

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री मनोज कुमार अग्रवाल , लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष  
**BEFORE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**  
**AND**  
**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.569 /Chny/2022  
निर्धारण वर्ष /Assessment Year: 2017-18

**Shree Dhevi Associates,**  
“ Dee Vee Complex, 2<sup>nd</sup> Floor,  
9/16, Trichy Main Road,  
Opposite P.M. Nagar,  
Seelanaikkanpatty, Salem  
Tamil Nadu  
**[PAN: ABAFS4697Q]**

**The Addl. Commissioner of**  
**Vs. Income Tax,**  
Range-1,  
Salem.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: Shri I. Dinesh, Advocate  
: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.08.2023

घोषणा की तारीख /Date of Pronouncement

: 30.08.2023

**आदेश / ORDER**

**PER MANOMOHAN DAS, J.M:**

Aggrieved by confirmation of penalty u/s 271D of the Income Tax Act, 1961 (hereinafter “the Act”) for Rs. 12 Lacs for Assessment Year [AY] 2017-18, the assessee is in further appeal before us. The impugned order has been passed by Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter “CIT(A)"] on 31-05-2022 in the

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matter of penalty levied by Ld. Assessing Officer [AO] u/s 271D of the Act, vide order dated 15-03-2022.

2. The penalty has been levied by observing that the assessee has received Rs. 12 Lacs in cash on sale of an Apartment of Rs. 60 Lacs by contravening the provision of section 269SS of the Act. The Ld. CIT(A) confirmed the penalty against which the assessee is in further appeal before us.

3. The brief facts of the case are that the assessee sold a Flat for a consideration of Rs. 60 Lacs. Out of total sale consideration of Rs. 60 Lacs, assessee received Rs. 40,12,500/- Lacs by cheque, whereas the balance amount of Rs. 12 Lacs received in cash. The Ld. AO, therefore, vide order dated 15-03-2022 invoked the penalty provisions of section 271D and levied the said amount of Rs. 12 Lacs as penalty upon the assessee.

4. Aggrieved, the assessee filed appeal before the Ld. CIT(A) unsuccessfully. The Ld. CIT(A) vide order dated 31-05-2022 confirmed the penalty as under:-

*"4.4 . I have duly considered the penalty order and the written submission of the appellant. The provision of clause (a) of section 269SS of the Act read with clause (iv) of Explanation of section 269SS, as amended by Finance Act 2015 and applicable w.e.f. 01-06-2015 provide that no person shall take or accept from any other person any sum of money received in cash of Rs. 20,000 or more/-, whether as advance or otherwise, in relation to transfer of an immovable property, it will be in violation of the section 269SS for which penalty is leviable u/s 271D of the IT Act 1961. It is noticed that the amount of Rs. 12,00,000/- was received in cash which was in violation of section 269SS. Therefore, the assessee was liable for penalty u/s 271D and the A.O. has rightly levied the penalty u/s 271D. During the course of the appellate proceedings, appellant has accepted*

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*vide its submission that it had received Rs. 40,12,500/- by cheque and Rs. 12,00,000/- was received in cash on different dates. The above plea appears to be general in nature and is not supported with any supporting documents. In view of the facts mentioned above, I do not find any reason to interfere with the penalty with the penalty imposed by the A.O. Accordingly, penalty of Rs. 12,00,000/- u/s 271D levied by the A.O. is confirmed. Accordingly, Ground N. 2 to 7 are dismissed.*

*4.5. Ground Nos. 1 and 8 are in general in nature and do not require specific adjudication.*

*5. In the result, appeal is dismissed”.*

Dissatisfied, the assessee filed the present appeal before the Tribunal.

5. Heard representative of both the parties and perused the material on record. The Ld. AR submitted that the assessee is a builder and there was an agreement with the owner of the land that the entire sale consideration would be received through cheque only. The flat has been sold for Rs. 60 Lacs. However, Rs. 12 lacs were paid by the purchaser in cash. Rs.40,12,500/- was received from the purchaser of the flat by cheque. Therefore, it was not the intention of the assessee for selling of the flat in cash. Only a meagre amount of Rs.12 Lacs has been received in cash. The assessee relied on the decision of the Co-ordinate Bench of this Tribunal in support of his defense. The Ld. AR submitted that, this Tribunal in a similar case, decided the matter in favor of the assessee.

6. Per contra, the Ld. DR submitted that the assessee violated the provision of Section 269SS of the Act. Therefore, the lower authorities correctly levied the penalty upon the assessee as per said provisions of

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section 269SS of the Act. The Ld. DR further submitted that the provisions of Section 269SS of the Act is binding to all. Hence, interference to the order of the learned lower authorities is uncalled.

7. We carefully considered the submissions of the parties. We observe that, the Ld. AR relied on the decision of the Co-ordinate bench of this Tribunal. The Co-ordinate bench of this Tribunal, in the case of Noordeen Ahmed Amina v. ITO, ITA No.1118/Chny/2022 dated 26-07-2023 decided a similar case in favor of the assessee. In that case, it was observed as under:

*“7. Proceeding further, from the facts, it emerges that the assessee has sold property for sale consideration of Rs. 50 lacs out of which substantial sale consideration to the extent of Rs. 45 lacs has been received in cheques whereas only a small sale consideration of Rs. 5 Lacs has been received in cash. The sale transaction is duly evidenced by the registered agreement / deed. Considering the fact that the provisions of section 269SS are mainly to curb generation of black money by way of dealings in cash in immovable property transactions which is absence in the present case, we would hold that it is not a fit case for levy of impugned penalty. Therefore, we delete the same.*

*8. The appeal stand allowed in terms of our above order”.*

8. We observe that, the facts of the case in our hands are also similar to the facts of the case as was decided by the Co-ordinate Bench of this Tribunal. In the case in our hands, only a sum of Rs. 12 Lacs was received by the assessee in cash out of the total sale consideration amount of Rs. 60 Lacs.

9. As the appeal of the assessee is also similarly situated as was decided by the Co-ordinate bench of this Tribunal as aforesaid, it is our considered view that the appeal of the assessee should also be allowed as meagre

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amount of Rs. 12 Lacs was received in cash. The substantial amount of the total sale consideration of Rs. 60 lacs was received by the assessee by cheque which is undisputed.

10. In the result, the appeal of the assessee is allowed.

*Order pronounced on 30<sup>th</sup> August, 2023.*

**Sd/-**

**(मनोज कुमार अग्रवाल)  
(Manoj Kumar Aggarwal)**

**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 30<sup>th</sup> August, 2023.

EDN/-

**Sd/-**

**(मनोमोहन दास)  
(Manomohan Das)**

**न्यायिक सदस्य/Judicial Member**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF