

IN THE INCOME TAX APPELLATE TRIBUNAL
“CUTTACK BENCH, CUTTACK
VIRTUAL HEARING AT KOLKATA

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND SHRI RAJESH KUMAR, ACCOUNTANT MEMBER

ITA No.473/CTK/2025
Assessment Year: 2018-19

Satyabrata Panda Banglow Street, Khallikote, Ganjanm, Odisha-761030. (PAN: ASZPP1645H)	Vs	ITO, Ward-1, Berhampur
(Appellant)		(Respondent)

Assessee by : Shri Chitrasen Parida, AR
Revenue by : Shri Shakeer Ahamed, Sr. DR

Date of Hearing : 16.03.2026
Date of Pronouncement : 16.03.2026

ORDER

PER BENCH:

This is an appeal filed by the assessee against the order of the NFAC, Delhi [hereinafter referred to as the 'CIT(A)'] in appeal no.NFAC/2017-18/10266159 dated 13.08.2025 for the assessment year 2018-19.

2. Shri Chitrasen Parida, AR, represented on behalf of the assessee and Shri Shakeer Ahamed, Sr. DR represented on behalf of the revenue.

3. It was the submission by the assessee has sold an immovable property for Rs.13,69,300/-. It was the submission that the assessee has received two payments of Rs.10,00,000/- and Rs.3,69,300/- paid in cash at the time of registration. It was the submission that the Assessing

Officer invoked the provision of section 269SS and treated the amount of Rs.3,69,300/- as received by the assessee at the time of registration as a violation section 269SS of the Act. It was the submission that the transaction related to an immovable property. It was the submission that the provisions of section 269T was required to be applied and not 269SS and the penalty that was leviable was to be u/s 271BA of the Act. It was the submission that the issue is squarely covered by the decision of the Coordinate Bench of this Tribunal in the case of Arati Saraf vs. JCIT in ITA no.375/CTK/2023 dated 13.05.2024, wherein, the Coordinate Bench of this Tribunal held as under:

“7. We have considered the rival contentions and perused the material available on record. With regard to the contention raised by the Id. AR that the penalty has been levied without the jurisdiction, we find that in Section 271D of the Act, there is no compulsion that before levy of penalty any satisfaction is to be recorded in any proceedings so also in Section 269SSof the Act, there is no reference of pendency of any proceedings before initiation of proceedings. The Hon’ble Rajasthan High Court in the case of CIT Vs. Hissaria Bros. reported in [2007] 291 ITR 244 (Raj.), held that “penalty proceedings for default in not having transactions through the bank as required under sections 269SS and 269T of the Act are not related to the assessment proceedings but are independent of it, therefore, the completion of appellate proceedings arising out of the assessment proceedings or the other proceedings during which the penalty proceedings under Sections 271D and 271E of the Act may have been initiated has no relevance for sustaining or not sustaining the penalty proceedings”. Accordingly, we are of the view that since the proceedings u/s.269SS of the Act are independent proceedings and for violating the provisions of Section 269SS of the Act, the penalty is leviable u/s.271D of the Act, therefore, the contention of the Id. AR that the penalty proceedings has been initiated without jurisdiction does not hold water and, thus, this contention is dismissed. 8. With regard to reasonable cause, from the records, we find that the assessee since inception of the proceedings before the AO has submitted that the payment was received in cash due to urgency of making payment of the debts taken at the time of marriage of her daughter, which is a bonafide reason and duly covered under reasonable cause u/s.273B of the Act. It is further seen that the transaction has been disclosed, therefore, there was no loss to the revenue. With regard to the contention that the term “specified sum” as provided in the explanation to Section 269SSof the Act does not applicable to the sale consideration received in cash at the time of registration of sale deed, we find that the provisions of Section 269SS of the Act was amended w.e.f.01.06.2015 wherein in explanation to the said Section the term “specified sum” was inserted which reads as under:-

(iv) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

9. While inserting the above clause into the Act vide Finance Bill 2015, the memorandum forming part of the Finance Bill, 2015 highlighted the reasons that the insertion and amendment in Section 269SS to this effect and reads as under :-

B. MEASURES TO CURB BLACK MONEY

Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances

The existing provisions contained in section 269SS of the Incometax Act provide that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is twenty thousand rupees or more. However, certain exceptions have been provided in the section. Similarly, the existing provisions contained in section 269T of the Income-tax Act provide that any loan or deposit shall not be repaid, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the persons specified in the section if the amount of loan or deposit is twenty thousand rupees or more.

In order to curb generation of black money by way of dealings in cash in immovable property transactions it is proposed to amend section 269SS, of the Income-tax Act so as to provide that no person shall accept from any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

It is also proposed to amend section 269T of the Income-tax Act so as to provide that no person shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more.

The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place. It is further proposed to make consequential amendments in section 271D and section 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively. These amendments will take effect from 1st day of June, 2015.

10. The Notes on Clauses forming part of Finance Bill, 2015 highlighting the intention of the amendment is as under :

Clause 66 of the Bill seeks to substitute section 269SS of the Income-tax Act relating to mode of taking or accepting certain loans and deposits.

The existing provision contained in section 269SS provides that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account if the amount of such loan or deposit is twenty thousand rupees or more.

It is proposed to substitute the said section so as to provide that no person shall take from any person, any loan or deposit or specified sum, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account if the amount of such loan or deposit or specified sum is twenty thousand rupees or more.

It is also proposed to define "specified sum" as any sum of money receivable, whether as advance or otherwise in relation to transfer of an immovable property whether or not the transfer materialises

These amendments will take effect from 1st June, 2015.

11. In the present case, as is evident from para 4 of the penalty order that the AO has received information that the assessee has received cash of Rs.5,22,000/- in cash from Shri Sushil Kumar Nayak in relation to transfer of immovable property vide document No.10861600866 of Registering office, Jharsuguda. From this observation, it is very much clear that the sale consideration was received by the assessee in cash at the time of getting the sale deed document registered before the subregistrar. From the perusal of the amendment made in Section 269SS of the Act, where the term "specified sum" has been inserted, it is clear that it is applied only where any advance against the sale of immovable property transaction was received whether or not such transaction has been converted into final sale. The statute has also introduced in Section 269ST w.e.f. Assessment Year 2017-2018 to cover of the cash transaction of Rs.2 lakhs or above, which are not covered in Section 269SS of the Act and provided the levy of penalty u/s.271DA of the Act for violation of provisions of Section 269ST of the Act.

12. In the instant case, the AO has invoked the provisions of Section 269SS of the Act and levied the penalty u/s.271D of the Act for taking cash at the time of sale of immovable property. As discussed above, provisions of Section 269ST and Section 271DA has been introduced which are meant for the violation of making cash transaction above Rs.2.00 lacs, which was not invoked by the AO though the transaction referred is fallen under the provision of Section 269ST of the Act. From the perusal of the intention of the legislature as explained in the memorandum and notes on clauses, while amendment made vide Finance Bill 2015, it is clear that intention for bringing this provision was to curb the generation of black money in real estate transaction for prohibiting the acceptance of the payment of advance in cash of Rs.20000/- or more. The "specified sum" as defined is applicable only for "advance" receivable whereas the "advance otherwise" means advance can be of any manner. Therefore, this provisions is not applicable to the transactions where no advance payment in cash has been received and the cash transactions have happened at the time of registration of the sale deed. The present case of assessee also falls in this category where admittedly entire cash was received by assessee in one go at the time of execution of sale deed. Therefore, in our considered view there is no violation of the provisions of Section 269SS of the Act which has been wrongly invoked in this transaction. Accordingly, the penalty levied is hereby deleted."

3.1 It was the submission that the penalty as levied may be cancelled.

4. In reply, the ld. Sr. DR submitted that the assessee has not explained the transactions properly. It was the submission that the amount of Rs.3,69,300/- which has been shown as receipt by the assessee was not in regard to the immovable property but was an advance. It was the submission that the penalty levied by the Assessing Officer and confirmed by the ld. CIT(A) may be upheld.

5. We have considered the rival submissions. A perusal of the fact in the present case shows that the Assessing Officer has treated the transaction of Rs.3,69,300/- received by the assessee on sale of immovable property as hit the provisions of section 269SS. The

Assessing Officer thus was convinced at para 5 of the order that the entire transaction was of Rs.20,00,000/-. The Assessing Officer has not treated the said amount as the undisclosed income of the assessee. Thus, this becomes the fact that the Assessing Officer has accepted the entire transaction in regard to the sale of immovable property. When the amount is received in the course of registration of the immovable property admittedly, the provisions of section 269SS of the Act would not apply. This view was supported by the above referred decision of the Coordinate Bench of the Tribunal in the case of Arati Saraf vs. JCIT. This being so, the penalty as levied by the Assessing Officer and confirmed by the Id. CIT(A) stands deleted.

6. In the result, the appeal of the assessee is allowed.

Kolkata, the 16th March, 2026.

Sd/-

[Rajesh Kumar]

लेखा सदस्य/Accountant Member

Sd/-

[George Mathan]

न्यायिक सदस्य/Judicial Member

Dated: .03.2026.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent –
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar