

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**NAGPUR BENCH, NAGPUR**

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

**ITA no326/Nag./2024**  
(Assessment Year : 2018-19)

Prasad Dipakrao Belorkar  
Plot no.26, Yashodeep Apartment  
Milind Nagar, Khamla, Nagpur 440 025  
PAN – ADBPB6207E

..... Appellant

v/s

National Faceless Appeal Centre  
Delhi

..... Respondent

Assessee by : Shri Dinesh Kumar Titarmare  
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 05/12/2024

Date of Order – 20/12/2024

**ORDER**

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

Captioned appeal by the assessee is against the impugned order dated 20/03/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2018-19.

2. The assessee has raised following grounds:-

*"1) The authorities below erred in the facts and circumstances of the case and as per law in levying and confirming a penalty of Rs.508000/- under section 271D of the Income Tax Act. Just and proper relief be granted to the assessee in this respect.*

*2) The authorities below erred in the facts and circumstances of the case and as per law in levying and confirming a penalty under section 271D when no*

*assessment proceeding was completed and there is no proper initiation of penalty proceedings. Just and proper relief be granted to the assessee in this respect.*

*3) The authorities below erred in the facts and circumstances of the case and as per law in levying and confirming a penalty under section 271D when the purchaser deposited the cash in the bank account of the assessee as there was a technical server problem in the bank portal and amount could not be transferred. As there is no generation of black money there is no violation of any section and hence section 271D is not applicable in this case. The penalty so levied under these circumstances deserves to be cancelled. Just and proper relief be granted to the assessee in this respect.*

*4. The Appellant prays to be allowed to add, amend, modify, rectify, delete, or raise any ground of appeal before or at the time of hearing."*

3. Facts in Brief:- The assessee is an Individual and is carrying out agricultural activities. The assessee, for the year under consideration, filed his return of income on 29/03/2019, declaring a total income of ₹ 3,08,060. The return of income was processed by the Assessing Officer under section 143(1) of the Act, accepting the returned income. Later, as per the information available with the Department, the Assessing Officer found that the assessee sold his immovable property for a consideration of ₹ 13,08,000, out of which ₹ 5,08,000, received in cash, which according to the Assessing Officer, is in violation of provisions of section 269SS of the Act. Thereafter, penalty proceedings under section 271D of the Act were initiated as a result of which the Assessing Officer passed the penalty order dated 16/03/2022, under section 271D of the Act, levying penalty of ₹ 5,08,000.

4. On appeal, the learned CIT(A) upheld the levy of penalty by dismissing the appeal filed by the assessee, the observations of the learned CIT(A) are as follows:-

*"14.0 I have perused the provisions of Sec.269SS, 271D and Sec.273B of the Act. In the sections 269SS and 271D of the Act, no exceptions are specially*

*brought out to exclude the agriculturalists from the operation of the mode of receipt of specified sum otherwise than the modes specified in Sec.269SS. The taxability of receipt of specified sum is not the precondition to apply the provisions of 271D r.w. Sec.269SS. Therefore, the plea of the assessee that the impugned sum received on other than capital asset and non-taxability of transaction would not change the operations of Sec.271D of the Act. Reflection of the sale consideration in the mode of cash in the sale document would not exonerate the assessee from taking up the transaction under the fold of Sec.269SS. Even where the parties to the transactions are come forward in explaining the transaction as genuine, initiation and imposing the penalty u/s 271D of the Act cannot be said to be irregular. The description of receipt of cash in the sale deed only suggest that the appellant had entered into a transaction and paid an amount of Rs.5,08,000/- against the transfer of immovable property. Whether the cash deposited in the bank account is the same amount appearing in the sale document or not cannot be ascertainable only based on the statements or*

The assessee not being satisfied by the impugned order passed by the learned CIT(A), is in further appeal before the Tribunal.

5. We have heard the arguments of rival parties, perused the material available on record and gone through the orders of the authorities below. A plain reading of the provisions of section 269SS of the Act shows that the section has a specific bar to receive a sum more than ₹ 20,000, from any other persons by way of loan or deposit. The provisions of the said section does not deal with the receipt of '*sale consideration of immovable property*' in cash, but only deals with loan or deposit. Therefore, the provisions of section 269-SS of the Act was wrongly interpreted by the authorities below, while imposing the penalty in the matter in hand, wherein the subject matter was receipt of sale consideration in cash in respect of selling the immovable properties. Consequently, we hold that Assessing Officer had committed an error in invoking provisions of section 269-SS r/w section 271-D of the Act and imposing of the penalty. Accordingly, the impugned penalty order dated 16/03/2022, passed under section 271D of the Act, levying penalty of ₹

5,08,000, is hereby quashed. Thus, all the grounds raised by the assessee are allowed.

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

Order pronounced in the open Court on 20/12/2024

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

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

**NAGPUR, DATED: 20/12/2024**

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