

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'SMC' Bench, Hyderabad**

**Before Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA No.675/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2018-19)

Shri Ratnakar Peddi WARANGAL PAN:ACHPP4405B (Appellant)	Vs.	Income Tax Officer Ward 1 WARANGAL (Respondent)
निर्धारिती द्वारा / Assessee by: Shri Shashank Dundu, Advocate		
राजस्व द्वारा / Revenue by: Shri Suresh Banu KN, DR		
सुनवाई की तारीख / Date of hearing: 27/08/2024		
घोषणा की तारीख / Pronouncement: 27/08/2024		

**आदेश/ORDER**

This appeal filed by the assessee is directed against the order dated 16/05/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2018-19.

2. The assessee raised the following grounds:

1. The order passed by Ld. Commissioner of Income-Tax (Appeals)/NFAC is bad in law, in as much as the appellate authority merely supported the order passed by Assessing Officer without appreciation of facts and legal position presented before him through written submissions, statement of facts and grounds of appeal.
2. The Ld. Commissioner of Income-tax (Appeals)/NFAC erred in levying the penalty to the tune of rupees 1,98,620/- u/s 271E of the Act, overlooking the material facts brought on record by the Appellant and the existence of reasonable cause specified u/s 273B of the Act for not levying the penalty u/s 271E of the Act
3. The Ld. Commissioner of Income-tax(Appeals)/NFAC ought to have noticed and appreciated the fact that there is a valid and sound reason for making repayment of chit amount to Margadarshi Chit Fund in cash; cheques given for payment of chit amount were bounced due to peculiar and unfortunate circumstances, resultantly, Management of Margadarshi Chit Fund directed the Appellant to make payment in cash.
4. The Ld. Commissioner (Appeals)/NFAC ought to have noticed that cash transaction was duly recorded by Margadarshi Chit Fund in their books of account and thus there is no Tax Evasion for invocation of provisions of sections 269T r/w 271E of the Act.
5. For these and other grounds that may be urged at the time of hearing, the appellant submits that the Hon'ble ITAT may be pleased to quash the penalty order owing to the reasonable cause for making cash payment, in the interest of substantial justice.

3. The brief facts of the case are that the assessee an individual filed his return of income for the A.Y 2018-19 declaring total income at Rs 18,32,510/-. The assessment has been completed u/s 143(3) of the I.T. Act, 1961 on 8.4.2021 making total addition of Rs.7,98,000/- to the returned income on account of disallowance u/s 40A(3) of the I.T. Act, 1961 towards cash payment. Thereafter, proceedings u/s 271E of the I.T. Act, 1961 was initiated for breach of provision of section 269T of the I.T. Act, 1961. The Assessing Officer called upon the assessee to explain as to why penalty should not be levied for contravention of provisions of section 269T of the I.T. Act, 1961 in respect of payment made in cash in excess of the prescribed limit to Margadarshi Chit Funds (P) Ltd on 2 occasions amounting to Rs.1,98,620/-. In response, the assessee submitted that he was compelled to make payment in cash on two occasions because of dishonor of cheque issued by the assessee and the Chit Company was insisting for immediate payment. The Assessing Officer, however, was not convinced with the explanation furnished by the assessee and according to the Assessing Officer, the reasons given by the assessee does not come under reasonable cause as provided u/s 273B of the I.T. Act, 1961. Thus rejected the explanation and levied penalty of Rs.1,98,620/- u/s 271E of the I.T. Act, 1961.

4. On appeal, the learned CIT (A) confirmed the penalty levied by the Assessing Officer.

5. The learned Counsel for the assessee referring to certain documents including statement of account issued by Margadarshi Chit Funds (P) Ltd submitted that the assessee was regularly paying contributions by cheque. Further, on 2 occasions i.e. in the month of June, 2017 and February, 2018 cheques issued by the assessee were dishonored for insufficient funds. The Chit Company was forcing for immediate payment. The appellant has paid subscription in cash under compelling circumstances when he does not have any option. Therefore, when the transactions are considered genuine, just merely because the payment made in cash, it cannot be said that there is a contravention of provisions of section 269T of the I.T. Act, 1961 and penalty can be levied u/s 271E of the I.T. Act, 1961. Therefore, he submitted that the penalty levied by the Assessing Officer should be deleted.

6. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that when the appellant had issued cheque, he could have maintained sufficient funds in the Bank Account. Further, the appellant has not filed any evidence to prove that the source of payment in cash. There is no dispute with regard to the fact that the cash has been paid in excess of prescribed limit u/s 269T of the Act in contravention of law. The Assessing Officer and the learned CIT (A) after considering the relevant fact has rightly levied penalty u/s 271E of the Act, and their orders should be upheld.

7. I have heard both the parties, perused the material available on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant has paid chit subscription in cash on two occasions. The appellant had paid sum of Rs.95,500/- on 12.06.2017 and Rs.1,12,000/- on 22.8.2018. The said cash payments are in excess of prescribed limit provided u/s 269T of the I.T. Act, 1961. The appellant submitted that there is a reasonable cause as provided u/s 273B of the I.T. Act, 1961, because the appellant has made cash payment, when cheques issued for paying chit subscription was dishonored for insufficient funds. The Chit Company was not given sufficient time to the appellant to make payment by issuance of another cheque and under the compelling circumstances, the assessee forced to pay amount in cash. In my considered view, the reasons given by the assessee for making payment towards chit subscription in cash appears to be bonafide and reasonable and further, does come under reasonable cause as provided u/s 273B of the I.T. Act, 1961. Therefore, I am of the considered view that the Assessing Officer ought not to have levied penalty u/s 271E of the Act for contravention of provisions of section 269T of the I.T. Act, 1961. The learned CIT (A) without appreciating the relevant facts simply sustained the levy of penalty by the Assessing Officer. Thus, I set aside the order passed by the learned CIT (A) and direct the Assessing Officer to delete the penalty levied u/s 271E of the I.T. Act, 1961.

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

Order pronounced in the Open Court on 27<sup>th</sup> August, 2024.

Sd/-

**(MANJUNATHA, G.)  
ACCOUNTANT MEMBER**

Hyderabad, dated 27<sup>th</sup> August, 2024.

*Vinodan/sps*

Copy to:

S.No	Addresses
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2	Income Tax Officer Ward-1 D.No.1-8-610 3 <sup>rd</sup> Floor, Mayuri Complex, Opp: TSNPDCL, Nakkalaguda, Warangal 506001
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*