

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.84/Nag./2024
(Assessment Year : 2017-18)

Dhanwanta Abhiman Athawale
Plot no.40, Ganga Savitri Nagar
Opp. M.G. Mart, Shegaon Rahatgaon Road
Amrawati 444 603 PAN – AFTPA0676A

..... Appellant

v/s

Jt. Commissioner of Income Tax
Amravati Circle, Amravati

..... Respondent

Assessee by : None
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 26/11/2024

Date of Order – 28/11/2024

ORDER

PER V. DURGA RAO, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 19/12/2023, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [“learned CIT(A)”], for the assessment year 2017-18.

2. In its appeal, the assessee has raised following grounds:-

“1) The Order passed by Id. A.Q based upon incorrect assumption of jurisdiction us invalid and bad-in-law as the same is based upon incorrect assumption of jurisdiction u/s. 271D by the CIT, Amravati.

2) Without prejudice, the Impugned Order passed by Officer (NFAC) is passed without following principles of natural justice and hence be kindly quashed.

- 3) *Without prejudice, the Impugned Order passed by Ld. CIT(A) is passed without following principles of natural justice and hence be kindly quashed.*
- 4) *Without prejudice, the Impugned Order passed by Ld. CIT(A) and Ld. Assessing Officer (NFAC), to the extent prejudicial to the appellant, is not justified in law and facts and circumstances of the case;*
- 5) *Without prejudice, the Ld. CIT(A) and Assessing Officer have erred in law and on facts in not appreciating that there is no violation of provisions of Section 26955 of the Act for the relevant assessment year;*
- 6) *Without prejudice, the Ld. CIT(A) and Assessing Officer (NFAC) has erred in law and on facts in not appreciating that penalty is not leviable under Section 2710 of the Act,*
- 7) *Without prejudice, the Ld. CIT(A), Assessing Officer (NFAC) and JCIT, Amravati have erred in law and on facts by not appreciating the explanations submitted and request made by the Appellant in support of his contention;*
- 8) *The Ld. Assessing Officer has erred in law and on facts by raising demand vide issue of notice under Section 156 of the Act.*
- 9) *On the basis of these grounds and other grounds which may be urged at the time of hearing with the consent of Honourable Tribunal, it is prayed that the Order passed under Section 250, to the extent it is against the Appellant, be quashed and relief sought be granted."*

3. When the case was called for hearing, none appeared on behalf of the assessee. Hence, the Bench was of the view that the appeal filed by the assessee can be disposed off by hearing the learned Departmental Representative and on perusal of the material available on record.

4. In this case, the assessee is an agriculturist sold his agricultural land for a consideration of ₹ 5.20 lakh and the sale consideration is received in cash. This fact is neither disputed by the Assessing Officer nor by the learned CIT(A). The Assessing Officer has levied penalty under section 271D of the Income Tax Act, 1961 ("*the Act*") on the ground that the assessee has received cash as a consideration in lieu of sale of agricultural land and the same was confirmed by the learned CIT(A).

5. We find that the assessee being a small agriculturist and sold small piece of land and received sale consideration in cash, we are of the opinion that this is not a fit case for levy of penalty under section 271D of the Act. Thus, we hold that the Assessing Officer was not justified in levying penalty under section 271D which was confirmed by the learned CIT(A). Accordingly, in the interest of justice and by following the principles of natural justice, we set aside the impugned order passed by the learned CIT(A) and delete the penalty levied under section 271D of the Act by allowing all the grounds raised by the assessee.

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

Order pronounced in the open Court on 28/11/2024

Sd/-
K.M. ROY
ACCOUNTANT MEMBER

Sd/-
V. DURGA RAO
JUDICIAL MEMBER

NAGPUR, DATED: 28/11/2024

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur