

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, CHANDIGARH

PHISICAL HEARING

HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपीलसं. / ITA No.1136/CHANDI/2025
(निर्धारणवर्ष / Assessment Year: 2017-18)

Mrs. Surjit Kaur Bhagwanpur Ludhiana (Punjab) - 141114	बनाम/ Vs.	ITO, Ward 3 Khanna
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. FZSPK-2174-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Parikshit Aggarwal (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Dr. Ranjit Kaur (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	06-01-2026
घोषणाकीतारीख / Date of Pronouncement	:	06-01-2026

आदेश / O R D E R

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 16-06-2025 confirming impugned penalty of Rs.7.41 Lacs as levied by Ld. Addl. CIT, Range-4, Ludhiana (AO) u/s 271D vide order dated 13-09-2022. Having heard rival submission, the appeal is dispose-off as under. The registry has noted delay of 3 days in the appeal which stand condoned.

2. Pursuant to a reference as received from ITO, Ward-3, Khanna for initiation of penalty u/s 271D for violation of Sec.269SS, a show-cause notice was issued by Ld. Addl. CIT, Range-4, Ludhiana (AO) on

27-10-2021. It was stated therein that the assessee sold a plot during FY 2016-17 and received sale consideration of Rs.7.41 Lacs in cash which was in violation of Sec.269SS. It was admitted position that entire sale consideration was received by the assessee in cash on 01-07-2016 at the time of execution of sale deed. Considering the same, Ld. AO levied penalty of Rs.7.41 Lacs u/s 271D. The Ld. CIT(A) upheld the same against which the assessee is in further appeal before Tribunal.

3. It clearly emerges that no assessment has been framed against the assessee for this year since no taxable capital gains has accrued to the assessee on this transaction. The documents on record would reveal that this transaction has resulted into capital loss to the assessee. However, impugned penalty has been levied for violation of Sec.269SS. It is an admitted position that the assessee has not received any advance out of sale consideration but has received entire sale consideration in one go at the time of execution of sale deed only. In such a case, Sec.269SS would not apply as per the decision of Chennai Tribunal in **ITO vs. Shri R. Dhinagharan (HUF) (ITA No.3329/Chny/2019 dated 29-12-2023)** holding as under: -

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 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 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.

I find that similar fact exist before me in the present case. The argument of Ld. Sr. DR qua expression 'otherwise' has also been dealt with by the co-ordinate bench and the said expression has been applied by co-ordinate bench in the context of advance only. This being so, the impugned penalty could not be sustained. I order so.

4. The appeal stand allowed accordingly,

Order pronounced on 06th January, 2026.

-Sd-

(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 06-01-2026

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH