

IN THE INCOME TAX APPELLATE TRIBUNAL  
COCHIN BENCH : COCHIN

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

I.T.A.No.754/COCH./2023  
Assessment Year 2017-2018

Bhaskar Thattaruthodiyil Nair, Geeth, SBI Officers Colony, Ramanathapuram, PALAKKAD – 678 001. KERALA. PAN AGKPN1728Q	vs.	The Income Tax Officer, Ward-2, PALAKKAD. KERALA.
(Appellant)		(Respondent)

For Assessee :	Smt. Divya Ravindran, Advocate
For Revenue :	Smt. V. Swarnalatha, Sr. DR

Date of Hearing :	21.08.2024
Date of Pronouncement :	25.09.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee's appeal, for assessment year 2017-2018, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1055552017(1), dated 29.08.2023, in proceedings u/s.271D of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties at length. Case file perused.

2. Coming to the assessee's sole substantive grievance that both the learned lower authorities have erred in law and on facts in levying the impugned sec.271D penalty for having violated the relevant statutory provision i.e. sec.269SS Explanation (iv); there is hardly any dispute between the parties that the sum in question of Rs.20 lakhs represents a part of assessee's sale consideration as he had acted as the vendor and received the amount forming subject matter of adjudication from the vendee. The Revenue vehemently argued that even such an amount is not exempt from the rigor of the impugned penalty provision which has been strictly applied in the given facts and circumstances.

3. We have given our thoughtful consideration to the vehement rival circumstances and find merit in assessee's arguments. We make it clear that the assessee had duly filed all the supportive details of the vendee concerned which have nowhere been disputed. Faced with this situation, it further emerges that this tribunal's learned coordinate bench's order in ITA.No.488/Hyd./2023 Ramkumar Reddy Satty vs. ACIT dated 19.03.2024 holds that such cash receipts in immovable property transaction(s) indeed form reasonable cause subject to all just

exceptions, for the purpose of justifying consideration received in cash as under :

“6. We have gone through the record in the light of the submissions made on either side. The relevant word "specified sum has been defined under explanation (iv) to section 269SS, which is reproduced as under:

*"(iv) "specified sum" means 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."*

7. The meaning of the "specified sum" has also been dealt with by a Co-ordinate Bench of the Tribunal in the case of *ITO vs. Shri. R. Dhinagharan (HUF)*, ITA No. 3329/Chny/2019, dated 28/12/2023, wherein the ITAT took the view that the 'sum specified as per Explanation to Section 269SS of the Act, only applicable for advance receivable, namely, 'as advance or otherwise' means advance can be in any manner, and therefore, this provision will not apply to the transaction that happens when the final payment at the time of registration of sale deed and payment

*takes place before sub-registrar for registration of property. Relevant part of para No.12.1 of the decision of the ITAT is as under :*

*"From the above provisions, Memorandum explaining the intention of amendment by Finance Bill, 2015 including the definition of "sum specified brought in the Explanation to Section 269SS of the Act, it is clear that the intention for bringing this provision was to curb the generation of black money in real estate prohibiting acceptance or repayment of advance in cash of Rs.20,000/- or more for any transaction in immovable property. This was explained by Hon'ble Finance Minister while placing the Finance Bill, 2015 in her budget speech highlighting the intention of the amendment that the amendment in Explanation to Section 26955 i.e., 'sum specified means only applicable for advance receivable, whether as advance or otherwise means advance can be in any manner. Hence, this provision will not apply to the transaction that happens at the time of final payment at the time of registration of sale deed and payment is made before*

*sub-registrar at the time of registration of property. In the present case before us, it is an admitted fact that all sale deeds were registered and cash payment was made at one go before the sub- registrar at the time of registration of sale deeds of plots. Hence, in our view, there is no violation of provisions of section 269SS of the Act in the present case in the given facts and circumstances of the case and hence, penalty is not exigible in this case. Hence, we confirm the order of CIT(A) deleting the penalty but on entirely different ground i.e., on jurisdictional issue only. Accordingly, the appeal of the Revenue is dismissed."*

8. *In the present case before us, it is an admitted fact that the assessee received the amount of cash of Rs.9,38,000/- not as advance, but as the final payment in front of the Sub-Registrar at the time of registration for sale of property. While respectfully following the view taken by the Co-ordinate Bench of the Tribunal in the case of R. Dhinagharan (HUF) (supra), we hold that there is no violation of provisions of section 269SS of the Act in the present case in the given facts and circumstances and hence, penalty under section 271D of*

*the Act is not leviable. Hence, we allow the grounds raised by the assessee.”*

4. We adopt the foregoing detailed discussion *mutatis mutandis* and delete the impugned penalty. Ordered accordingly.

5. This assessee’s appeal is allowed in above terms.

Order pronounced in the open Court on 25.09.2024.

Sd/-  
[AMARJIT SINGH]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Cochin, Dated 25<sup>th</sup> September, 2024  
VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A) concerned.
4.	The CIT concerned
5.	The D.R. ITAT, Cochin Bench, Cochin.
6.	Guard File.

//By Order//

//True copy//

Sr. Private Secretary, ITAT, Cochin Bench,  
Cochin