

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA. G, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.3329/Chny/2019
निर्धारण वर्ष /Assessment Year: 2016-17

The Income Tax Officer,
Ward-2, Kanchipuram.

Shri R. Dhinagharan (HUF),
Vs. 18, Gem Nagar, Sevilimedu,
Kanchipuram – 631 502.
[PAN: AANHR-6593-Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by
प्रत्यर्थी की ओर से /Revenue by

: Shri S. Sridhar, Advocate
: Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing

: 19.12.2023

घोषणा की तारीख /Date of Pronouncement

: 29.12.2023

आदेश / ORDER

Per Mahavir Singh, Vice President :

This appeal by the Revenue is arising out of the order of the Commissioner of Income Tax (Appeals)-7, Chennai [hereinafter "CIT(A)] in Appeal No.19/CIT(A)-7/2019-20 dated 30.09.2019. The penalty under dispute was levied by the Jt. Commissioner of Income Tax, Kanchieeuram Range, Kancheepuram [hereinafter "(A.O)"] for the Assessment Year (A.Y) 2016-17 u/s. 271D of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 12.06.2019.

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2. At the outset, the Ld. counsel for the assessee raised the jurisdictional issue by filing petition under Rule 27 of the Appellate Tribunal Rules, 1963 (hereinafter “the Rules”) stating that the penalty order passed u/s. 271D of the Act dated 12.06.2019 is without recording of satisfaction by the A.O in the assessment order framed u/s. 143(3) of the Act dated 23.05.2018. The Ld. counsel for the assessee stated that there is no recording of satisfaction in the assessment order for initiation of this penalty proceedings and even there is no mention that violation of the provisions of Section 269SS of the Act for levy of penalty u/s. 271D of the Act. On this, when the Bench was put a query to the Ld. counsel for the assessee whether this issue was raised by the assessee before the Jt. Commissioner of Income tax passing order u/s. 271D of the Act or before CIT(A) during the course of appellate proceedings. The Ld. counsel stated that there is no such issue raised by the assessee, but he stated that he can raise this issue under Rule 27 of the Rules in view of the decision of Hon’ble Madhya Pradesh High Court in the case of *Dy. CIT vs. Turquoise Investment & Finance Ltd. [2008] 299 ITR 143 (M.P)*.

3. On the other hand, the Ld. CIT-DR opposed the admissibility of the issue of satisfaction recorded by the A.O raised by the assessee under Rule 27 of the Rules for the reason that the Tribunal Rules are

very clear on this issue and the issue can be raised only when the CIT(A) has allowed the relief and assessee want to support the order of CIT(A) on any other ground which is decided against him. The Ld. CIT-DR drew our attention to Rule 27 of the Rules, which reads as under:

Respondent may support order on grounds decided against him.

27. The respondent, though he may not have appealed, may support the order appealed against on any of the grounds decided against him.”

4. We have gone through Rule 27 of the Rules and noted that in supporting the decision of the first appellate authority, the respondent may no doubt support it on any ground other than the one on which the first appellate authority had come to this conclusions, but such a ground must arise on the record of the assessment proceedings and must have been raised on his behalf at some stage of the proceedings and the facts in respect thereof had been on the record. No new ground can be raised for the first time before the Tribunal by the respondent.

5. In view of the above and the fact that the assessee has not raised the jurisdictional ground of satisfaction before the CIT(A) and there is no adjudication by CIT(A) or the adjudicating authority, we

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have no power to entertain this ground under Rule 27 of the Rules. Hence, this petition under Rule 27 of the Rules raising the ground of satisfaction is rejected.

6. The only issue raised in this appeal of Revenue is against the order of CIT(A) in deleting the penalty levied by JCIT u/s.271D of the Act for violation of the provisions of Section 269SS of the Act and accepting the cash in excess of Rs. 20,000/- for specified transactions. For this, the Revenue has raised various grounds i.e., ground Nos.1 to 5, which reads as under:

- 1. CIT(A) erred in deleting the penalty levied u/s271 D of the IT Act, for Rs.3,03,46,301/- by holding that assessee has disclosed the entire amount of Rs.3,03,46,301/- received by cash on account of sale of plots in the Trading, Profit and Loss Account and in the IT return as there is no loss of revenue.*
- 2. CIT(A) omitted to consider the fact that the assessee has violated the provisions of section 269SS of the Act and the bonafide reason for accepting cash could not be established. Hence penalty u/s271 D has been charged.*
- 3. CIT(A) ought to have appreciated the fact that though the transaction IS genuine, courts have held that along with the genuineness the bonafide reason behind accepting in cash needs to be established.*
- 4. CIT(A) ought to have appreciated the fact that in the Finance Act, 2015 the scope of sec.269SS was extended to include cash receipt n immovable property transaction which are applicable to the AY 2016-17.*
- 5. CIT(A) ought to have appreciated the fact that the provisions of sec.269SS itself provide exceptions in certain circumstances. None of such exceptions are applicable to the assessee's case.*

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7. The brief facts of the case are that the assessee is engaged in real estate business and develop plots for sale. The assessee during the course of business during Financial Year 2015-16 relevant to this A.Y 2016-17 sold various plots to various people for a total consideration of Rs. 3,03,46,301/- in cash. The assessee has not received any advance but entire sale consideration were received at the time of registration of sale deeds in cash and non transaction was done through banking channels. Accordingly, the A.O referred the matter to the JCIT for levy of penalty u/s. 271D of the Act for violation of the provisions of Section 269SS of the Act and the JCIT, Kanchipuram Range, Kanchipuram levied penalty u/s. 271D of the Act vide order dated 12.06.2019 for an equivalent amount of cash received of sales transaction for a total consideration of Rs. 3,03,46,301/-. Aggrieved, the assessee preferred appeal before CIT(A).

8. The CIT(A) after going through the facts of the case and familiar circumstances, deleted the penalty by observing in para 5 as under:

“5.1 The only grievance of the appellant is the levy of penalty under section 271D imposed by the JCIT, Kancheepuram Range 7, vide order dated 12.06.2019 of sum of Rs. 3,03,46,301/-. The JCIT in his order has stated that in the appellant’s case sale consideration of immovable property in the form of plots of land was received in cash in excess of Rs. 20,000/- thereby contravening the provisions of section 269SS of the IT Act. The JCIT also mentioned that in the Finance Act, 2015 the scope of section 269SS was extended to include cash receipts in immovable property transactions. He also

held that the appellant fulfilled none of the exceptions provided in the section 269SS. In appellate proceedings before me, it was submitted that these amendments take effect from 01.06.2015. The learned AR who appeared on behalf of the appellant also stated that the scope of section 269SS of the IT Act was amended to curb the generation of black money by dealings made in cash in immovable property transactions. It was also submitted that the appellant has dully disclosed the entire sale transactions in plots in his Profit and Loss Account and therefore the issue of generation of unaccounted income does not arise.

5.2 I have considered the detailed submissions of the appellant as well as the order of the JCIT, Kancheepuram Range and the case laws relied upon. At the outset, it must be mentioned that the legislative intent behind the amendment to section 269S which included cash dealings in immovable property transactions should be understood in the correct perspective. It is a well-known fact that money changes hands in property transactions and this fact cannot be denied. This money is outside the books and is not subject to income tax therefore the term "BLACK MONEY" is applied to such kinds of transactions. In the appellant's context, the question that needs to be asked is whether, simply because the appellant has received the money in cash, does it make the transaction "BLACK" or unaccounted? I have gone through the Trading, Profit and Loss Account of the appellant for the year ended 31.03.2016. It is noted that the appellant has disclosed the entire amount of Rs. 3, 03, 46,301/- received on account of sale of plots in the Trading, Profit and Loss Account.

5.3 In the light of this fact it is clearly evident that the sale of plots for which money has been received in cash has been fully disclosed in the IT return of the appellant. Therefore, I am of the view that levy of penalty under section 269 SS is not correct. The imposition of penalty has been done in a mechanical manner without taking into consideration the legislative intent behind the amendment of the section 269SS of the IT Act.

5.4 Secondly, the appellant has taken the issue of "reasonable cause" u/s 273B of the IT Act by highlighting the issue of "bona fide" belief coupled with the genuineness of transactions. Reliance was placed on the case of Saini Medical Stores decided by Hon'ble Punjab and Haryana High Court and reported in 277 ITR 420 (2005) where this judicial premise has been pronounced. The gist of the High Court decision is mentioned in the 4para on Page 5 of this order where bona fide belief and genuineness of the transactions form the bed rock of "reasonable cause" u/s 273B of the Act. It may

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also be noted that the persons, who have invested in the lands, are people of meagre means, who are living in a small villages in Kancheepuram district. Appellant submitted the list of such persons and it is noted that the payments are ranging between Rs. 2,97,000/- to Rs. 6,04,800/-. I have gone through the list submitted, comprising 82 persons, the plot number, area, and amounts against each name. The sums invested by the persons involved are not very large amounts. Hence looking into the entire background of the facts of this case the "reasonable cause" propounded section 273 B of the Income Tax Act is found to be applicable to the appellant. It is also important to mention that there is no loss to the revenue since appellant has disclosed the entire sales amount in the return of income. The appellant has relied upon the following case laws."

Aggrieved, the Revenue is in appeal before the Tribunal.

9. Before us, the Ld. CIT-DR submitted that during the course of assessment, it came to the notice of the A.O that the assessee HUF, is engaged in real estate business. It had sold plots of land to various parties for a consideration of Rs.3,03,46,301/- during the previous year 2015-16 relevant to the assessment year 2016-17. The whole consideration was received in cash at the time of registration of sale deed only. In view of the violation of provisions of Sec.269SS of the Act in relation to acceptance of specified sum of money in relation to transfer of immovable properties penalty u/s.271D of the Act was levied by the JCIT, Kancheepuram Range. The Ld. CIT-DR further stated that during the proceedings u/s.271D of the Act, the assessee had only one defence i.e., he has not taken any loan/deposit in contravention of provisions of Sec.269SS of the Act during the year. A

request was made to drop the proceedings u/s.271D of the Act. During the course of appellate proceedings, it is seen that the CIT(A) has adjudicated the issue, taking into consideration reasonable cause, which is not acceptable in the facts and law of the case under dispute. The CIT(A) has given rationale of his decision in favour of the assessee in para 5 of the order. The CIT(A) seems to have accepted the following arguments of the assessee:

(i) Scope of Sec.269SS was amended in order to curb the generation of black money by dealings made in cash in immovable property transactions. The learned CIT(A) accepted the submission of the assessee with a finding, 'since the appellant has fully disclosed the entire sale transactions in his profit and loss account, the issue of generation of unaccounted income does not arise.

(ii) The imposition of penalty has been drawn in a mechanical manner without taking into consideration the legislative intent behind the amendment of the section.

(iii) The CIT(A) has opined that the assessee could establish a reasonable cause for violation of Sec.269SS. He has observed that the persons who have invested in lands are people of meagre means, living in small villages in Kancheepuram district.

(iv) The learned CIT(A) has gone through the list of 82 persons, the plot number, area and the amounts involving in such transactions.

(v) There has not been any loss to the revenue since the appellant has disclosed the entire sales amount in the return of income.

9.1 The Ld. CIT-DR stated that the decision taken by the CIT(A) is not acceptable for the following reasons:

(i) From plain reading of Sec.269SS, penalty is imposable for violation of Sec.269SS either for accepting cash over Rs.20,000/- in the form of loan or deposit or for receiving cash in excess of Rs.20,000/- in respect of sale of immovable property(ies.). The only exemption given vis-a-vis this penal provision is in terms of proviso 2

to Sec.269SS. The said proviso takes transaction involving loan or deposit or specified sum between persons having agricultural income outside the ambit of this penalty. The case under dispute does not fall under these categories.

(ii) The CIT(A) has mentioned about no loss of revenue as a ground for his decision. However, loss of revenue can never be a ground for consideration of this penalty u/s.271D.

9.2 The Ld. CIT-DR stated that the reliance of the following case

laws by the CIT(A) are also appear to be misplaced.

(i) In the case of CIT Vs Saini Medical Store, the Hon'ble Punjab-Haryana High Court considered the genuineness of the transaction while giving verdict in favour of the assessee. It may be stated that while considering the issue of genuineness of the transaction, the Hon'ble jurisdictional High Court in the case of Vasan Healthcare P Ltd. reported in 103 taxmann.com 26 referred to the ruling of the Apex Court in Kum. A.B. Shanthi reported in 255 ITR 258 (SC). In the said ruling, the Hon'ble Apex Court held that if there was a genuine and bonafide transaction and if for any reason the taxpayer could not get a loan or deposit by account payee cheque or demand draft for some bonafide reasons, the authority vested with the power to impose penalty has got discretionary power. Therefore, the taxpayer has to show that he could get loan or deposit by account payee cheque or DD and the reason given by the tax payer should be genuine and bonafide. The appellant assessee has not demonstrated any such reason before the CIT(A), nor has the learned CIT(A) required it to furnish such vital evidence for establishing reasonable cause.

(ii) The CIT(A) has also relied on the case of Hindustan Steel Limited Vs State of Orissa reported in 83 ITR 26 (1972). At the outset, it may be stated that the above citation is concerned with provisions of Orissa Sales Tax. Further, in the said ruling, the Hon'ble Supreme Court had noted the following:

"Under the Act penalty may be imposed for failure to register as a dealer: s.9(1) read with s.25(J)(a) of the Act. But the liability to pay penalty does not arise merely upon proof of default in registering as a dealer. An order imposing penalty for failure to carry out statutory obligation is the result of a quasi criminal proceedings, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty

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should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bonafide belief that the offender is not liable to act in the manner prescribed by the statute".

It may be mentioned that the quasi-criminal angle is not present in Sec.271D of the Act. In fact, Sec.271DD providing for imprisonment for a maximum of two years for violation of provisions of Sec.269SS has been omitted w.e.f.1.4.1989. Therefore, this ruling of the Hon'ble Supreme Court in the context of a different taxing statute, which is not a central act, is not applicable in the current case.

(iii) In the case of Coastal Tea Pvt. Ltd., the Hon'ble ITAT, Vishakhapatnam has given a ruling in favour of the assessee in specific facts of the case while the transaction was between sister concern of Directors closely related to the assessee, apart from the fact that the transaction was genuine. The closeness of relation between the parties has not been related in this case and is ostensibly not present in this case of transaction between seller and purchaser. Therefore, this case law is not applicable in this current case.

(iv) On the other hand, reliance can be made on the jurisdictional decision of High Court of Madras in Vasan Healthcare Ltd. cited in 411 ITR 499. SLP against the said ruling has been rejected by the Hon'ble Supreme Court. Reliance is also made on the ruling in the case of Mahek Singh Vs CIT reported in 37 Taxman.com 390 (Allahabad).

(v) It is also seen that the learned CIT(A) has admitted new evidence in the form of details of 82 persons involving in the sale transaction with the assessee. The CIT(A) has admitted new evidences in violation of Rule 46 of the IT Act, 1962, and the matter has not been sent back to the Assessing Officer for his comments.

10. On the other hand, the Ld. counsel for the assessee argued that the amendment brought out under the provisions of section 269SS of the Act w.e.f 01.06.2015 which include the 'specified sum' and the definition of 'specified sum' as given in Explanation to Section 269SS

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of the Act defines that it means any sum of money receivable, whether as advance or otherwise, in relation to transfer of immovable property, whether or not the transfer takes place, he explained that this means that this is applicable for advance given at the time of entering into agreement for purchase of property and purchase/sale of property and not for actually registration done and sale consideration received at time of registration of sale deed for purchase/sale of property. The Ld. counsel for the assessee stated that this specific amendment was brought in w.e.f. 01.06.2015 for curbing the generation of black money. He explained that the 'specified transaction' means, the advance paid or inter remittance payments made and any payments made at one go at the time of registration of sale deed. The Ld. counsel stated that further a provision was brought in by the legislature in the statute vide Finance Act, 2017 w.e.f 01.04.2017 by introducing the provision of section 269ST, wherein even the purchase of property if the amount is two lakhs or more will be covered and penalty will be levied of an equivalent to the amount u/s. 271DA of the Act, which was also simultaneously introduced by the Finance Act, 2017 w.e.f 01.04.2017. Hence, according to Ld. counsel, this provision of 'specified sum' introduced w.e.f 01.06.2015 does not hit the assessee's transaction, because on facts the assessee has not entered into any agreement for sale rather, he only directly registered the documents with the Sub

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Registrar and accepted cash at the time of registration of sale deed for sale of plots. For this, he produced few of documents for verification which was not denied i.e., neither by the A.O nor by CIT(A) and even now by Ld. CIT-DR.

11. In reply, the Ld. CIT-DR stated that the whole consideration was received in cash at the time of registration of sale deed, that this also is hit by the provisions of Section 269SS of the Act in relation to acceptance of specified transaction of 'specified sum' of money i.e., whether as advance or otherwise, which means even the sale consideration received at the time of registration of sale deed is hit by this provision and hence, the CIT(A) should not have deleted the penalty. He requested that the order of JCIT may be affirmed.

12. We have heard the rival contentions, and gone through the facts and circumstances of the case. We find that the Revenue has challenged the correctness of the decision rendered by the CIT(A) vide order dated 30.09.2019 in deleting the penalty levied u/s 271D of the Act vide penalty order dated 12.06.2019. The CIT(A) had deleted the penalty on two counts namely on the non-applicability of the provisions of Section 269SS of the Act to the facts of the present case and on the ground of reasonable cause within the scope of Section 273B of the

Act. We noted that the provisions of Section 269SS of the Act was amended w.e.f. 01.06.2015 to include the 'specified sum' within its ambit and the said term was defined in Explanation to the said Section which is reproduced as under:

- *"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.*

The Budget Speech of the Hon'ble Finance Minister while placing the Finance Bill, 2015 highlighting the intention of the amendment relevant for decision making in the present appeal is captured below:

3. A. Measures to curb black money

3.1 With a view to curbing the generation of black money in real estate, it is proposed to amend the provisions of section 269SS and 269T of the Income-tax Act so as to prohibit acceptance or re-payment of advance in cash of Rs. 20,000 or more for any transaction in immovable property. It is also proposed to provide a penalty of an equal amount in case of contravention of such provisions.

The **Memorandum** forming part of Finance Bill, 2015 highlighting the intention of the amendment is captured below:

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 Income-tax 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,

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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.

The Notes on Clauses forming part of Finance Bill, 2015 highlighting the intention of the amendment is captured below:

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.

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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.

12.1 In the present case, the sale consideration was received in cash at the time of execution of multiple sale deeds from different persons for the sale of plots and accepted as genuine in the assessment order completed on 23.05.2018 and admittedly there was no advance received by the seller. The amended provisions of Section 269SS of the Act was applied by the A.O to the facts of the present case only to the sale consideration received as 'specified sum' and on such presumption the JCIT levied penalty u/s 271D of the Act. The intention of the amendment is very clear right from the Budget speech of the Finance Minister that the said amendment is brought into the statute in Section 269SS of the Act would get attracted to sum received in cash as an advance in an immovable property transaction and not to the completed transaction namely cash received as a sale consideration at the time of execution of the registered sale deed. In fact, the statute brought in another amendment in Section 269ST of the Act from the assessment year 2017-18 with a view to cover all situations of cash transaction Rs. 2 Lakhs or over other than the situation captured in Section 269SS of the Act. This provision has been explained with

more clarity by the CBDT Circular No.19 of 2015, dated 27.11.2015 and the relevant circular reads as under:-

Departmental Circular No.19 of 2015, dated 27-11-2015:-

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

54.1 Provisions contained in section 269SS of the Income-tax Act, before amendment by the Act, provided 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 were provided in the section.

54.2 Similarly, the provisions contained in section 269T of the Income-tax Act, before amendment by the Act, provided 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.

54.3 In order to curb generation of black money by way of dealings in cash in immovable property transactions, section 269SS of the Income-tax Act has been amended 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(specified sum) 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.

54.4 Section 269T of the Income-tax Act has also been amended 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

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advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

54.5 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, have also been made.

54.6 Applicability: These amendments have taken effect from 1st day of June, 2015.

From the above provisions, Memorandum explaining the intention of amendment by Finance Bill, 2015 including the definition of 'sum specified' brought in the Explanation to Section 269SS of the Act, it is clear that the intention for bringing this provision was to curb the generation of black money in real estate prohibiting acceptance or repayment of advance in cash of Rs.20,000/- or more for any transaction in immovable property. This was explained by Hon'ble Finance Minister while placing the Finance Bill, 2015 in her budget speech highlighting the intention of the amendment that the amendment in Explanation to Section 269SS i.e., 'sum specified' means only applicable for advance receivable, whether as advance or otherwise means advance can be in any manner. Hence, this provision will not apply to the transaction that happens at the time of final payment at the time of registration of sale deed and payment is made before sub-registrar at the time of registration of property. In the present case before us, it is an admitted fact that all sale deeds were

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registered and cash payment was made at one go before the sub-registrar at the time of registration of sale deeds of plots. Hence, in our view, there is no violation of provisions of section 269SS of the Act in the present case in the given facts and circumstances of the case and hence, penalty is not exigible in this case. Hence, we confirm the order of CIT(A) deleting the penalty but on entirely different ground i.e., on jurisdictional issue only. Accordingly, the appeal of the Revenue is dismissed.

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

Order pronounced on 29th December, 2023.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य /Accountant Member

Sd/-
(महावीर सिंह)
(Mahavir Singh)

उपाध्यक्ष / Vice President

चेन्नई/Chennai, दिनांक/Dated: 29th December, 2023.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|--------------------------|--------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त/CIT |
| 4. विभागीय प्रतिनिधि/DR | 5. गार्ड फाईल/GF | |