

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.440/Hyd/2023		
Assessment Year: 2017-18		
Srihari Prasad Maddipudi, 12-13-673/A/1, Flat No.302, Nagarjunanagar, Tarnaka, Secunderabad. PAN : ANTPM7566R	Vs.	The Joint Commissioner of Income Tax, Range – 15, Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri V. Siva Kumar, Advocate	
Revenue by:	Shri Srikanth, Sr. AR	
Date of hearing:	21/09/2023	
Date of pronouncement:	21/09/2023	

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.03.07.2023 invoking proceedings under section 271D of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee reads as under :

“1. The order of the Learned Commissioner of Income-Tax(Appeals), NFAC, Delhi, is erroneous in law and on the facts of the case.

2. The learned Commissioner of Income-Tax(Appeals) , NFAC, Delhi, erred in confirming the penalty levied u/s. 271D of the Act.

3. The learned Commissioner of Income Tax (Appeals) , NFAC, Delhi, ought to have appreciated that the appellant has not received the sale consideration by way of cash and that a mistake creep into the sale deed where it was erroneously mentioned that an amount of Rs.12,50,000/- was paid by way of cash.

4. For the above grounds and such other grounds that may be urged at the time of hearing, the appellant prays that the appeal be allowed. The appellant craves leave to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.

3. Facts of the case, in brief, are that assessee sold an immovable property vide Sale Deed Document No.82/2017 dated: 04.01.2017 for a total sale consideration of Rs.32,50,000/-. During this transaction, the vendor accepted Rs.12,50,000/- in cash in contravention to the provision of Section 269SS of the Income tax Act, 1961 which attracts penalty u/s.271D. As acceptance of cash during the above transaction fits into the definition of “specified sum”, Assessing Officer issued a show cause notice to the assessee on 16.08.2019, however, there was no compliance from the assessee. Even after giving sufficient opportunity, there was no response from the assessee and as there was no other option, Assessing Officer issued penalty order dt.24.02.2020 u/s 271D of the Act.

4. Feeling aggrieved with the penalty order of Assessing Officer, assessee carried the matter before Id.CIT(A), who dismissed the appeal of assessee.

5. Feeling aggrieved with the order of Id.CIT(A), assessee is now in appeal before me.

6. Before me, Id. AR for the assessee filed a petition seeking admission of additional evidence filed before me. The contents of the petition are to the following effect :

“.....

Out of the documents filed, documents at Sl.Nos.2, 3,5 and 6 constitute additional evidence. The document at Sl.No.5 has been registered after the receipt of order of C.I.T(A) to rectify certain factual errors in the original sale deed. The other three documents could not be filed before the lower authorities for the reason that the appellant was not aware of the incorrect narration in the sale deed about the receipt of balance Rs.12,50,000 through cheques except a small amount of about Rs.12,000 by way of cash.

In the above circumstances, the appellant prays that the undermentioned documents may kindly be admitted as additional evidence and taken into account while adjudication upon the grounds of appeal.

6.1. Per contra, the Id. DR submitted that all the documents filed, now, were not produced before the lower authorities and further submitted that the orders of lower authorities are in accordance with law.

7. The Id. AR for the assessee has drawn our attention to the Rectification Deed which was placed at pages 17 to 24 of the paper book, filed as additional evidence now before me, and submitted that all the payments mentioned at page no.21 of the paper book were made through banking channels prior to the sale of property. However, this was a mistake, despite this, in earlier sale deed it was mentioned that Rs.12.50 lacs were paid in cash. Hence, based on this document, the Assessing Officer issued notice to the assessee.

8. I have heard the rival contentions of the parties and perused the material available on record. Having heard the rival contentions of both the parties, I am of the opinion that, though the facts of the case indicate the payment of Rs.12,50,000/- made through banking channels at page 21 of the paper book, wherein all the payments were made through banking channels except one. The additional evidence filed before me is required to be verified by the Assessing Officer. Therefore, I deem it appropriate to remand back the matter to the file of Assessing Officer with a direction to find out whether all the payments were made through banking channels or not. The Assessing Officer shall issue notice to the banks in which the assessee as well as the purchaser are maintaining the bank accounts and find out whether the money has been transferred as reflected at page 21 of the banking channels or not, and if money were transferred through banking channels. In light of the above, the Assessing Officer is directed to re-examine the issue afresh after taking into consideration of the additional evidence filed before me and thereafter pass a fresh order dealing the facts now filed before me in accordance with law. In

case, the assessee failed to file any documents in support of his case, Assessing Officer shall decide the matter in accordance with the law. Accordingly, the appeal of assessee is allowed for statistical purposes.

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

Order pronounced in the Open Court on 21st September, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 21st September, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	Srihari Prasad Maddipudi, 12-13-673/A/1, Flat No.302, Nagarjunanagar, Tarnaka, Secunderabad, Telangana - 500017.
2	The Joint Commissioner of Income Tax, Range - 15, Hyderabad.
3	PCIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order