

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष  
Before Shri S.S. Viswanethra Ravi, Judicial Member &  
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./I.T.A. No.1789/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2016-17

Mr. Nandagopal,  
Door No. 17, 3<sup>rd</sup> Cross Street,  
Gnanaprakasam Nagar, Saram,  
Pondicherry 605 008.

Vs. The Joint Commissioner of  
Income Tax,  
Puducherry.

**[PAN:AUYPN5080H]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Viswanathan, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT  
सुनवाई की तारीख/ Date of hearing : 12.11.2024  
घोषणा की तारीख /Date of Pronouncement : 20.11.2024

**आदेश /O R D E R**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order dated 26.04.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2016-17.

2. The assessee raised 6 grounds of appeal challenging the action of the Id. CIT(A) in confirming the penalty imposed under section 271D of the Income Tax Act, 1961 ["Act" in short].

3. We note that the JCIT proceeded to impose the penalty of ₹.13,85,000/- under section 271D of the Act by holding that the assessee accepted cash of ₹.8,85,000/- and ₹.5,00,000/- from the buyer towards sale of immovable property. The Id. CIT(A) confirmed the same.

4. Before us, the Id. AR Shri N. Viswanathan, Advocate submits that the assessee is a NRI, working in Dubai for more than 20 years. The assessee and his wife are under medical treatment for IVF method for having a child. The concerned hospital advised the assessee to have cash to the tune of ₹.30.00 lakhs for treatment. The assessee, in order to have the said ₹.30.00 lakhs, sold his immovable property in Bangalore and utilized the said amount for hospitalization of himself and his wife. For executing the sale deed, the assessee arrived on 14.10.2015 in Chennai and proceeded to Bangalore on 15.10.2015 to execute sale deed. The Id. AR drew our attention to page 8 and page 25 of the paper book and argued that the assessee has no time in advising the vendee to give sale consideration in other than cash mode. Further, he argued that the assessee immediately left Chennai on 16.10.2015 after completing medical related works and execution of sale deed to his work place in Dubai. The Id. AR argued that there is reasonable cause for accepting a small part of sale consideration in cash as there was no sufficient time for

the assessee. The Id. AR further argued that the assessee paid tax on capital gain and he prayed to cancel the penalty of ₹.13,85,000/-.

5. The Id. DR Ms. Gowthami Manivasagam, JCIT relied on the order of the Id. CIT(A).

6. After hearing both the parties, we note that the assessee arrived at Chennai on 14.10.2015 and left India on 16.10.2015, which clearly supports the arguments of the Id. AR that there was no sufficient time to organize his affairs in executing sale deed. The Id. AR contended that the assessee, having no option at the time of execution of sale deed, accepted a small part of sale consideration in cash. The Id. AR relied on the decision of this Tribunal in the case of ITO v. Shri R. Dhinagharan (HUF) in ITA No. 3329/Chny/2019 dated 29.12.2023, placed at pages 36-53 of the paper book, which clearly held that the provision under section 269SS of the Act would get attracted to the sum received as cash advance of immovable property transaction and not to the completed transaction namely cash received as a sale consideration at the time of execution of registered sale deed. Therefore, the receipt of ₹.5.00 lakhs at the time of execution of sale deed does not fall under the provisions of section 269SS of the Act and thus, imposing penalty on receipt of ₹.5.00 lakhs is deleted.

7. We note that the assessee filed medical records for treatment of IVF at Vellore at page 9 to 32 of paper book, wherein, it is clearly supports the arguments of the Id. AR that the assessee and his wife are in constant IVF treatment on different occasions. Therefore, we find reasonable cause made out by the assessee in accepting the receipt of small part of sale consideration as advance of ₹.8,85,000/- in cash to meet incidental medical expenses of IVF treatment. Therefore, the penalty of ₹.13,85,000/- as confirmed by the Id. CIT(A) is not justified and it is cancelled.

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

Order pronounced on 20<sup>th</sup> November, 2024 at Chennai.

Sd/-  
(S.R. RAGHUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. VISWANETHRA RAVI)  
JUDICIAL MEMBER

Chennai, Dated, 20.11.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.