IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23708 of 2022
and W.M.P.Nos.22648 & 22649 of 2022

Baskaran ... Petitioner

Vs.

1. Additional Commissioner of Income Tax,
Non-Corporate Range-10,
Room No.616, Sixth Floor, Chennai – Wanaparthy Block,
No.121, M.G.Road, Nungambakkam, Chennai – 600 047.

2. Income Tax Officer
Non-Corporate Ward 20(1), Chennai
No.121, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

3. National Faceless Appeal Centre (NFAC)
New Delhi. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned penalty order dated 3rd June, 2022 bearing Document Identification Number ITBA/PNL/F/271D/2022-23/1043322423(1) passed by the Respondent under Section 271D of Income Tax Act, 1961 for the Assessment Year 2017-18, by the respondent and quash the same.

For Petitioner : Mr.T.V.Muthu Abirami

For Respondents : Mrs.S.Premalatha
Senior Standing Counsel

ORDER

Mrs.S.Premalatha, learned Senior Standing Counsel, takes notice for the respondents.

2. In this Writ Petition, the petitioner has challenged the impugned Order dated 03.06.2022 passed under Section 271D of Income Tax Act, 1961, for the assessment year 2017-2018.

3. The petitioner appears to have received a part of the sale consideration for the sale of an immovable property in cash contrary to the restrictions contained in Section 269SS of the Income Tax Act, 1961. The petitioner had however declared the same in the return filed on 25.07.2017.

4. The return was taken up for scrutiny, and eventually, an Assessment Order dated 12.12.2019 came to be passed under Section 143(3) of the Income Tax Act, 1961, accepting the return filed by the petitioner.

5. Since the petitioner had received a part of the sale consideration in cash, the petitioner has been proceeded under Section 271D of the Income Tax Act, 1961.

6. In the impugned order, the 1st respondent has referred to a few decisions of jurisdictional High Courts including that of the Hon'ble Supreme Court in ***ADIT Vs A.B. Shanthi (SC) 255 ITR 258***, wherein it has been held as under:

> *"Imposition of fine equal to amount of loan / deposit received in cash –Object of introducing sec. 269SS is to ensure that a taxpayer is not allowed to give false explanation for his unaccounted money, or if he has made some false entries in his accounts, he should not escape by giving false explanation for the same –Provision inserted to curb the rampant circulation of black money"*

7. The challenge to the impugned order is primarily on the ground that, in the assessment order passed under Section 143(3) of the Income Tax Act, 1961, there was no indication that a separate order was to be passed against the petitioner under Section 271D of the Income Tax Act, 1961 for the failure on the part of the petitioner to observe the requirements of Section 269SS of the Income Tax Act, 1961.

8. The learned counsel for the petitioner would submit that since the order has to be passed only by the Joint Commissioner of Income Tax, a satisfaction has to be recorded by the assessing officer before initiating the proceedings under Section 271D of the Income Tax Act, 1961.

9. The learned counsel for the petitioner would further submit that the petitioner has cooperated with the respondents in the proceedings, and therefore, the imposition of penalty under Section 271D of the Income Tax Act, 1961, is liable to be interfered with.

10. That apart, the learned counsel for the petitioner would submit that the impugned penalty proceeding was barred under law and that the petitioner is a pensioner aged about 62 years at the time of filing of the writ petition and was unaware of the Income Tax Act, 1961.

11. The Learned Senior Standing Counsel for the respondents, on the other hand, would submit that this writ petition is devoid of merits, as the petitioner has an alternative remedy by way of an appeal before the appellate commissioner.

12. I have considered the arguments advanced by the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents.

13. In my considered view, there is no scope for interfering with the impugned order passed by the 1st respondent, as no procedural irregularity is noticed in the impugned order.

14. Whether indeed a penalty was to be imposed against the petitioner whose returns were accepted in the assessment Order dated 12.12.2019 under Section 143(3) of the Income Tax Act, 1961 is a matter which cannot be considered by this Court at this stage eventually, in case the petitioner fails to secure any favorable orders either from the first appellate authority or from the second appellate authority namely the Tribunal.

15. Therefore, to balance the interest of the petitioner and the respondents, I am inclined to dispose of the writ petition by giving a liberty to the petitioner to challenge the impugned order before the appellate commissioner under Section 246A of the Income Tax Act, 1961, within a period of 30 days from the date of receipt of a copy of this order.

16. However, considering the fact that there is no tax liability arising out of the cash transaction, and considering the fact that the same was also disclosed in the returns filed by the petitioner, I am inclined to direct the respondents not to initiate any coercive steps pending disposal of the proposed appeal, if filed by the petitioner.

17. The respondents shall also keep all further proceedings in abeyance and shall proceed against the petitioner only subject to the final outcome of the proposed appeal, if filed by the petitioner.

18. In case the petitioner fails to comply with the above stipulation, the respondents are at liberty to proceed against the petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

19. With these directions, this Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

27.10.2025

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Neutral Citation : Yes / No

To

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   New Delhi.

C.SARAVANAN, J.

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