आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL

Hyderabad ' SMC ' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं

श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President

A N D

Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA No. 2048/Hyd/2026**

(निर्धारण वर्ष/Assessment Year: 2020-21)

Smt. Sujatha Vaddanapu Nalgonda PAN:AWKPV9655N	Vs.	Income Tax Officer Ward-1 Nalgonda
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	CA Bhagyalakshmi	
राजस्व द्वारा/Revenue by:	Shri B. Laxmi Kanth, Sr. AR	
सुनवाई की तारीख/Date of hearing:	24/08/2026	
घोषणा की तारीख/Pronouncement:	16/10/2026	

ORDER

Per Madhusudhan Sawdia, A.M.:

This appeal is filed by Smt. Sujatha Vaddanapu ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi ("Ld. CIT(A)") dated 07.04.2026 for the A.Y. 2020-21.

2. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case, and in law, the learned Commissioner of Income Tax (Appeals), NFAC, Delhi, erred in confirming the penalty order passed under Section 271DA of the Income Tax Act, 1961 for the Assessment Year 2020-21, which is erroneous, unjust, and bad in law, and the same is liable to be quashed.

2. On the facts and in the circumstances of the case, the learned CIT (A) failed to appreciate the fact that the order for the AY 2020-21 passed u/s. 148A(d) of the Act dated 21.03.2024 and the notice u/s. 148 of the Act dated 21.03.2024 were passed/issued by the jurisdictional Assessing Officer instead of the Faceless A.O., which is contrary to the e-assessment of Income Escaping Assessment Scheme, 2022, read with CBDT notification no. 18/2022/F.No. 370142/16/2022- TPL dated 29.03.2022 and thus all the proceedings (assessment as well as penalty) emanating from such invalid order and notice are bad in law and null & void and are liable to be quashed.

3. On the facts and in the circumstances of the case, the learned CIT (A) erred by failing to appreciate the fact that the impugned amount of Rs. 2,00,000/- was only a minor part of the total sale considerationof Rs.17,00,000/-, and though received in cash, was transparently recorded in the sale registered in the office of the Sub-Registrar of Miryalguda, which is a public document, and thus not liable for penalty u/s 271DA.

4. On the facts and circumstances of the case, the learned CIT(A) erred by upholding the erroneous view of the Ld. AO that there had been a contravention of the provisions laid down in section 269ST of the Income Tax Act even when the transaction was done before the Government registration authority and that there was no element of black money or concealment of income whatsoever in the impugned transaction.

5. On the facts and in the circumstances of the case, the learned CIT(A) erred by failing to appreciate the fact that the penalty order under Section 271DA of the Act dated 20.08.2025 was passed by the Assessment Unit, Income Tax Department, instead of the Joint Commissioner of Income Tax, as mandatorily required under sub-section (2) of Section 271DA of the Act, thereby rendering the penalty order invalid and bad in law.

6. That in any case and in any view of the matter, the action of Ld. AO in passing the impugned penalty order u/s 27IDA is illegal and against the fact and circumstances of the case and the same is not sustainable on various legal and factual grounds.

7. On the facts and in the circumstances of the case, the Honourable Income Tax Appellate Tribunal (ITAT) is requested to admit additional grounds/evidence, if any, as per the decision of the honourable Supreme Court in the case of NTPC vs. CIT (229 ITR 383) and consider the same in the interest of justice.

8. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.

3. The brief facts of the case are that the assessee is an individual whose assessment for Assessment Year 2020-21 was completed by the Assessing Officer under section 147 read with section 144B of the Income Tax Act, 1961 ("the Act") on 12.02.2025. During the reassessment proceedings, the Assessing Officer observed that the assessee, jointly with her husband, had sold an immovable property for a consideration of Rs. 34 lakhs vide sale deed dated 16.07.2019. Out of the total sale consideration, Rs. 4 lakhs was received in cash. The Assessing Officer attributed Rs. 2,00,000/- of this cash receipt to the assessee.

4. Subsequently, the Assessing Officer initiated penalty proceedings under section 274 read with section 271DA of the Act, treating the receipt of Rs. 2 lakhs in cash as a contravention of section 269ST of the Act. Vide order dated 20.08.2025, the Assessing Officer levied a penalty of Rs. 2,00,000/- under section 271DA of the Act.

5. Aggrieved with the penalty order of the Assessing Officer, the assessee preferred an appeal before the Ld. CIT(A), who confirmed the penalty.

6. Aggrieved with the order of the Ld. CIT (A), the assessee is now in appeal before this Tribunal. At the outset, the Learned Authorized Representative ("Ld. AR") submitted that the only issue arising from the grounds of appeal is the

levy of penalty of Rs. 2,00,000/- under section 271DA for alleged contravention of section 269ST of the Act. She submitted that there is no dispute regarding receipt of Rs. 4 lakhs in cash towards sale consideration at the time of registration of the immovable property or the attribution of Rs. 2 lakhs thereof to the assessee. However, such receipt falls within the definition of "specified sum" in Explanation (iv) to section 269SS of the Act. Accordingly, the relevant provision governing the receipt is section 269SS of the Act, for contravention of which the corresponding penalty provision is section 271D of the Act. The Assessing Officer nevertheless invoked section 269ST of the Act and levied penalty under section 271DA of the Act. The Ld. AR, therefore, prayed that the penalty be deleted.

7. Per contra, the Learned Departmental Representative ("Ld. DR") submitted that the assessee had received Rs. 2 lakhs in cash and that the transaction was covered by section 269ST of the Act. He supported the orders of the lower authorities and submitted that the penalty under section 271DA of the Act was rightly levied.

8. We have heard the rival submissions and perused the material available on record. The cash receipt and the assessee's share therein are not disputed. The controversy concerns the statutory provision applicable to that receipt. We must, therefore, determine whether consideration received in cash at the time of registration of immovable property

constitutes a "specified sum" under section 269SS of the Act and, consequently, whether it stands excluded from section 269ST of the Act. In this regard, we have gone through the provision of 269SS of the Act, which is to the following effect:

> "***Mode of taking or accepting certain loans, deposits and specified sum.***
>
> ***269SS.*** *No person shall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account* [82]*[or through such other electronic mode as may be prescribed*[83]*], if,—*
>
> *(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or*
>
> *(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or*
>
> *(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),*
>
> *is twenty thousand rupees or more:*
>
> ***Provided*** *that the provisions of this section shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,—*
>
> *(a) the Government;*
>
> *(b) any banking company, post office savings bank or co-operative bank;*
>
> *(c) any corporation established by a Central, State or Provincial Act;*
>
> *(d) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);*

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

Provided further *that the provisions of this section shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agricultural income and neither of them has any income chargeable to tax under this Act.*

Explanation.—For the purposes of this section,—

(i) "banking company" means a company to which the provisions of the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(ii) "co-operative bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949) ;

(iii) "loan or deposit" means loan or deposit of money;

(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. On perusal of the above, we find that the provision of Explanation (iv) to section 269SS of the Act defines "specified sum" by reference to money receivable in relation to transfer of immovable property, expressly extending it to receipts "whether as advance or otherwise" and covering the transaction whether or not the transfer takes place. The operative provision of section 269SS of the Act regulates acceptance of such money where the amount or the relevant aggregate is Rs. 20,000/- or more, subject to the statutory exceptions. The definition is thus framed by reference to the relationship between the money and the transfer, rather than

solely by reference to its character as an advance. In our considered view, restricting "specified sum" to an advance would deprive "or otherwise" of its independent meaning. An advance is one category of money receivable in connection with a transfer; the additional expression extends the definition beyond that category. Part consideration, balance consideration and full consideration payable for the transfer retain the requisite relationship with the immovable property transaction. Payment at registration does not alter that relationship or provide a statutory exclusion. Further, the words concerning whether the transfer takes place make completion of the transaction immaterial to the definition. They cover both a proposed transfer that does not ultimately occur and a transfer that is completed. Likewise, "receivable" describes the character of the money payable in connection with the transfer. It cannot reasonably be construed to exclude the amount when actually received, because taking or accepting that amount is the event regulated by section 269SS of the Act. Accordingly, in our considered opinion, the consideration received simultaneously with registration falls within the definition.

10. We derive support for giving substantive effect to "otherwise" from the decision of the Hon'ble Bombay High Court in the case of CIT Vs. A.N. Naik Associates (2004) 265 ITR 346 (Bom.), dated 23.07.2003. While interpreting the former section 45(4) of the Act, the Hon'ble Bombay High

Court rejected a construction confining the expression to circumstances resembling dissolution. The provisions of erstwhile section 45(4) of the Act is reproduced as under:

> *"45 (4) The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co- operative society) or otherwise, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and for the purposes of section 48, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer."*

11. The relevant passage in para no. 21 of the order of the Hon'ble Bombay High Court in the case of CIT Vs. A.N. Naik Associates (Supra) is reproduced as under:

> *"21. The expression "otherwise" in our opinion, has not to be read ejusdem generis with the expression, "dissolution of a firm or body or association of persons". The expression "otherwise" has to be read with the words "transfer of capital assets" by way of distribution of capital assets. If so read, it becomes clear that even when a firm is in existence and there is a transfer of capital assets it comes within the expression "otherwise" as the object of the amending Act was to remove the loophole which existed whereby capital gain tax was not chargeable. In our opinion, therefore, when the asset of the partnership is transferred to a retiring partner the partnership which is assessable to tax ceases to have a right or its right in the property stands extinguished in favour of the partner to whom it is transferred. If so read it will further the object and the purpose and intent of the amendment of Section 45. Once, that be the case, we will have to hold that the transfer of assets of the partnership to the retiring partners would amount to the transfer of the capital assets in the nature of capital gains and business profits which is chargeable to tax under Section 45(4) of the Income-tax Act. We will, therefore, have to answer question*

No. 3 by holding that the word "otherwise" takes into its sweep not only cases of dissolution but also cases of subsisting partners of a partnership, transferring assets in favour of a retiring partner."

12. On perusal of the above, we find that the Hon'ble Bombay High Court held that the provision also covered distribution of partnership assets to a retiring partner while the firm continued to exist. Restricting the expression to dissolution or deemed dissolution would defeat the purpose of the amendment. The above interpretation was expressly approved by the Hon'ble Supreme Court in para nos. 7 to 7.6 of the order in the case of CIT Vs. Mansukh Dyeing and Printing Mills (2022) 449 ITR 439 (SC), dated 24.11.2022, which is to the following effect:

7. The relevant portion of Section 45, with which we are concerned, is sub-section (4), which reads as under:-

> "(4) The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co- operative society) or otherwise, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and for the purposes of section 48, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer." 7.1 Sub-section (4) of Section 45 came to be amended by the Finance Act, 1987 w.e.f. 01.04.1988. From a reading of the above sub-section, to attract the capital gains, what would be required is as under:-
>
> 1. Transfer of capital asset by way of distribution of capital assets;

a. On account of dissolution of a firm;

b. Or other association of persons;

c. Or body of individuals;

d. Or otherwise;

shall be chargeable to tax as the income of the firm, association or body of persons." 7.2 The object and purpose of introduction of Section 45(4) was to pluck the loophole by insertion of Section 45(4)

and omission of Section 2(47)(ii). While introduction to Section 45(4), clause (ii) of Section 2(47) came to be omitted. Earlier, omission of Clause (ii) of Section 2(47) and Section 47(ii) exempted the transform by way of distribution of capital assets from the ambit of the definition of "transfer". The same helped the assessee in avoiding the levy of capital gains tax by revaluing the assets and then transferring and distributing the same at the time of dissolution. The said loophole came to be plucked by insertion of Section 45(4) and omission of Section 2(47)(ii). At this stage, it is required to be noted that the word used "OR OTHERWISE" in Section 45(4) is very important.

7.3 In the present case, it was the case on behalf of the assessee relying upon the decision of this Court in the case of Hind Construction Ltd. (supra) that unless there is a dissolution of partnership firm and thereby the transfer of the amount on revaluation to the capital accounts of the respective partners, Section 45(4) of the Income Tax shall not be applicable. It is the case on behalf of the assessee that there can be no income just due to revaluation of the capital assets unless capital assets is also transferred. According to the assessee, the amount credited on revaluation to the capital accounts of the partners is only notional or book entry, which is not represented by any additional tangible assets or income. Therefore, the sum and substance of the submission on behalf of the assessee is that unless there is a dissolution of the partnership firm, and there is only transfer of the amount on revaluation to the capital accounts of the respective partners, Section 45(4) of the Income Tax Act shall not be applicable.

7.4 However, in view of the amended Section 45(4) of the Income Tax Act inserted vide Finance Act, 1987, by which, "OR OTHERWISE" is specifically added, the aforesaid submission on behalf of the assessee has no substance. The Bombay High Court in the case of A.N. Naik Associates and Ors., (supra) had an occasion to elaborately consider the word "OTHERWISE" used in Section 45(4). After detailed analysis of Section 45(4), it is observed and held that the word "OTHERWISE" used in Section 45(4) takes into its sweep not only the cases of dissolution but also cases of subsisting partners of a partnership, transferring the assets in favour of a retiring partner. While holding so, it is observed in paragraphs 14, 21, 22 and 24 as under:-

> "14. Pursuant to the inclusion of sub-section (4) in section 45, on the dissolution of a partnership the profits or gains arising from the transfer of capital asset are chargeable to tax as income of the firm. It is contended on behalf of the assessee that even after introduction of section 45(4), the position will be the same as the definition clause i.e. namely section 2(47) has not been amended. Secondly it is contended that the expression "otherwise" must be read edjusdem generis with the expression dissolution of firm. So considered, there is no dissolution on the firm. So considered, there is no dissolution on the facts of the case. On behalf of the revenue, it was, however, argued that the amendment was brought about to remove the mischief occasioned by parties avoiding to pay tax, considering the law as declared and to plug the loopholes. The expression otherwise must be read to mear transfer of capital assets of the assessee firm include to a partner. As the section is a self contained code, there was no need to amend the definition of transfer under section 2(47) of the Act. The Position therefore, will have to be examined in the context of the law as amended after 1988.....

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21. With the above, we may now proceed to answer the issue. On retirement of a partner or partners from an existing firm, and who receives assets from the firm, the law before 1998 would really be of no support, as by section 45(4) what was otherwise not taxable has been made taxable. Section 45(4) seems to have been introduced with a view to overcome the judgment of the Apex Court in Malabar Fisheries Co. v. Commissioner of Income-Tax, Kerala (supra) and other judgments which took a view that the firm on its own has no right but it is the partners who own jointly or in common the asset and thereby remedy the mischief occasioned. Distribution of capital assets on dissolution now is subject to capital gains tax unless it does not fall within the definition of transfer under section 2(47) What would be the effect of partners of a subsisting partnership distributing assets to partners who retire from the partnership. Does the asset of the partnership, on being allotted to the retired partner/partners fall within the expression "otherwise". As noted earlier on behalf of the assessee it has been contended that the expression "otherwise" would have to be read "ejusdem generis" with "dissolution of partner or body of individuals" and for that purpose reliance was placed on a judgment of the Division Bench in (Commissioner of Income-Tax, Bombay City II v. Trustees of Abdulcadar Ebrahim Trust), 1975 (100) I.T.R. 85.

Section 45 is a charging section. The purpose and object of the Act of 1988 was to charge tax arising on distribution of capital assets of firms which otherwise was not subject to taxation. If the language of sub-section (4) is construed to mean that the expression "otherwise" has to partake in the nature of dissolution or deemed dissolution, then the very object of the amendment could be defeated by the partners, by distributing the assets to some partners who may retire. The firm then would not be liable to be taxed thus defeating the very purpose of the Amending Acts. Prior to the Finance Act, 1987 in case of a partnership it was held that the assets are of the partners and not of the partnership. Therefore if on retirement a partner receive his share of the assets, may be in the form of a single asset, it was held that there was no transfer and similarly on dissolution of the partnership. Another device resorted to by an assessee was to convert an asset held independently as an asset of the firm in which the individual was a partner. The decision of the Supreme Court in (Kartikeya v. Sarabhai v. C.I.T.), 1985 (156) I.T.R. 509 took a view that this would not amount to transfer and, therefore, fell outside the scope of capital gain. The rationale being that the consideration for the transfer of the personal asset was indeterminate, being the right which arose or accrued to the partner during the subsistence of the partnership to get his share of profit from time to time and on dissolution of the partnership to get the value of his share from the not partnership asset. Parliament with the avowed object of blocking this escape route for avoiding capital gains tax by the Finance Act, 1987 has introduced sub-section (3) of section 45. The effect of this was that the profits and gains arising from the transfer of a capital asset by a partner to a firm is chargeable as the partner's income of the previous year in which the transfer took place. On a conversion of the partnership assets into individual assets on dissolution or otherwise also formed part of the same scheme of tax avoidance. To plug these loophole the Finance Act, 1987 brought on the statute book a new sub-section (4) in section 45 of the Act. The effect is that the profits or gains

arising from the transfer of a capital asset by a firm to a partner on dissolution or otherwise would be chargeable as the firm's income in the previous year in which the transfer took place and for the purposes of computation of capital gains, the fair market value of the asset on the date of transfer would be deemed to be the full value of the consideration received or accrued as a result of transfer. Therefore, if the object of the Act is seen and the mischief it seeks to avoid, it would be clear that intention of Parliament was to bring into the tax not transactions whereby assets were brought into a firm or taken out of the firm.

22. The expression "otherwise" in our opinion, has not to be read ejusdem generis with the expression, dissolution of a firm or body or assets of persons. The expression "otherwise" has to be read with the words 'transfer of capital assets" by way of distribution of capital asset's. If so read, it becomes clear that even when a firm is in existence and there is a transfer of capital assets it comes within the expression "otherwise" as the object of the amending Act was to remove the loophole which existed whereby capital gain tax was not chargeable. In our opinion, therefore, when the asset of the partnership is transferred to a retiring partner the partnership which is assessible to tax ceases to have a right or its right in the property stands extinguished in favour of the partner to whom it is transferred. If so read it will further the object and the purpose and intent of amendment of section 45. Once, that be the case, we will have to hold that the transfer of assets of the partnership to the retiring partners would amount to the transfer of the capital assets in the nature of capital gains and business profits which is chargeable to tax under section 45(4) of the I.T. Act. We will, therefore, have to answer question No. 3 by holding that the word "otherwise" takes into its sweep not only the cases of dissolution but also cases of subsisting partners of a partnership, transferring assets in favour of a retiring partner.

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24. Considering this clause as earlier contained in section 47, it meant that the distribution of capital assets on dissolution of a firm etc. were not regarded as transfer. The Finance Act, 1987 w.e.f. 1-4-1988, omitted this clause, the effect of which is that distribution of capital assets on the dissolution of a firm would henceforth be regarded as 'transfer'. Therefore, instead of amending section 2(47), amendment was carried out by the Finance Act, 1987, by omitting section 47(11), the result of which is that distribution of capital assets on the dissolution of a firm would be regarded as 'transfer'. Therefore, the contention that it would not amount to a transfer has to be rejected. It is now clear that when the asset is transferred to a partner, that falls within the expression otherwise and the rights of the other partners in that asset of the partnership is extinguished. That was also the position earlier but considering that on retirement the partners only got his share, it was held that there was no extinguishment of right. Considering the amendment, there is clearly a transfer and if, there be a transfer, it would be subject to capital gains tax." 7.5 In the present case, the assets of the partnership firm were revalued to increase the value by an amount of Rs. 17.34 crores on 01.01.1993 (relevant to A.Y. 1993-1994) and the revalued amount was credited to the accounts of the partners in their profit-sharing ratio and the credit of the assets' revaluation amount to the capital accounts of the partners can be said to be in effect distribution of the assets valued at Rs. 17.34 crores to the partners and that during the years, some new partners came to be inducted by introduction of small amounts of capital ranging between Rs. 2.5 to 4.5 lakhs and the said newly inducted partners had

huge credits to their capital accounts immediately after joining the partnership, which amount was available to the partners for withdrawal and in fact some of the partners withdrew the amount credited in their capital accounts. Therefore, the assets so revalued and the credit into the capital accounts of the respective partners can be said to be "transfer" and which fall in the category of "OTHERWISE" and therefore, the provision of Section 45(4) inserted by Finance Act, 1987 w.e.f. 01.04.1988 shall be applicable.

7.6 Now, so far as the reliance placed upon the decision of this Court in the case of Hind Construction Ltd. (supra) is concerned, at the outset, it is required to be noted that the said decision was pre-insertion of Section 45(4) of the Income Tax Act inserted by Finance Act, 1987 and in the earlier regime – pre-insertion of Section 45(4), the word "OTHERWISE" was absent. Therefore, in the case of Hind Construction Ltd. (supra), this Court had no occasion to consider the amended / inserted Section 45(4) of the Income Tax Act and the word used "OTHERWISE". Under the circumstances, for the purpose of interpretation of newly inserted Section 45(4), the decision of this Court in the case of Hind Construction Ltd. (supra) shall not be applicable and/or the same shall not be of any assistance to the assessee. As such, we are in complete agreement with the view taken by the Bombay High Court in the case of A.N. Naik Associates and Ors., (supra). We affirm the view taken by the Bombay High Court in the above decision.

13. On perusal of the above, we find that in para no. 7.2 of the order, the Hon'ble Supreme Court emphasized the significance of "or otherwise". In para no. 7.4, it adopted the reasoning of the Hon'ble Bombay High Court concerning the wider operation of that expression. In para no. 7.6, it expressly stated that "We affirm the view taken by the Bombay High Court in the above decision."

14. The above order of the Hon'ble Bombay High Court in the case of CIT Vs. A.N. Naik Associates (Supra) and the order of the Hon'ble Supreme Court in the case of CIT Vs. Mansukh Dyeing and Printing Mills (Supra) concerned the former section 45(4) of the Act, rather than section 269SS of the Act. Nevertheless, their reasoning supports giving meaningful operation to the additional words. Our conclusion

concerning the present receipt rests upon the language and scheme of section 269SS of the Act itself.

15. Further, the legislative history also supports our above interpretation. The provisions of section 269SS of the Act have been substituted by the Finance Act, 2015, w.e.f. 01/04/2015, wherein the term " Specified sum" have been included. We have gone through the Memorandum explaining the provisions of section 269SS of the Finance Bill, 2015, which is to the following effect:

> *"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, 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.

[Clauses 66, 67, 69 & 70]"

16. On perusal of the above, we find that the Memorandum explaining the provisions of the Section 269SS of the Act identified the object of the amendment as "to curb generation of black money by way of dealings in cash in immovable property transactions". It explained that the proposed acceptance restriction would extend to money connected with transfer of immovable property, encompassing advances and other receipts. It separately addressed repayment of specified advances and proposed consequential amendments to sections 271D and 271E of the Act. These amendments took effect from 01.06.2015, preceding the

transaction under consideration. The Memorandum, therefore, supports a construction covering cash sale consideration, including consideration paid at registration. Further, a comparison of section 269SS with section 269T of the Act reinforces this conclusion. The provision of section 269T of the Act is reproduced as under:

Mode of repayment of certain loans or deposits.

269T. No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other 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 drawn in the name of the person who has made the loan or deposit or paid the specified advance, or by use of electronic clearing system through a bank account [88][or through such other electronic mode as may be prescribed[89]] if—

(*a*) the amount of the loan or deposit or specified advance together with the interest, if any, payable thereon, or

(*b*) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits, or

(*c*) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances, is twenty thousand rupees or more:

Provided that where the repayment is by a branch of a banking company or co-operative bank, such repayment may also be made by crediting the amount of such loan or deposit to the savings bank account or the current account (if any) with such branch of the person to whom such loan or deposit has to be repaid :

Provided further that nothing contained in this section shall apply to repayment of any loan or deposit or specified advance taken or accepted from—

(*i*) Government;

(*ii*) any banking company, post office savings bank or co-operative bank;

(*iii*) any corporation established by a Central, State or Provincial Act;

(*iv*) any Government company[90] as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(*v*) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.

Explanation.—For the purposes of this section,—

(*i*) "banking company" shall have the meaning assigned to it in clause (*i*) of the *Explanation* to section 269SS;

(*ii*) "co-operative bank" shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(*iii*) "loan or deposit" means any loan or deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature;

(*iv*) "specified advance" means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.

88. Ins. by the Act. No. 23 of 2019, w.e.f. 1-9-2019.

89. See rule 6ABBA.

90. Now section 2(*45*) of the Companies Act, 2013.

17. On perusal of the above, we find that the provisions of section 269T of the Act defines "specified advance", using the words "any sum of money in the nature of advance, by whatever name called". Thus, for repayment, the Legislature expressly requires the money to bear the character of an advance. In contrast, section 269SS of the Act employs "specified sum" and extends it beyond an advance. Importing the narrower requirement of section 269T of the Act into section 269SS of the Act would erase the distinction between the two definitions. We, therefore, hold that the assessee's share of Rs. 2 lakhs received in cash towards consideration for transfer of the immovable property constitutes a specified sum under section 269SS of the Act.

18. Having determined the nature of the receipt, we turn to section 269ST of the Act, which is to the following effect:

Mode of undertaking transactions.

269ST. No person shall receive an amount of two lakh rupees or more—

(*a*) in aggregate from a person in a day; or

(*b*) in respect of a single transaction; or

(*c*) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account [84][or through such other electronic mode as may be prescribed[85]]:

Provided that the provisions of this section shall not apply to—

(*i*) any receipt by—

(*a*) Government;

(*b*) any banking company, post office savings bank or co-operative bank;

(*ii*) transactions of the nature referred to in section 269SS;

(*iii*) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(*a*) "banking company" shall have the same meaning as assigned to it in clause (*i*) of the *Explanation* to section 269SS;

(*b*) "co-operative bank" shall have the same meaning as assigned to it in clause (*ii*) of the *Explanation* to section 269SS.

84. Ins. by the Act. No. 23 of 2019, w.e.f. 1-9-2019.

85. See rule 6ABBA.

19. On perusal of the above, we find that Clause (ii) of proviso to section 269ST of the Act expressly excludes "transactions of the nature referred to in section 269SS". The exclusion depends upon the nature of the transaction. Once the receipt is identified as a specified sum covered by section 269SS of the Act, it falls outside section 269ST of the Act. The fact that the assessee's receipt equals the general threshold of Rs. 2 lakhs under section 269ST of the Act cannot override this express exclusion.

20. We further observe that section 271DA of the Act applies to receipts in contravention of section 269ST of the Act. In the present case, the transaction is governed by section 269SS of the Act and is expressly excluded from section 269ST of the Act. Consequently, the essential statutory basis for levy of penalty under section 271DA of the Act is absent in the present case. The corresponding penalty provision for contravention of section 269SS of the Act is section 271D of the Act, subject to the conditions and protections applicable to that provision. A penalty levied under section 271DA of the Act cannot be sustained merely because the receipt may fall for consideration under a different penalty provision. Accordingly, we accept the contention of the Ld. AR that the receipt under consideration is governed by section 269SS of the Act and does not constitute a contravention of section 269ST of the Act. The

penalty of Rs. 2,00,000/- levied under section 271DA and confirmed by the Ld. CIT(A) is, therefore, deleted.

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

Order pronounced in the Open Court on 16th October, 2026.

Sd/-	Sd/-
(VIJAY PAL RAO) **VICE PREESIDENT**	**(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 16th October, 2026.

Vinodan/sps

Copy to:

S.No	Addresses
1	Smt. Sujatha Vaddanapu, 4-104 Bakaiah Gudem, Neredcharla, Nalgonda 508218
2	Income Tax Officer, Ward-1, Income Tax Office, Near Rail under Bridge, Nalgonda 508001
3	Pr. CIT, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order