

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 551/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2016-17)

Janapati Krishna Bhagavan, Joint Commissioner of
Hyderabad Vs. Income Tax,
[PAN No. AEYPB3160J] Range-13,
Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Mohd. Afzal, AR
राजस्व द्वारा/Revenue by: Shri P.V. Subba Raju, DR

सुनवाई की तारीख/Date of hearing: 28/11/2023
घोषणा की तारीख/Pronouncement on: 29/11/2023

आदेश / ORDER

Aggrieved by the order dated 27/09/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Janapati Krishna Bhagavan ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. Main plank of the argument on behalf of the assessee is that penalty order is barred by limitation inasmuch as under section 275(1)(c) Income Tax Act, 1961 ('the Act'), no penalty order under Chapter-XXI

including under section 271D of the Act could be passed after the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or six months from the end of the month, in which action for imposition of penalty is initiated, whichever period expires later. According to him, since the Additional/Joint CIT issued and served notice under section 271D of the Act on 16/03/2020 and the order under section 271D of the Act was passed on 15/03/2022, it is barred by limitation.

3. Per contra, learned DR placed heavy reliance on the orders of the authorities below and submitted that the limitation for passing penalty was one year from the end of the financial year in which the penalty under section 271D of the Act was initiated, which comes to 31/03/2022 whereas the penalty order was passed on 15/03/2022. Hence, it is well within limitation.

4. I have gone through the record in the light of the submissions made on either side. In this case, according to the Revenue, it was during the scrutiny of the return for the assessment year 2017-18 the receipt of sale consideration in cash exceeding Rs. 20,000/- relating to the assessment year 2016-17 was noticed and consequently proceedings under section 271D of the Act were initiated in respect of the assessment year 2016-17.

5. Under section 275(1)(c) of the Act, no order imposing penalty under Chapter-XXI, in which section 271D of the Act falls, shall be passed after the expiry of financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month, in which action for imposition of

penalty is initiated, whichever period expires later. It is, therefore, clear that under section 275(1)(c) of the Act, two dates are relevant. First one is that the last date of the financial year in which proceedings, in the course of which action for imposition of penalty has been initiated. Second one is the date on which six months from the end of the month in which action for imposition of penalty was initiated.

6. In this case, there is no assessment for the assessment year 2016-17. It is only during the assessment proceedings for the assessment year 2017-18 the violation of section 269SS of the Act noticed. The date of assessment order for the assessment year 2017-18 is 04/12/2019. The date of notice under section 271D of the Act was issued by the Additional/Joint CIT is 16/03/2020. The financial year in which the notice was issued is 31/03/2020. At the same time, six months from the end of the month in which the proceedings under section 271D of the Act expires by 31/06/2020. However, order under section 271D of the Act levying penalty was passed on 15/03/2022. It clearly shows that the order levying penalty under section 271D of the Act was passed after more than two years from the date of disposal of the assessment proceedings for the assessment year 2017-18, and far beyond the expiry of the financial year, namely, more than two years from the date of initiation of penalty proceedings under section 271D of the Act.

7. Learned CIT(A) took the date on which the one year period from the end of the financial year in which the notice was issued as 31/03/2022. I am unable to understand where from this date has come. Expiry of one year is not relatable to this date either from the date of the assessment order for the assessment year 2017-18 or from the date of issuance of

notice under section 271D of the Act, initiating the proceedings. It seems to be a factual mistake.

8. Considering these facts, I hold that the order dated 29/03/2022 is barred by limitation and accordingly the impugned orders are quashed.

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

Order pronounced in the open court on this the 29th day of November, 2023.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 29/11/2023

TNMM

Copy forwarded to:

1. Janapati Krishna Bhagavan, 2-2-1130/20/B, Prashanth Nagar, New Nallakunta, Hyderabad.
2. Joint Commissioner of Income Tax, Range-13, Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD