

**HE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.141/Viz/2022
(निर्धारण वर्ष / Assessment Year : 2017-18)

Mr.Rama Rao Karanam
4-4 Chandrampalem, Durga Nagar
Madhurawada
Pothinamallayapalem S.O.
Visakhapatnam
PAN : [BCPPK19929Q]

Vs. Joint Commissioner of
Income Tax
Range-4
Visakhapatnam

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से / Respondent by

: Shri C.Subrahmanyam, AR
: Shri O.N.Hari Prasada Rao, DR

सुनवाई की तारीख / Date of Hearing

: 12.07.2023

घोषणा की तारीख/Date of Pronouncement

: 10.08.2023

आदेश /O R D E R

Per Shri Duvvuru RL Reddy, Judicial Member :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals) [CIT(A)], National Faceless Appeal Centre (NFAC), Delhi, vide DIN & Order No.ITBA/NFAC/S/250/2022-23/1043662508(1) dated 29.06.2022 for the Assessment Year (A.Y.) 2017-18.

2. Brief facts of the case are that the assessee, an individual, filed his original return of income for the A.Y.2017-18 on 28.03.2019, declaring total income at Rs.3,20,230/-. During the course of assessment

proceedings, the Assessing Officer (AO) observed that the assessee along with co-owner had sold a property bearing Zeroyati Patta No.553, Survey No.248/9 of Madhurwada Village, within the limit of Greater Visakhapatnam Municipal Corporation, vide sale deed No.1386/2017 dated 30.03.2017 for a consideration of Rs.33,40,000/- and the assessee received his share of Rs.16,70,000/- by way of cash, spanning over a period of two years i.e. total of Rs.7,50,000/- during F.Y.2015-16 and Rs.9,20,000/- during F.Y.2016-17. The AO observed that the assessee had exceeded the limit of receipt of cash as prescribed u/s 269SS of the Income Tax Act, 1961 (in short "Act"), as per which, it is mandatory for the assessee to receive or accept an aggregate amount of twenty thousand rupees or more through account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed. The AO held that as the assessee failed to abide by the statutory obligations and committed default in contravention of section 269SS of the Act, made addition u/s 271D of the Act amounting to Rs.9,20,000/-.

3. On being aggrieved, the assessee preferred an appeal before the CIT(A) and after careful consideration of the facts and circumstances of

the case, the Ld.CIT(A) upheld the addition made by the AO and dismissed the appeal of the assessee.

4. On being aggrieved, the assessee preferred an appeal before the Tribunal by raising the following grounds of appeal :

1. *That under the facts and circumstances of the case the orders passed under the provisions of section 250 fo the I.T.Act is contrary to the provisions of law.*

2. *The Ld.Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (in short "CIT(A)-NFAC"), while passing the subject order u/s 250 of the IT Act dt.29.06.2022, failed to take cognizance of the submissions made by the Assessee while confirming the penalty levied u/s 271D of the IT Act.*

3. *The Ld.CIT(A)-NFAC, in a summary manner, without considering the submissions made by the assessee explaining the circumstances under which sale consideration was accepted in cash, upheld the levy of penalty u/s 271D of the IT Act, considering this, the orders passed are one sided and is in gross violation of principles of natural justice.*

4. *The Ld.CIT(A)/NFAC failed to appreciate and understand the concept of reasonable cause as mentioned in section 273B of the IT Act, wherein, the assessee in the present case has clearly demonstrated before the lower authorities the reasons and circumstnaces under which sale consideration was accepted in cash.*

5. *For these and other grounds that are to be urged at the time of hearing of the appeal the appellant prays that the order passed by the learned CIT(A)-NFAC, confirming the penalty levied u/s 271D of the IT Act is liable to be set aside in the interest of justice.*

5. The assessee also filed a petition for admission of addtional ground which reads as under :

The subject order levying penalty u/s 271D of the IT Act is barred by limitation, in view of the provisions of 275(1)(c) of the IT Act, therefore, the impugned order has no legal validity in the eyes of law, hence, liable to be quashed.

But during the course of proceedings, the Ld.AR withdrew the additional ground filed as not pressed, hence, the additional ground filed by the assessee is dismissed *in-liminie*, as not pressed.

6. All the grounds of appeal relate to the addition made by the AO u/s 271D and confirmed by the Ld.CIT(A). At the outset, the Ld.AR filed a paper book and filed written submissions along with IT Acknowledgement, reply to the notices issued by the AO, sale deed, relevant extract of explanatory notes to Finance Act 2015 and the case laws relied upon by the assessee. The Ld.AR submitted that the assessee is a senior citizen, aged 80 years, having pension income and interest from bank. The assessee is a regular income tax filer and for the A.Y. 2017-18, the assessee filed return of income, declaring total income of Rs.3,20,230/-. The Ld.AR further submitted that the assessee received his share on sale of immovable property by way of cash of Rs.7,50,000/- during A.Y.2016-17 and Rs.9,20,000/- during the impugned A.Y.2017-18. The Ld.AR further submitted that there was no restriction in accepting the cash as sale consideration in sale of an immovable property until 01.06.2015. However, Finance Act 2015 amended the provisions of

section 269SS w.e.f. 01.06.2015 and imposed restriction on accepting cash of more than Rs.20,000/- on sale of an immovable property, which has come into effect from A.Y.2016-17. Thus, by the time the assessee entered into transaction during the A.Y.2017-18, the amendment was a recent one, therefore, neither the buyer nor the seller was aware of the amendment. The Ld.AR further submitted that the assessee had duly declared the capital gains from sale of immovable property in the return of income and the penalty provisions u/s 271D of the Act does not attract since the assessee proved the genuineness of the transaction and the assessee also has reasonable cause u/s 273B and the penalty u/s 271D cannot be levied. He, therefore, pleaded to set aside the orders passed by the lower authorities and allow the appeal of the assessee.

7. Per contra, the Ld.DR relied on the order of the Ld.CIT(A) and pleaded to uphold the order passed by the Ld.CIT(A) and dismiss the appeal of the assessee.

8. We have heard both the parties and perused the material placed on record. It is undisputed fact that the assessee along with his son had sold an immovable property at Madhurwada Village for a consideration of Rs.33,40,000/- and the assessee received his share by way of cash, spanning over a period of two years i.e. total of Rs.7,50,000/- during

A.Y.2016-17 and Rs.9,20,000/- during A.Y.2017-18. The AO imposed penalty of Rs.9,20,000/- u/s 271D due to contravention of provisions of section 269SS, which was upheld by the Ld.CIT(A). The Ld.AR submitted that the assessee was ignorant of the fact that there was amendment to Finance Act 2015, w.e.f. 01.06.2015 which imposed restriction on accepting cash of more than Rs.20,000/- on sale of immovable property w.e.f. A.Y.2016-17 and he was not even guided by his chartered accountant. The assessee further submitted that the assessee has reasonable cause u/s 273B for not imposing penalty u/s 271D of the Act. On careful consideration of the facts and circumstances of the case, we hold that ignorance of law cannot be a valid reason to quash the penalty and it is not a reasonable cause u/s 273B to delete the penalty levied u/s 271D. The assessee violated the provisions u/s 269SS of the Act and thus is liable for imposition of penalty u/s 271D of the Act. Hence, we have no reason to interfere with the orders passed by the lower authorities and accordingly uphold the same. In the result, appeal filed by the assessee is dismissed.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 10th August, 2023.

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 10.08.2023

L.Rama, SPS

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee– Mr.Rama Rao Karanam, 4-4 Chandrampalem, Durga Nagar, Madhurawada, Pothinamallayapalem S.O., Visakhapatnam
2. राजस्व/The Revenue – The Joint Commissioner of Income Tax, Range-4 Visakhapatnam
3. The Principal Commissioner of Income Tax, Visakhapatnam
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam