

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE G.S. PANNU, HON'BLE VICE PRESIDENT
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.119/Del/2023
(Assessment Year: 2017-18)

Anil Kumar Mudgal, RZ-25A/1, Gali No.34, Indra Park Palam Colony, New Delhi. PAN No.AFGPM1654M (APPELLANT)	Vs.	ITO Ward-44(5), New Delhi. (RESPONDENT)
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Assessee by	None
Revenue by	Shri R.K. Meena, Sr. DR

Date of hearing:	05.12.2023
Date of Pronouncement:	29.02.2024

ORDER

PER ANUBHAV SHARMA, JM :

Heard and perused the record.

2. At the time of hearing, none appeared for the Appellant – Assessee while notices have been issued repeatedly including on the e-mail address provided. No more opportunity is justified. Arguments of Ld. DR are heard who supported the findings of Ld. Tax Authorities.
3. It comes up that assessee filed its return of income of Rs.5,52,854/- and a notice u/s 271D of the Act was issued on

account of receiving cash payment of Rs.3,75,000/- for sale of immovable property to Ms. Parul Verma vide sale deed dated 01.03.2017 in violation of Section 269SS of the Act. The penalty was sustained by Ld.CIT(A).

4. The assessee has claimed that the fact of cash of Rs.3,50,000/- shown received in the sale deed was wrong and the purchaser of the property Ms. Parul Verma through her husband Shri Vikesh Kumar had paid Rs.3,50,000/- by RTGS on 24.05.2016 and only a sum of Rs.2,50,000/- to the extent of Rs.12,500/-, being half share of the assessee was received in cash. Ld.CIT(A) has disbelieved this aspect observing that the payment of Rs.3,50,000/- by RTGS is of 24.05.2016 while the sale deed was executed on 27.02.2017 and he gave more importance to the recital of cash payment shown in the sale deed.

5. We are of the considered view that merely on the basis of recital in the sale deed of cash payment it is not justified to discredit the defence of the assessee. The husband of vendee had made the payment of Rs.3,50,000/- on 24.05.2016 through banking channel and there seems to have been no enquiry to establish that otherwise then this sale of property the assessee was having any other sort of transactions with the assessee to have received this amount from

husband of vendee. It is a matter of common knowledge and practise that money received in past through any mode being generally admitted the same is mentioned to be received in cash at the time of sale deed by the document writers and thus, burdening assessee with penalty liability u/s 271D of the Act is not justified.

6. In the result, the appeal is allowed. The impugned penalty order is set aside.

Order pronounced in the open court on 29.02.2024

**Sd/-
(G.S. PANNU)
VICE PRESIDENT**

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Date:- 29.02.2024

**Kavita Arora, Sr. PS*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI