

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

आयकर अपील सं./I.T.A. No.822/Chny/2025
निर्धारण वर्ष/Assessment Year: 2018-19

The Income Tax Officer,
Ward 1,
Hosur.

Vs. Narayanaswamy,
D.No. 3/569, Subbagiri, Kamandoddi
Post, Hosur 635 130.

[PAN:BHXP8717L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. Gouthami Manivasagam, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri K. Prasanna, C.A.
सुनवाई की तारीख/ Date of hearing : 22.07.2025
घोषणा की तारीख /Date of Pronouncement : 20.08.2025

आदेश / O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order dated 03.02.2025 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2018-19.

2. The Appellant-Revenue raised 4 grounds of which, the only issue emanates for our consideration as to whether the Id. CIT(A) is justified in

deleting the penalty levied under section 271D of the Income Tax Act, 1961 ["Act" in short] in the facts and circumstances of the case.

3. Brief facts relating to the case are that the assessee is an individual, sold immovable property and received sale consideration on his share of ₹.17,52,250/-. Since the assessee has not filed return of income for AY 2018-19, the Assessing Officer issued notice under section 148 of the Act. In response, the assessee filed return of income on 14.10.2022 declaring total income of ₹.2,42,850/-. Thereafter, the Assessing Officer issued statutory notices and the details are tabulated in page 2 of the assessment order. According to the Assessing Officer, as per the information available with Department, an unregistered sale agreement dated 29.04.2017 was executed between Sri Narayanaswamy (the assessee), Shri Annaiah Chinnaiah and Shri Sandeep Jalan for a sale consideration of immovable property for land of total area of 5 acres and 75 cents for ₹.3,47,87,500/-. The Assessing Officer also noted that the said land of total area of 6 acres and 79 cents was registered for a sale consideration of ₹.45,04,500/- vide document No. 2565/2017 on 22.09.2017 with the Sub-Registrar Office, Shoolagiri. The assessee was one of the sellers and received an amount of ₹.17,52,250/- as his share for the sale of immovable property. By recording reasons at pages 4 to 6,

the Assessing Officer inferred that the assessee would have received the amount in cash being difference of unregistered sale agreement and the registered sale deed of ₹.3,02,83,000/- (₹.3,47,87,500 – ₹.45,04,500) in contravention of section 269SS of the Act and accepted the income returned by the assessee vide assessment order under section 147 r.w.s. 144B of the Act dated 25.03.2023. However, the Assessing Officer initiated penalty proceedings under section 271D of the Act.

4. The Assessing Officer issued a show-cause notice under section 271D of the Act on 25.03.2023. In response to the show-cause notice, the assessee furnished point-wise rebuttal of reply and the same is reproduced at page 4 of the penalty order. After considering the submissions of the assessee, the Assessing Officer levied penalty of ₹.3,02,83,000/- under section 271D of the Act. Against the penalty order, the assessee preferred an appeal before the Id. CIT(A). The Id. CIT(A) deleted the penalty levied under section 271D of the Act by observing that there is no evidence on record to establish that the assessee had received ₹.3,02,83,000/- by cash in the course sale transaction of immovable property and also not proved that the assessee had violated the provisions of section 269SS of the Act. Aggrieved by the order of the Id. CIT(A), the Revenue preferred an appeal before the Tribunal.

5. The Id. DR, by referring to the written submissions, argued that the Id. CIT(A) has erred in not deciding the merits of the case, but, merely allowed the appeal of the assessee by stating that the Assessing Officer has no cogent material to establish that the assessee has received sale consideration in cash in contravention of provisions of section 269SS of the Act. She vehemently argued that the Id. CIT(A) was not correct in ignoring the fact that the consideration mentioned in the unregistered agreement at ₹.3,47,87,500/- is the market value of the property and not any random amount and registering a property at guideline value is quite a widespread practice to avoid tax and stamp duty. The Id. DR argued that the assessee failed to rebut the show-cause notices issued by the Assessing Officer during the course of penalty proceedings and did not even appealed against the assessment order, thereby, accepted the findings of the Assessing Officer. It was further argued that the Id. CIT(A) failed to consider the material evidence that the payments of ₹.5,11,000/- made by cheque to the seller & co-seller, which is reflecting in the bank statement. The Id. DR prayed to set aside the impugned order and restore that of the penalty order passed under section 271D of the Act.

6. The Id. AR drew our attention to the copy of the alleged unregistered sale agreement dated 29.04.2017, which was shared by the

Assessing Officer, placed at pages 29-32 of the paper book and also copy of the registered sale deed document No. 2565/2017 executed on 22.09.2017 placed at pages 33-54 of the paper book. He further drew our attention to the affidavit of the purchaser Mr. Sandeep Jalan placed at pages 55-57 of the paper book and vehemently argued that the signature of the purchaser in the impounded document is fabricated and entirely different from the signature of the purchaser in the registered sale deed dated 22.09.2017 which is exactly matching with the signature in the passport as well as PAN of the purchaser and therefore, cannot be taken cognizance of the fabricated impounded document. The Id. AR vehemently contended by referring to the registered sale deed that the scheduled property was signed by 18 parties, which includes minor & major children and their details are elaborately mentioned in the registered sale deed with complete details of the scheduled property and moreover the survey numbers given in the scheduled property of registered sale deed are entirely different from the survey numbers given besides there are only two vendors in the impounded document. He further argued that the Department has not brought on record to establish that the assessee had received ₹.3,02,83,000/- by cash in the course of the sale transaction and prayed that the grounds raised by the Revenue should be dismissed.

7. Heard both the parties and perused the material available on record. In this case, the Assessing Officer levied penalty under section 271D of the Act for receiving in cash of ₹.3,02,83,000/- being difference of amount mentioned in the unregistered sale agreement and registered sale deed in contravention of section 269SS of the Act. We note that the sale was concluded as per the terms set out in the registered sale deed dated 22.09.2017 and no material evidence was brought on record that any consideration apart from the amount mentioned in the sale deed was received by the respondent-assessee in cash. With regard to the signature of the purchaser appeared in the unregistered sale agreement, on perusal of the registered sale deed and unregistered sale agreement as well as signatures of the purchaser, we find force in the arguments of the Id. AR that signature in the unregistered sale agreement is not the actual signature of the purchaser when compared with the signature of the purchaser in the passport and PAN, which are at page No. 57 of paper book, which is totally different. Further, on perusal of the registered sale deed, it is apparently clear that the scheduled properties, which was sold by the assessee and others, are an inherited properties thereby entire minor & major family members were signed in the registered sale deed vide pages 29 to 33 of the paper book, whereas, we find no reference to the property in the unregistered sale agreement. Another

contrary fact stated in the sale agreement is that the cheque numbers and the payment dates are hand written and further, there is no date mentioned for alleged cash payment of ₹.50,0000/- placed at page 30 of the paper book, but, however, no such alleged cash consideration was received by the assessee as per registered sale deed placed at page 41 of the paper book. Considering the above material facts, we can conclude that the unregistered sale agreement has no evidentiary value for any purpose and cannot be relied upon. Moreover, no piece of evidence for cash receipt by the assessee was brought on record by the Appellant-Revenue. Further, in the absence of any material evidence, the Appellant-Revenue cannot presume that the consideration mentioned in the unregistered sale agreement at ₹.3,47,87,500/- is the market value of the property.

8. So far as levy of penalty under section 271D of the Act, violation of the provisions of section 269SS of the Act is a pre-condition/pre-requisite. Section 269SS of the Act mandates that no person shall accept any loan/deposits/any specified sum in a mode other than by the modes prescribed under Rule 6ABBA of the Income Tax Rules, 1962. Therefore, in our opinion, it is a pre-requisite that such alleged sum should be received in cash which is not a specified mode. We note that this aspect

was not substantiated by the Assessing Officer either in the assessment order or in the penalty order. On the contrary, the Assessing Officer relied upon indications emanating from some generalized practices which the Assessing Officer believed is prevalent, though the assessee denied such practice in the facts of the case.

9. We have also considered the written submissions of the Id. DR, wherein, it was contended that the assessee has not filed an appeal against the assessment order thereby accepted the findings of the Assessing Officer is not accepted for the reason that the requirement to file an appeal was not warranted as no addition was made to the returned income in the assessment order passed by the Assessing Officer under section 147 r.w.s. 144B of the Act dated 25.03.2023. Another contention of the Id. DR that the inference drawn by the Assessing Officer of cash receipt for the difference is reasonable and supported by circumstantial evidence is not acceptable for the reason that no DVO report on the valuation of fair market value of the scheduled property at the impugned value of ₹.3,47,87,500/- was brought on record. We note that no concrete material evidence brought on record to show violation of the provisions of section 269SS of the Act. Thus, the contentions of the Id. DR are summarily rejected.

10. In view of the above facts and circumstances of the case, we are of the considered opinion that the Id. CIT(A) has rightly held that the Appellant-Revenue has not proved that the assessee had violated the provisions of section 269SS warranting levy of penalty under section 271D of the Act since there was no evidence on record to establish that the assessee had received ₹.3,02,83,000/- in cash in the course of the sale transaction. We find no infirmity in the order of the Id. CIT(A) and the same is justified. We completely agree with the reasons recorded by the Id. CIT(A) in cancelling the penalty levied under section 271D of the Act. Thus, the grounds raised by the Revenue are dismissed.

11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 20th August, 2025 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

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

Chennai, Dated, 20.08.2025

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.