

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.793/Hyd/2024**
(निर्धारण वर्ष/Assessment Year: 2017-18)

Smt. Ramadevi Nama Karimnagar PAN:AOKPN3129D (Appellant)	Vs.	Income Tax Officer Ward 3 Karimnagar (Respondent)
निर्धारिती द्वारा/Assessee by: Shri K.C. Devdas, CA		
राजस्व द्वारा/Revenue by:: Shri Aluru Venkata Rao, DR		
सुनवाई की तारीख/Date of hearing: 17/09/2024		
घोषणा की तारीख/Pronouncement: 17/09/2024		

आदेश/ORDER

This appeal filed by the assessee is directed against the order dated 18/07/2024 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2017-18.

2. The brief facts of the case are that the assessee is an individual, filed her return of income for the A.Y 2017-18 on 28/03/2018, admitting an income of Rs.3,56,440/-. The case was selected through CASS under limited category to verify large value cash deposits during the demonetization period. During the course of assessment proceedings, the assessee explained that the source for cash deposit during demonetization period is out of

sale consideration received for sale of agricultural land and the same has been deposited into her bank account during demonetization period. The Assessing Officer after considering the relevant facts has completed the assessment u/s 143(3) on 12/12/2019 and accepted the returned income.

3. Thereafter, proceedings u/s 271D of the I.T. Act, 1961 was initiated and accordingly, notice u/s 274 r.w.s. 271D of the I.T. Act, 1961 was issued and duly served on the assessee. During the penalty proceedings, the assessee explained that she has sold agricultural land for a consideration of Rs.13,70,000/- on 10/08/2016 and the proceeds was kept for the purpose of buying another agricultural land. Since demonetization was announced in between, the cash available out of sale of agricultural land has been deposited into bank account. Therefore, submitted that the consideration received for sale of agricultural land cannot be considered as violation referred to u/s 269SS of the I.T. Act, 1961 for the purpose of levying penalty u/s 271D of the Act. The JCIT/Addl.CIT after considering the relevant facts and also taken note of provisions of section 269SS of the I.T. Act, 1961 observed that the assessee has violated the provisions, by accepting sale consideration of Rs.13,70,000/- in cash, which attracts provisions of section 271D of the I.T. Act, 1961. Thus, levied penalty of Rs.13,70,000/- u/s 271D of the Act,.

4. Aggrieved by the penalty order, the assessee preferred an appeal before the learned CIT (A). Before the learned CIT (A), the assessee reiterated her argument made before the Assessing

Officer and submitted that the provisions of section 271D of the Act, is directed only in a case where loan or deposit is accepted in cash in excess of prescribed limit, but said provision cannot be extended to sale consideration received for sale of agricultural land. The learned CIT (A) after considering relevant submission of the assessee and also taken note of provisions of section 269SS of the Act, observed that the appellant has violated the provisions of section 269SS by accepting the sale consideration in cash in excess of the prescribed limit as envisaged in provisions of section 269SS and thus, there is no error in the reasons given by the Assessing Officer to levy penalty u/s 271D of the Act. Accordingly, upheld the penalty levied u/s 271D of the I.T. Act, 1961.

5. Aggrieved by the order of the learned CIT (A), the assessee is in appeal before the Tribunal.

6. The learned Counsel for the assessee referring to provisions of section 269SS of the I.T. Act, 1961 submitted that the said provisions are inserted into the statute to curb tax evasion by doing transaction in cash, but same cannot be extended to a genuine transaction like sale of agricultural land. The learned Counsel for the assessee further submitted that the specified sum referred to u/s 269SS of the Act, is applicable only to a case where advance has been received in cash for any property transaction, but same cannot be applied to sale consideration received in cash, more particularly when the appellant has disclosed the said consideration for taxes. Therefore, he submitted

that the penalty levied by the Assessing Officer and confirmed by the learned CIT (A) should be deleted.

7. The learned DR, on the other hand, supporting the orders of the learned CIT (A) submitted that the specified sum has been defined u/s 269SS of the Act, and as per the said provision, any sum of money receivable, whether as advance or otherwise in relation to transfer of an immovable property, whether or not the transfer takes place. Since the appellant herself has admitted receipt of cash for sale of property, there is a clear violation of section 269SS of the I.T. Act, 1961 and thus,, the Assessing Officer has rightly levied penalty u/s 271D of the I.T. Act, 1961 and their orders should be upheld.

8. 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 sold agricultural land for a consideration of Rs.13,70,000/- on 10/08/2016 and also explained that she was also in the process of purchasing another agricultural land. The sale of agricultural land is exempt from tax and any proceeds received from transfer of agricultural land is exempt u/s 2(14) of the I.T. Act, 1961. Once sale consideration itself is not liable for tax, then the applicability of provisions of section 271D of the I.T. Act, 1961 is to be seen in light of purpose of section 269SS into the statute. If we go by Chapter XXB of I.T. Act, 1961, requirement as to mode of acceptance, payment or re-payment in certain cases to counteract evasion of tax and going by the

purpose of insertion of section 269SS of the Act, it is only to curb evasion of tax by the taxpayer by transacting in cash and going by the intent of above provision, in my considered view, the said provision cannot be extended to a genuine transaction like sale of agricultural land which is not at all taxable under the Act,. Further, the specified sum as per section 269SS cannot be extended to a sale consideration received in the presence of witnesses and before the Registering Authority and also disclosed to tax. Therefore, I am of the considered view that, once the assessee has proved that the cash is received towards sale of agricultural land and the same has been disclosed to tax in her return of income, then the said cash receipt cannot be brought under the purview of specified sum as defined u/s 269SS of the I.T. Act, 1961. The learned CIT (A) without considering the relevant facts simply upheld the penalty levied by the Assessing Officer u/s 271D of the Act. Thus, I set aside the order of the learned CIT (A) and direct the Assessing Officer to delete the penalty levied u/s 271D of the I.T. Act, 1961.

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

Order pronounced in the Open Court on 17th September, 2024.

Sd/-

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

Hyderabad, dated 17th September, 2024.

Vinodan/sps

Copy to:

S.No	Addresses
1	Smt. Ramadevi Nama, 3-51 Near Hanuman Temple, Lyagalamarri Village, Pegadapally Mandal, Karimnagar 505416
2	Income Tax Officer Ward-3 Karimnagar
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order