

**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.287/Nag./2024**  
(Assessment Year : 2018-19)

Vidya Pramod Patil  
C/o Somnath Strong Built Construction  
Kela Nagar, Khambaon 444 303  
PAN – ANHPP1061G

..... Appellant

v/s

Jt. Commissioner of Income Tax  
Akola Circle, Akola

..... Respondent

Assessee by : Shri Abhay Agrawal  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 02/12/2024

Date of Order – 12/12/2024

**ORDER**

**PER V. DURGA RAO, J.M.**

Captioned appeal by the assessee is against the impugned order dated 13/03/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19.

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

*"1. Whether on the facts and in law, the order passed by learned CIT(A) u/s 250 of the Act is bad in law.*

*2. Whether on the facts and in law, the learned CIT(A) erred in dismissing the appeal without providing adequate opportunity of being heard, thereby breaching principles of natural justice.*

3. *Whether on the facts and in law, the learned CIT(A) erred in upholding action of learned AO in levying penalty under section 271D of Rs.8,50,000/- for alleged violation of section 269SS of the Act.*

4. *Whether on the facts and in law, the learned CIT(A) erred in not appreciating the contention of the Assessee that, the subject transaction was carried on 15/04/2015 and provisions of section 269SS were not applicable to it, as it stood at that time.*

5. *The Assessee craves to add, alter, vary, omit, amend, or delete one or more of the above grounds of appeal before, or at the time of, hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."*

3. In this case, the assessee sold a piece of land against the sale consideration of ₹ 8.50 lakh and received the same in cash for which the assessee paid capital gain tax also. The Assessing Officer, however, observed that the assessee had accepted cash of ₹ 8.50 lakh, which is above ₹ 20,000, which is in contravention of provisions under section 269SS of the Act, and accordingly proceeded to levy penalty under section 271D of the Act.

4. On appeal, the learned CIT(A) confirmed the order passed by the Assessing Officer.

5. We have given a thoughtful consideration to the arguments made by the rival parties and perused the material available on record. The appeal was dismissed by the learned CIT(A) by holding as under:–

*"5.1 Ground1. The learned AO erred in levying penalty under section 271D of Rs.8,50,000 for alleged violation of section 269SS of the Act.*

*5.2 Ground2: The learned AO erred appreciating the contention of the Assessee in not that the subject transaction was carried on 15/04/2015 and provisions of section 269SS were not applicable to it, as it stood at that time.*

*For the sake of convenience, first two grounds are clubbed together and disposed off as under.*

*I have perused all the facts of the case, Form No.35, AOs order and the written submissions filed by the appellant. The appellant has contended that the provision of 269SS were not applicable to it as the subject transaction carried on 15/04/2015 which is prior to 01/06/2015. For the sake of convenience, the Sec.269SS of the Act w.e.f 01-04-2015 is reproduced as under.*

*"Mode of taking or accepting certain loans, deposits and specified sum.*

*269SS. No person shall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed<sup>14</sup>, if,-*

*(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or*

*(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or*

*(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),*

*is twenty thousand rupees or more:"*

*Since, the transaction carried out by the applicant comes under the purview and in contravention of the Sec. 269SS w.e.f 01-04-2015 and involves cash exceeding twenty thousand rupees, the appellant is liable to pay by way of penalty a sum of amount of the loan/deposit/specified sum so taken or accepted. Further, the appellant has not submitted any details to controvert the findings of the AO. No written submission are filed by the Appellant to support this stand. In view of the above, the penalty levied by the AO u/s.271D of the Act is confirmed and the grounds raised by the appellant are dismissed."*

6. The impugned transaction have taken place on 19/04/2015, on account of payment of cash towards advance for transfer of immovable, which was prohibited w.e.f. 01/06/2015. Since in the present case the transaction has taken place on/or before 01/06/2015, hence, levy of penalty is not justified. Accordingly, penalty under section 271D of the Act is hereby quashed. The grounds raised by the assessee are allowed.

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

Order pronounced in the open Court on 12/12/2024

**Sd/-  
K.M. ROY  
ACCOUNTANT MEMBER**

**Sd/-  
V. DURGA RAO  
JUDICIAL MEMBER**

**NAGPUR, DATED: 12/12/2024**

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