

Mohinder Pal Singh Bhasin vs Union Of India & Anr on 5 September, 2024

Author: Yashwant Varma

Bench: Yashwant Varma

\$~30

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 5449/2022 & CM Nos. 37778/2024 & 46269/20

MOHINDER PAL SINGH BHASINPetitione

Through: Mr. Mohinder Pal Singh

Bhasin, Petitioner in Perso

versus

UNION OF INDIA & ANR.

Through:

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% 05.09.2024

1. The writ petitioner who appeared in person has sought the framing of directions for the respondents being commanded to take cognizance of his letter dated 31 January 2022 and be declared as an 'informant' under the Income Tax Informants Reward Scheme, 2018 1.

2. It becomes pertinent to note that on the record is an order dated 24 February 2021 in terms of which the respondents have rejected that request holding that the application is not liable to be allotted an informant code under the 2018 Scheme. That order reads as follows:-

"Sub: Statement dated 06.12.2018 bearing Diary NO. 6965, furnished under Income Tax Informants Scheme 2018 relating to Delhi State Taxi Operators Co-operative Thrift & Credit Service Society Ltd.

2018 Scheme This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:00 Ref: Pr. DIT(Inv.)-1/Hqrs/Tech-1/83/Reward Matter/2020-21/336 dated 30.12.2020.

Please refer to the subject and reference cited above.

In this regard, your matter has been examined as per Income Tax Informants Rewards Scheme, 2018 and it is found that your case is not fit for allotment of informant code. Followings are the relevant Para(s) which bars informer for any reward under this scheme:

"8. Circumstances under which an informant will not be eligible to get any reward: No reward shall be granted to an informant under certain circumstances which may include the following:

1. Where the information is not provided in accordance with the scheme.
2. If terms and conditions of the scheme are not fulfilled; or
3. Where the information given is not of substantial tax evasion; or
4. Where the information given is vague/non-specific and/or of general nature; or;
5. Where the information given is already available with the Income Tax Department; or:
6. Where the information is not received directly from the informant but through any organization other than Income Tax Department: or
7. Where additional taxes on the undisclosed Income detected are not directly attributable to the Information given by the Informant; or
8. Where Income Tax Department has evidence that the information given by the Informant has been shared by him or any other person unauthorized by him, with any other entity/agency including media; or"
9. In respect of incidental or collateral benefit which may arise to revenue in any other case as a result of the information furnished by the informant.

In view of the above, it is obvious that you do not fulfil the above criteria(s) mentioned at Para 8(i), 8(vi) and 8(viii) of the Income Tax Informants Rewards Scheme, 2018. Accordingly, the request to allot informant code under Income Tax Rewards Scheme, 2018 is rejected.

This issues with the prior approval of the Competent Authority."

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:00

3. Although there is no challenge to the aforesaid order formally raised in the writ petition, since the petitioner appeared in person, we do not propose to hold against him on this technicality.

4. As per the case set forth in the writ petition, the petitioner is stated to have provided information to the respondents in terms of a complaint dated 06 September 2013 giving details of various cash deposits and loans received and extended by Delhi State Taxi Operator's Co-operative Thrift and Credit Society². Although various communications appear to have been exchanged between the parties thereafter, no formal cognizance or action appears to have been taken on the said complaint except for the respondents acknowledging the receipt of that letter and the information having been forwarded to the CIT (Exemption) and other concerned authorities for enquiry and scrutiny.

5. At the time when the aforesaid complaint is stated to have been made, it was the Guidelines for Grant of Rewards to Informants, 2007³ which held the field. In terms of Clause 3 of those Guidelines, a person was entitled to be considered as an "informant eligible for reward" if he had furnished specific information of undisclosed income and wealth. In 2018, the respondents promulgated another scheme for rewarding informants and which was titled the "Income Tax Informants Rewards Scheme, 2018". The aforesaid Scheme appears to have been promulgated on or about 23 April 2018. As per the provisions made in the 2018 Scheme, an informant was held entitled to rewards provided the information made available to the respondents had led to the detection of substantial tax evasion. This Cooperative Society 2007 Guidelines This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:00 becomes apparent from a reading of Clauses 1.3 and 2 of that Scheme which are extracted hereinbelow:-

"1.3. Scope: This scheme shall regulate the grant and payment of reward to informants in cases where information is received by a JDIT (Inv) from the informant on or after the date of issue of this Scheme that leads to detection of substantial tax evasion under the provisions of Income Tax Act, 1961 and/or the Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015. This scheme shall not be applicable to information regarding recovery of irrecoverable taxes as the Central Board of Direct Taxes has issued separate Guidelines for the same vide F. No. 385/21/2015-IT (B) dated 26-8-2015.

2. Informant for the purposes of this Scheme "A person will be considered an informant for the purposes of this Scheme only if he has furnished specific information of substantial tax evasion in a written statement in the prescribed form (Annexure - A to this Scheme) and, based upon which, an Informant Code has been allotted to him by the prescribed authority. No claim for reward shall be entertained from a person who is not an informant under this Scheme, even if such person has

furnished some information in any manner.

Explanation: A person cannot claim any reward under the scheme if he is not an informant under the scheme, even if such person has furnished specific information of income or assets in any other manner, e.g., through letter, e-mail, CD, WhatsApp, SMS, phone, posting in social networking site or publishing letter in newspaper or any other media."

6. The procedure for furnishing information was prescribed in Clause 4 and which is extracted hereinbelow:-

"4. Procedure of furnishing information by Informant 4.1 A person who wants to give information of substantial tax evasion in expectation of reward under this scheme may contact the DGIT (Inv.)/PDIT (Inv.)/JDIT (Inv.) concerned. If he appears before DGIT (Inv.)/PDIT (Inv.), they will direct him to appear before JDIT (Inv.) concerned to furnish the information in the prescribed form (Annexure-A). If the jurisdictional JDIT (Inv) considers the information prima facie actionable, the person shall have to submit the information in prescribed format in Annexure - A by appearing in person before the JDIT (Inv), when called. In case of any difficulty, the person desirous of giving specific information may contact the PDIT (Inv) of the area. The decision This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:00 of PDIT (Inv) will be final in the matter of allotment of Informant Code under this Scheme.

4.2 Where a person gives information to an Income Tax Authority other than DGIT (Inv.)/PDIT (Inv.)/JDIT (Inv.), such person should be asked to contact the DGIT (Inv.)/PDIT (Inv.)/JDIT (Inv.) concerned, and thereafter, the aforesaid procedure, as the case may be, for receiving the information is to be followed by these authorities.

4.3. Where a foreign person wants to give information of undisclosed foreign income/assets of a person liable to tax in India, he may contact the Member (Investigation), CBDT, North Block, New Delhi-110001 either in person or by post or by a communication at email id member.inv@incometax.gov.in with a copy to citinv-cbdt@nic.in for further action.

4.4. If the information is furnished by a group of informants (more than one informant working together), the prescribed form, statements, etc. must be filled and signed by all such informants, jointly and Informant code will be allotted to each of them separately. The reward payable in such cases shall be disbursed in equal proportion, unless specified otherwise by such informants at the time of furnishing information in the prescribed form (Annexure-A).

4.5. If an informant furnishes information in respect of more than one group of cases, the prescribed form at Annexure-A shall be filled and signed separately for each such group. However, in such a situation the Informant Code for such informant shall remain one and the same.

4.6. The informant shall be liable to render assistance as may be required by the JDIT (Inv.) or any other investigating officer to whom the JDIT (Inv.) concerned may assign the investigation in the matter of information given by the informant.

4.7. JDsIT (Inv.) are presently posted at Ahmedabad, Vadodara, Surat, Rajkot, Bengaluru, Mangaluru, Hubballi, Panaji, Bhopal, Indore, Jabalpur, Raipur, Chandigarh, Mohali, Faridabad, Gurgaon, Ludhiana, Jalandhar, Chennai, Madurai, Coimbatore, Hyderabad, Vizag, Vijayawada, Bhubaneswar, Jaipur, Jodhpur, Udaipur, Kochi, Thiruvananthapuram, Kolkata, Guwahati, Lucknow, Kanpur, Agra, Varanasi, Meerut, Ghaziabad, Dehradun, Mumbai, Delhi, Patna, Pune, Thane, Nagpur and Kolhapur. Name and address of offices from where contact details of JDsIT (Inv) can be obtained are given in Annexure - B. 4.8. The informant shall be given a unique Informant Code and the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:00 person will always be identified on the basis of that Informant Code.

4.9. It should be noted that furnishing false information/ evidence is an offence and a person giving false information/evidence/statement will be liable to be prosecuted for such offence."

7. It appears that upon the promulgation of the 2018 Scheme, the petitioner was informed by the respondents of submitting a formal application and as per the prescribed format. Taking cue from the suggestion of the respondents, the petitioner is stated to have submitted a Form on 06 December 2018. As is apparent from the disclosures made against Serial No. 10 of that Form, the petitioner alleged that the cooperative society in question had received huge cash deposits from members and also extended cash loans in Assessment Years 2013-14, 2014-15 and 2015-16.

8. It was further asserted that out of the aforesaid amounts as determined, the respondents had been able to realize a sum of INR 3,74,56,531/- for AY 2013-14 and INR 3,26,57,514/- for AY 2014-15. However, and as is manifest from the order dated 24 February 2021, the respondents have held the petitioner disentitled to the reward in light of the provisions made in sub-clauses (i), (vi) and (viii) of Clause 8 of the 2018 Scheme. Clause 8 of the 2018 Scheme reads as under:-

"8. No reward shall be granted to an informant under certain circumstances which may include the following:

(i) Where the information is not provided in accordance with the Scheme

(ii) If terms and conditions of the scheme are not fulfilled; or

(iii) Where the information given is not of substantial tax evasion;

or

(iv) Where the information given is vague/non-specific and/or of general nature; or
AY This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:00

(v) Where the information given is already available with the Income Tax Department; or

(vi) Where the information is not received directly from the informant but through any organization other than Income Tax Department; or

(vii) Where additional taxes on the undisclosed income detected are not directly attributable to the information given by the informant; or

(viii) Where Income Tax Department has evidence that the information given by the Informant has been shared by him or any other person authorized by him, with any other entity/agency including media; or

(ix) In respect of incidental or collateral benefit which may arise to revenue in any other case as a result of the information furnished by the informant. "

9. The respondents rest their decision to deny reward to the petitioner by holding that its case would stand ousted by virtue of sub- clauses (i), (vi) and (viii) and which speaks of information not directly received from the informant. Of equal significance is clause (vii) and which speaks of cases where additional taxes on undisclosed income are not directly attributable to the information provided by the informant.

10. It is pertinent to note that an order of assessment pertaining to AY 2013-14 has been placed on the record. That discloses additions of INR 1,40,000/- and INR 5,980/- being made to the taxable income of the cooperative society. The Assessing Officer 5 in that order had in unequivocal terms noted that the society had received huge deposits from members in cash and also repaid the same in an evident violation of Sections 269SS and 269T of the Income Tax Act, 1961. It had accordingly framed a direction for the imposition of penalties under Section 271D and 271E of the Act. This is evident from the note forming part of the assessment order and which is reproduced AO Act This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:00 hereinbelow:-

"Office note:

During the course of assessment proceedings it was observed that the assessee society has received huge deposits from the members in cash in contravention of the provisions of Section 269 SS of the Income Tax Act, 1961. Further, the assessee has also repaid the deposit to the members in contravention of provisions of Section 269 T of the Income Tax, 1961. Reference is being sent to Joint Commission of Income Tax, Range -60 for considering the imposition of penalty u/s 271 D and u/s 271 E of the Income Tax Act, 1961. "

11. Pursuant to the aforesaid, penalties appear to have been imposed upon the cooperative society. The Joint Commissioner on due consideration of the facts as found levied penalties of INR 16,71,24,134/- and INR 2,01,58,524/- under Sections 271D and 271E of the Act for violation of the provisions of 269SS and 269T respectively. The imposition of these penalties was upheld by the Commissioner of Income Tax (Appeals)7.

12. Those orders were subjected to challenge by the cooperative society before the Income Tax Appellate Tribunal 8. The Tribunal while dealing with the validity of the penalties which came to be imposed has ultimately answered that question in favour of the cooperative society on merits as would be evident from the following extracts of its decision and which are reproduced hereinbelow:-

"14.7 The assesses submitted before the Ld. CIT(A) that the assessment under section 143(3) for AY 2013-14 was made on 30.03.2016 and the first penalty notice under section 271D and 271E was issued on 04.05.2016 and the penalty orders have been passed on 24.04.2017 in violation of section 275(1) (c) pf the Act and thus are barred by limitation. Reliance among others was placed on the decisions of Hon'ble Delhi High Court in ITO vs. Dinesh Jain (2014) 53 taxman.com 108 (Delhi) and Hon'ble Supreme Court's decision in Hissaria Brothers (2016) 74 taxman.com 22 (SC) wherein it is held CIT(A) Tribunal This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:01 that period of limitation for purpose of penalty is to be reckoned from date of first show cause notice issued for imposing penalty.

14.8 Strangely enough the impugned penalty orders passed by the Ld. JCIT on 24.04.2017 do not even mention the fact of issuance of first SCN dated 04.5.2016 followed by subsequent notices dated 26.07.2016 and 29.09.2016. The Ld. CIT(A), however observes at page 65 of his appellate order that the penalty proceedings which had been initiated by issue of notice dated 04.05.2016 stood nullified as were

other notices issued till 29.11.2016 for the reason that the earlier notices did not carry the correct name of the assessee and its PAN. The Ld. CIT(A) recorded the finding that such deficiency/defect does not get cured even as per provisions of section 292B of the Act. It is rather uncommon that the Revenue, sought to use the provisions of section 292B against itself.

XXXX XXXX XXXX

15. On the facts and in the circumstances of the case as set out above, we hold that the initial first SCN dated 04.05.2016 and other notices issued before 29.11.2016 by the Ld. JCITs were legally valid and penalty order should have been passed within the specified date upto which the period of limitation as per the provisions of section 275(l)(c) subsisted. This has not been done. Initiation of penalty proceedings by issuing fresh SCN dated 29.11.2016 and consequent levy of impugned penalty under section 271D and 271E are not in accordance with law having been passed beyond the time limit described under section 275(l)(c) of the Act. We, therefore, hold that the impugned penalty imposed under section 271D and 271E of the Act is not sustainable and both the impugned penalty orders passed under section 271D and 271E of the Act on 24.04.2017 are liable to be quashed. Ground No. 2 is decided in favour of the assessee.

XXXX XXXX XXXX

17. The Ld. AR drew our attention to the rationale behind the introduction of section 269SS explained by the board in Circular No. 387 dated 6th July, 1984 reported in (1985) 152 ITR (St) 22. It says that unaccounted cash found in the course of searches carried out by the Income Tax Department is often explained by taxpayers as representing loans taken from or deposits made by various persons. Unaccounted income is also brought into the books of account in the form of such loans and deposits, and the taxpayers are also able to get confirmatory letters from such persons in support of their explanation. With a view to countering this device which enables the taxpayer, to explain away unaccounted cash or unaccounted deposits, the Finance Act, 1984 inserted a new section 269SS. The argument of the Ld. AR is that the legislative intent was to bring This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:01 down the non-genuine transactions to prevent the unaccounted income being brought into the books of account in the form of loans/deposits. According to the Ld. AR in the case of the assessee none of the deposits or repayments have been doubted or found to be ingenuine either by the Ld. AO or by the Ld. CIT(A). The activities of the society are genuine, the transactions are genuine and accordingly the purpose for which the enactment of section 269SS and 269T was introduced has no application to the assessee's case. This plea of the

assessee was not acceptable to the Ld. CIT(A) who at page 55 of his appellate order observed, as pointed out by the Ld. DR as well that genuineness of transaction is not a valid plea, as even in genuine transactions, transacting in cash is not allowed. We deliberated. In our opinion, it is imperative to keep in mind the legislative intent in order to judicially appreciate a fact situation wherein the loans/deposits brought in by the assessee were not to explain its unaccounted cash and there was no material on record to suggest that by way of accepting loans/deposits in cash the assessee had introduced its unaccounted cash in books of account in the garb of loans. There is no allegation at all against the assessee that by accepting loans/deposits in cash its intention ever was to avoid payment of tax or to defraud Revenue.

18. The case of the assessee has along been that it is a co-operative society engaged in the business of banking by providing credit facility to its members and as such neither section 2⁹SS nor section 269T of the Act is applicable to it. Since inception 63 years ago the assessee was under a bonafide and genuine belief that it being a credit thrift society could accept from its members sums in cash and advance to them such sums in cash and that there is no prohibition to do so. The assessee pleaded before the Ld. JCIT and the Ld. CIT(A) that for its default, there existed reasonable cause within the meaning of section 273B of the Act. It was also the submission of the assessee that in none of the earlier years any contravention of the provisions of section 269SS and 269T was pointed out to the assessee by the Department. All these arguments/plea were not judicially acceptable to the Ld. JCIT/CIT(A) for the reason that once a wrong doing is detected, the full force of law has to be applied to remedy/rectify the situation/default. The Ld. DR also emphasised that the practice of cash dealings have been carried out by the assessee without any reasonable pause.

19. We considered carefully submissions of the parties. It is not in dispute that the assessee is a co-operative society which considers itself, though erroneously, to be engaged in the business of banking as it was providing credit facilities to its members right from inception. It is also an admitted position that the assessee's claim of deduction under section 80P has always been accepted by the department on the basic premise that the assessee has been engaged This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:01 in carrying on the business of banking or providing credit facilities to its members as stipulated in sub-section 2(a)(i) of section 80P of the Act. It is noteworthy that the provisions of section 269SS and section 269T were brought on the statute book w.e.f. 01.04.1984 which is around 28 years after the assessee society came into existence. But the Department never before the AY 2013-14 presently under consideration raised the issue of violation of the provisions of section 269SS and 269T though assessments were made under section 143(3) of the Act after scrutiny. This gives the bona fide impression that the Department had accepted, by implication that in the facts and peculiar circumstances of the assessee's

case, the provisions of section 269SS and 269T were inapplicable to it. Therefore, the rule of consistency should have been followed in AY 2013-14 also which has not been done. Even the CBDT acknowledged in its Circular F. No. 415/6/2000-IT(Inv.I) dated 25th March, 2004 that it was a widespread belief, even if erroneous that the provisions of section 269SS do not apply to the credit co-operative societies and advised the field officers not to impose penalty under section 27ID and 27 IE indiscriminately and should keep in view the provisions of section 273B of the Act.

xxxx xxxx xxxx 20.1 Before the Ld. CIT(A), drawing his attention to the provisions of section 273B of the Act, it was submitted that there is no finding in the assessment order that the transactions made by the assessee in breach of provisions of section 269SS or 269T were not a genuine transaction. Rather the penalties have been imposed stating that genuineness is no consideration, implying thereby that the genuineness of the transaction is accepted. The assessment order passed under section 143(3) after scrutiny of the books of account nowhere recorded any finding that the transactions made by the assessee was malafide and with the sole object to conceal or undisclose the money. Mere technical mistake not resulting, in any loss of revenue may not invite harsh penalty. The transactions are attributable to various exigencies of business carried on by the assessee constituted a 'reasonable cause' as contemplated under section 273B of the Act. It was also the submission of the assessee that the impugned penalty has never been imposed upon the assessee so the assessee was under bonafide belief that provisions of section 269SS and 269T were not applicable to the assessee. It was the plea of the assessee that bonafide belief coupled with genuineness of transaction constituted reasonable cause for not invoking provisions of section 27ID and 27 IE of the Act.

xxxx xxxx xxxx

21. We do not agree with this rigid approach of the Ld. JCIT/CIT(A). In the context of constitutionality of the provisions in This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:01 ADIT vs. AB Shanthi 255 ITR 258 (SC) the Hon'ble Supreme Court observed that the object of introducing section 259SS is to ensure that a taxpayer is not allowed to give false explanation for its unaccounted money, or if he has given some false entries in its accounts, he shall not escape by giving false explanation for the same. Provisions inserted to curb the rampant circulation of black money. The Ld. JCIT relied upon the decision of Hon'ble Supreme Court (supra) to justify levy of impugned penalty upon the assessee but he failed to appreciate that none of the observations of the Hon'ble Supreme Court apply to the facts of the assessee's case. It is not a case of search operations conducted on the assessee. There is no allegation levelled by the Revenue that false explanation at any point of time has been given by the assessee. Neither any false entry was ever

detected by the Revenue in the books of account of the assessee. We are at pains to say that further observations made by the Hon'ble Supreme Court in the decision (supra) escaped the attention of the Ld. JCIT/CIT(A). The Hon'ble Supreme Court further observed in para 19 that it is important to note that another provision, namely section 273B of the Act was also incorporated which provides that notwithstanding anything contained in the provisions of section 271D no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in the said provision if he proves that there was reasonable cause for failure to take a loan otherwise than by account payee cheque pr account payee demand draft then the penalty may not be levied. Therefore, undue hardship is very much mitigated by the inclusion of section 273B. 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 rested with the power to impose penalty has got discretionary power. "

13. It ultimately came to record the following conclusions:-

"25. In the light of the above discussion and following the precedents we are of the view that the assessee has discharged the onus which lay upon it to establish, the existence of reasonable cause for violation of the provision of section 269SS and 269T of the Act. In our opinion, the explanation offered by the assessee before the Ld. JCIT/CIT(A) was reasonable but was discarded merely because they proceeded on the premise that breach of condition provided under section 269SS and 269T shall necessarily lead to penal consequences which understanding in our humble opinion is not in accordance with law. We, therefore, cancel the penalty levied under section 271D and 271E of the Act. The ground No. 1, 3 85 4 are decided in favour of the assessee. "

14. Of significance is the following recital of fact which stands encapsulated in Para 4 of the order of the Tribunal:-

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:01 "4. Perusal of the penalty orders dated 24.04.2017 reveal that on reference by the Ld. Assessing Officer ("AO") vide letter dated 28.11.2016 the Ld. JCIT issued show cause notice dated 29.11.2016 initiating penalty proceedings. Neither anybody attended nor any reply received from the assessee. Another show cause notice dated 24.01.2017 also remained uncomplied. However, in response to third show cause notice dated 21.02.2017, the assessee submitted reply vide letter dated 15.03.2017 which the Ld. JCIT summarised in four pages of the penalty order in para 2 thereof. The explanation offered by the assessee was not acceptable to the Ld. JCIT who in para 3.1 of his order observed that during the

assessment proceedings, the Ld. AO vide ordersheet entry dated 23.02.2016 sought list of members of the assessee society from whom deposits have been accepted. On perusal, cash deposits of Rs. 16,71,24,134/- and repayment of deposits of Rs. 2,01,58,524/- were found to be in contravention of section 269SS and 269T respectively of the Act. In para 3.2, the Ld. JCIT noted from the assessee's reply dated 15.03.2017 the contention of the assessee that audit report under section 44AB of the Act obtained from an independent Chartered Accountant also confirmed that the provisions of section 269SS and 269T are not applicable to the society. The society is under bonafide belief that the deposits are made/repaid voluntarily by the members and are genuine. The case of the assessee is of mutually aided society for the benefit of its members. The penalty proceedings be kindly dropped. "

It becomes relevant to note that the aforesaid order of the Tribunal has since been upheld by this Court in Principal Commissioner of Income Tax-20 Delhi vs. M/s Delhi State Taxi Operators Cooperative Thrift Society 9.

15. As is apparent from a reading of the above, the cash deposits as well as the aspect of repayment of deposits in purported violation of Sections 269SS and 269T appear to have been clearly taken note of by the AO in the course of the assessment proceedings itself. This leads us to the inevitable conclusion that the cash deposits and repayment thereof were aspects which were duly noticed and stood disclosed in the assessment proceedings. It would consequently be incorrect to hold that the information provided by the petitioner could be said to ITA 247/2024 decided on 01 May 2024 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:01 fall within the meaning of "undisclosed income and wealth" and which forms the basis for reward under the 2007 Guidelines.

16. The claim of the petitioner for a reward also fails to satisfy the test of detection of "substantial tax evasion" and which constitutes a sine qua non for a reward being provided under the 2018 Scheme. Once it is found that the cash deposits, repayment of loans and other cash transactions stood duly reflected in the books of account, were examined in the assessment proceedings and were also scrutinized by the AO, it cannot possibly be said that the information which was proffered by the petitioner was one which was not otherwise available with the respondents. We consequently find ourselves unable to hold in favour of the writ petitioner bearing in mind the indubitable fact which emerges from the record and establishes that the information proffered was already in the knowledge of the respondents and that the material provided by the petitioner did not pertain to undisclosed income. The material furnished by the petitioner also cannot be viewed as having triggered the discovery of a scheme of substantial tax evasion.

17. In fact, the findings as rendered by the Tribunal are clearly to the contrary and dispel the allegation of undisclosed income and tax evasion.

18. We, consequently, find no merit in the writ petition. It shall stand dismissed.

YASHWANT VARMA, J RAVINDER DUDEJA, J SEPTEMBER 05, 2024/RW This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 20/09/2024 at 22:04:01