearthed giving explanation of borrowal and so-called lender also manipulates his records later to suit a plea of the taxpayer. In the said decision, the Hon'ble Supreme Court noticed Section 273B of the Act, which provides that notwithstanding anything contained in the provisions of Section 271D, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provision, if he proves that there was reasonable cause for such failure and if the assessee proves that there was reasonable cause for failure to take a loan otherwise than by account payee cheque or account payee demand draft, then the penalty may not be levied. It was further held that undue hardship is very much mitigated by the inclusion of Section 273B and if there was a genuine or bona fide transaction and if for any reason the taxpayer could not get a loan or deposit by account payee cheque or demand draft for some bona fide reasons, the authority vested with the power to impose penalty has got discretionary power. With these observations, the statutory provisions were upheld.

21. One of the grounds urged before us by Mr. A.S. Sriraman was that the assessee has shown reasonable cause for having availed loan transactions, availed loans by way of cash, which aspect was not appreciated by the Tribunal in a proper prospective. However, before we go into the said aspect, we would first like to decide the contention advanced by Mr. A.S. Sriraman regarding multiplicity of penalty proceedings.

24. Section 271D introduced with effect from 01.04.1989 simultaneously omitted Section 276DD. Section 271D states that if "a person" takes or accepts any loan or deposit in contravention of the provisions of Section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of loan or deposit so taken or accepted. The answer as to whether there are any multiplicity of penalty proceedings in the cases on hand lies in interpretation of the words "a person". We need not labour much to find the answer, as Section 2(31) defines "person" in the following manner:—

'Section 2(31):- "Person" includes —

- (i) an individual,
- (ii) a Hindu undivided family
- (iii) a company,
- (iv) a firm,
- (v) an association of persons or a body of individuals, whether incorporated or not,
- (vi) a local authority, and

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses.

[Explanation.- For the purposes of this clause, an association of personal or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;]

25. *The subtle but marked difference, which we should notice is that the present appeals arise out of a penalty proceedings and they are not quantum appeals wherein, tax has been imposed on the assessee. Thus, the theory of double taxation cannot be imparted in a penalty proceedings. The result is one or more persons will be liable for penalty under Section 271D of the Act, if he or they violate the provisions of Section 269SS of the Act. Thus, the contention that there is multiplicity of proceedings is a complete misnomer. This finding of ours is further strengthened from the factual matrix of the case admitted by the assessee. The Director of the assessee has borrowed huge cash loans from Mr. J.D., who is stated to be a Financier. His quantum assessments are also now pending before the Tribunal for the assessment years 2012-13 to 2015-16. The said Mr. J.D., is shown to have extended huge cash loans to the Director. Accepting a loan in contravention to the provisions of Section 269SS automatically attracts Section 271D of the Act. Therefore, the Director having accepted cash loan in contravention to Section 269SS has become exposed to penalty proceedings under Section 271D. The Director is shown to have deposited the cash loans so obtained by him in his individual capacity into the current account/bank account of the assessee-company. The assessee-company having accepted the same in cash remittance, in contravention to Section 269SS, has also exposed themselves to levy of penalty under Section 271D. Therefore, there can be no mix up of these two individual transactions and the theory of multiplicity deserves to be out rightly rejected.*

26. *Our observation is further strengthened, if we examine the language employed in Section 269SS, the erstwhile Section 276DD and Section 271D (with effect from 01.04.1989). One common and conspicuous feature in all these provisions is that it uses the expression "no person", but Sections do not refer to an assessee, but refers to "a person". This aspect has to be borne in mind while considering the correctness of the penalty proceedings. Hence, this aspect also goes to show that the assessee cannot raise a plea of multiplicity of proceedings. Therefore, the said contention raised by Mr. A.S. Sriraman stands rejected.*

27. *The next contention advanced by Mr. A.S. Sriraman was largely based on the decision in Idhayam Publications Ltd. (supra). It is the submission that Section 269SS would not stand attracted, further, the transaction in Idhayam Publications Ltd. (supra) was also identical, where monies were deposited in the current account and though the balance sheet shows the amounts deposited by the Director in cash in the current account as unsecured loan from the Director, the Division Bench held that it is not a loan or an advance.*

28. *The facts in Idhayam Publications Ltd. (supra) are that one Mr. S.V.S. was the Director of the assessee-company. There was a running current account in the books of accounts of the assessee-company in the name of Mr. S.V.S. Mr. S.V.S., used to pay money in the current account and used to withdraw money also from the current account. For the Revenue to sustain the levy of penalty under Section 271D, they had to establish that the amount was received by the assessee as a loan or deposit*

within the meaning of Section 269SS. The Division Bench referring to the Companies (Acceptance of Deposit) Rules, 1975 and in particular, Rule 2(b)(ix), held that any amount received from a Director or a shareholder of a Private Limited Company will not be a deposit.

29. We are required to see as to whether, on facts, the decision in *Idhayam Publications Ltd. (supra)* will assist the case of the assessee. After going through the factual matrix, our answer to this question is a definite "No". We substantiate the finding with the following reasons.

30. The assessee before the Tribunal contended that the assessee-company has not paid any interest to the Director and the transaction was in the form of a running account. It was further submitted that the Director would withdraw the cash from the assessee's current bank account and repay the same to the Financier, Mr. J.D. It was the further submission of the assessee that they, being a company, cannot take a loan directly from the Financier, Mr. J.D., as taking of loan from individual was specifically barred. This admitted case of the assessee clearly reveals total lack of bona fides. Any amount of pleadings or statement of accounts can be of no assistance to the case of the assessee. The assessees, being Private Limited Companies, were clearly aware of the fact that no borrowal can be done by them from individuals. Thus, the Director of the company became the conduit. The Director received huge cash loan from Mr. J.D. The loans so obtained were deposited by him in cash in the bank account of the company. Thus, the Director acted as a shield to the transaction to give it a colour, as if it is the money given by the Director to the company. Furthermore, the same Director withdrew money from the running account of the company to pay back to the Financier, Mr. J.D. These facts will clearly show that the decision in the case of *Idhayam Publications Ltd. (supra)* can have no application to the case of the assessees.

31. Next, we move on to consider the submission of Mr. A.S. Sriraman as to whether the assessee had shown reasonable cause to escape from the rigour of levy of penalty under Sections 276D and 276E of the Act. Reference was made to paragraph 19 of the judgment in *Kum. A.B. Shanthi (supra)*. For better appreciation, the same is quoted hereinbelow:—

"19. It is important to note that another provision, namely, section 273B of the Act was also incorporated which provides that notwithstanding anything contained in the provisions of section 271D, no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provision if he proves that there was reasonable cause for such failure and if the assessee proves that there was reasonable cause for failure to take a loan otherwise than by account payee cheque or account payee demand draft, then the penalty may not be levied. Therefore, undue hardship is very much mitigated by the inclusion of section 273B. If there was a genuine and bona fide transaction and if for any the taxpayer could not get a loan or deposit by account payee cheque or demand draft for some bona fide reasons, the authority vested with the power to impose penalty has got discretionary power."

32. According to the learned counsel, the account of the Director and the company were genuine and the loans received were utilized to pay the salaries, rents and EMI commitments. The amounts so received by the Director were deposited in the companies bank account on the very same day and the CIT(A) as well as the Tribunal failed to properly appreciate the cash flow details produced by the assessee. In the preceding paragraph, we have commented upon as to how the Director has acted as a

shield/conduit to the transaction to give it a colour, as if it is the monies of the Director, which were deposited in the companies bank account. Furthermore, we had pointed out as to how the assessee themselves accepted before the Tribunal that there is a clear prohibition from raising loans from individual. Taking these factual aspects into consideration, the Tribunal seriously doubted the bona fides of the plea raised by the assessee. The Tribunal had, in fact, done a fact finding exercise based upon the cash flow statement produced by the assessee. The finding in this regard is in paragraph 12. After going through the cash flow statement, the Tribunal expressed that the same is questionable. Further, the assessment seems to have been made on the basis of reworked notional balance sheet and statement of accounts prepared from the seized records. This factual finding also deters us from showing any indulgence to the assessee. Nevertheless, we examine as to whether the cause shown by the assessee was a reasonable cause. In support of such contention, Mr. A.S. Sriraman referred to the decisions in *Kailash Triple Sterilized Water (Chennai) (P.) Ltd. (supra)*; *Lakshmi Trust Co. (supra)*; *Deccan Designs (India) (P.) Ltd. (supra)*; *Balaji Traders (supra)*; and *CIT v. Ratna Agencies [2006] 284 ITR 609 (Mad.)*. Before we examine as to whether these decisions would apply to the assessee's case, we need to point out one crucial aspect.

33. The Hon'ble Supreme Court in *Kum. A.B. Shanthi (supra)* while upholding the validity of Sections 269SS and 271D, held that if there was a genuine and bona fide transaction and if for any reason, the taxpayer could not get loan or deposit by account payee cheque or demand draft for some bona fide reasons, the authority vested with the power to impose penalty has got discretionary power. Therefore, the taxpayer has to show that he could not get a loan or deposit by account payee cheque/demand draft and the reason given by the taxpayer should be genuine and bona fide.

34. The assessee's plea of reasonable cause/genuinity is only based on the conduct of the Director in depositing the huge loans received in cash from Mr. J.D. into the bank account of the company on the very same day. To be entitled to the benefit under Section 273B, the onus is on the person claiming such benefit to show that he could not get a loan by account payee cheque or demand draft and the cause shown by him should be genuine and bona fide. Thus, merely because the Director took cash loans from the Financier, Mr. J.D., and deposited it in the current account of the assessee-company on the very same day, can never be a ground to be taken as a mitigating factor to escape from the rigour of levy of penalty under Section 271D of the Act. Thus, the assessee has been under a thorough misconception. There is a bald statement made that Mr. J.D. will give loans only in cash, however much it may be. To be noted that the loans received by the Director and later by the company is more than Rs.90 Crores. The assessee is Private Limited Companies, not individual assessee, as was examined in several of the decisions cited by Mr. A.S. Sriraman.

36. In our considered view, there can be no straight jacket formula to examine the bona fides and genuinity of the plea raised by a person, who states that he was for certain bona fide reasons unable to get a loan or deposit by account payee cheque/demand draft. Therefore, precedence cannot always be the Rule and we need to examine the factual position. In the preceding paragraphs, we have held as to how the decisions in *Idhayam Publications Ltd. (supra)* and *T. Perumal (Indl.) (supra)* will not render any assistance to the assessee.

42. Thus, in our view, deposit of the cash by the Director received from Mr. J.D. into the bank account of the assessee on the same day and those amounts, being utilized for making several payments including salaries, apart from that the Director withdrawing money from the assessee's bank account and remitting to the Financier by cash can never be taken to be a bona fide transaction.

43. What is most disturbing is that it is not a solitary instance, as the same type of transactions have been carried on by the assessee and the Director from the assessment year 2012-13. Most of the cases, which were relied on by the assessee are of either individual or rare transactions of the assessee. Therefore, we are of the clear view that there is absolutely no genuinity or bonafideness in the transaction done by the assessee and it will not amount to reasonable cause for the purpose of exercise or discretion by the Assessing Officer under Section 273B of the Act.

44. With regard to alternate plea raised by Mr. A.S. Sriraman stating that the penalty should be restricted to the peak of the cash deposits, we find that such a plea did not find favour with the Tribunal and in the light of the reasons assigned by us in the preceding paragraphs, we reject such a plea raised by the assessee.

45. The Tribunal while considering the correctness of levy of penalty under Section 271E of the Act found that it has been admitted that cash has been deposited into the bank account of the assessee, the funds having been routed through the bank accounts, why the same was withdrawn in cash for repayment to the Director and subsequently, to Mr. J.D. This transaction remained unexplained. Further, the Tribunal pointed out that perusal of the assessment order of the Financier, Mr. J.D., gives a picture that moneys were the unaccounted cash of Mr. J.D., and this cash was laundered through the accounts of the two assessees herein. Thus, the Tribunal concluded that the assessees have been used as custodian of the unaccounted cash of Mr. J.D. by depositing it in the bank accounts of the assessee by their Director, Dr. A.M. Further, the assessee was not able to give any explanation to substantiate with evidence for repayment of the deposits to Dr. A.M., Director in cash. Examining the transaction, the Tribunal noted that as and when Mr. J.D. required cash, which appears to have been withdrawn by Dr. A.M., Director from the bank accounts of the assessee and paid to Mr. J.D. Thus, after considering all the factual aspects, the Tribunal confirmed the levy of penalty under Section 271E of the Act. The assessees have not been able to convince us to take a different view.

46. The Revenue placed reliance on the decision in *M. Sougoumarin (supra)*, which is sought to be distinguished by the assessees by contending that the transactions were never accounted for. This objection raised by Mr. A.S. Sriraman is by highlighting the conduct of the Director, Mr. A.M. in depositing the entire cash loan received by him in the assessees' bank account. We fail to understand as to how this conduct of the assessees can be taken into consideration to put them in a different pedestal than on which *M. Sougoumarin* was placed. In the said decision, the Division Bench noted that if loan in cash is taken once or twice, in exceptional exigencies, may be a ground for interference, but when the fact remains that a lender not even licensed was illegally giving loans only in cash and accepting repayment in cash cannot be a ground for condonation of regular transaction with such

unauthorised lender. Therefore, we find the findings and observations in M. Sougoumarin (supra) to aid the case of the Revenue.

47. Thus, for the above reasons, we find that the assessee has not made out any case for interference with the order passed by the Tribunal. In the result, the appeals are dismissed and the substantial questions of law are answered against the assessee. No costs. Consequently, the connected miscellaneous petitions are closed.”

In this case also, the Director deposited the money in the bank account of the assessee, and the Hon’ble High Court held that no genuine or bonafide reason for not accepting the loan/deposit through account payee cheque or account payee bank draft and rather accepting the same in cash was shown by the tax-payer. Hon’ble Supreme Court dismissed the SLP filed by the assessee.

The assessee has relied upon the judgment and order of Hon’ble Allahabad High Court in the case of CIT v. Dimple Yadav, reported in (2015) 280 CTR 309(Alld.), in the instant case keeping in view the facts and circumstances of the case, the Hon’ble Court held that the tax-payer was able to demonstrate the bonafide and reasonable cause. But, in the instant case before us, we have already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi. It could not be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS.

Similar is the case of CIT v. Panchsheel Owners Associations(supra) relied upon by the assessee, the Hon’ble Court held that the tax-payer was able to demonstrate the genuineness and reasonable cause. But, in the instant case before us, we have

already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi. It could not be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS.

Similar is the case of Dr Rajaram L. Akhani(supra) relied upon by the assessee, the Hon'ble Court held that the tax-payer was able to give proper explanation of having received cash of Rs. 2,00,000/- from his son. But, in the instant case before us, we have already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi. It could not be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS.

In the case of CIT v. Jai Laxmi Rice Mills(supra) relied upon by the assessee, the satisfaction was recorded in the original assessment order which assessment order stood set aside, but in set aside assessment order no satisfaction for invoking provisions of Section 271D was recorded, but in the instant case before us, we have already held that the AO has recorded satisfaction before invoking provisions of Section 271D for contravention of Section 269SS.

In the case of Chawla Chentech Private Limited(supra) relied upon by the assessee, sudden business exigency that required immediate discharge of certain

liabilities were shown by the tax-payer for accepting cash from Director and their spouse . But, in the instant case before us, we have already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi. It could not be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS.

In the case of Sunil Kumar(supra) relied upon by assessee, urgency and reasonable cause for depositing cash in bank account and obtaining demand draft in favour of excise department for participating in the tender of the liquor shops were shown. But, in the instant case before us, we have already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi. It could not be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS.

In the case of CIT v. Speedways Rubber Private Limited(supra) relied upon by the assessee, the tax-payer accepted share application money of Rs. 20,000/- in cash, which was accepted by Hon'ble Court as it was merely a technical breach. But, in the instant case before us, we have already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi. It could not

be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS.

In the case of Smt. Meera Devi Kumawat(supra) relied upon by the assessee, the cash transaction were between husband and wife, the tribunal accepted the explanation of the assessee. But, in the instant case before us, we have already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi. It could not be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS.

In the case of Surendra Engineering Corporation(supra) relied upon by the assessee, the tax-payer accepted the cash loan from its partners under bonafide belief that transaction between partner and firm are not covered u/s 269SS as they could not be treated as separate entities, and the urgency for taking cash loan was proved. But, in the instant case before us, we have already held that no reasonable cause or urgency is shown by the assessee for having accepted cash aggregating to Rs. 1,10,02,000/- on different occasions from Mr. Hemant Kumar Sindhi, Director. It could not be shown as to why the transactions could not be undertaken in compliance with the prescribed modes u/s 269SS. Further, the Private Limited company and Director are altogether different person under the provisions of Section 2(31), and there could not be two view on this.

The Id. CIT-DR has rightly relied upon judicial precedents to support his contentions, which we have reproduced in preceding para's of this order, and the same are not repeated again. Thus, keeping in view our aforesaid discussions as above, we uphold the penalty of Rs. 1,10,02,000/- levied by Id. JCIT and as upheld by Id.CIT(A). The appeal filed by the assessee stand dismissed. We order accordingly.

9. In the result, appeal filed by the Assessee in ITA no. 46/Alld/2019 for ay: 2012-13 stands dismissed. We order accordingly.

Order pronounced on 13/12/2022 at Allahabad, U.P. in accordance with Rule
34(4) of the Income-tax (Appellate Tribunal) Rules, 1963

Sd/-
[VIJAY PAL RAO]
JUDICIAL MEMBER

Sd/-
[RAMIT KOCHAR]
ACCOUNTANT MEMBER

DATED: 13/12/2022

KD Azmi
Copy forwarded to:

1. Appellant –M/s. H.K. Infraventure Pvt. Ltd. , 17, Industrial Colony , Naini, Allahabad-211018, U.P.
2. Respondent –Joint Commissioner of Income Tax, Central Circle, Varanasi, U.P.
3. CIT(A) -III, 13/1 , Moti Chamber , YMCA Building, Rana Pratap Marg, Lucknow, U.P./ CIT(A) AayakarBhawan, Civil Lines, Allahabad, U.P.
4. CIT, Allahabad, U.P.
5. The Id. Sr. DR. ITAT, Allahabad, U.P.

6. The Guard File

By Order
Assistant Registrar

