

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(HYBRID COURT)

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

I.T.A. No. 260/Asr/2023
Assessment Year: 2018-19

Rohtash Monga
Prop., Monga Jewellers,
Ferozepur City, Punjab
152002

Vs.

Asstt. CIT, Circle,
Ferozepur

[PAN: ADQPM 0639Q]

(Appellant)

(Respondent)

Appellant by	:	Sh. P. N. Arora, Adv.
Respondent by	:	Sh. Manpreet Singh Duggal, Sr. D.R.
Date of Hearing	:	07.04.2025
Date of Pronouncement	:	29.05.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi passed u/s 250 of the Income Tax Act, 1961 dated 16.08.2023 against the penalty imposed u/s 271E of the Act, 1961 which has emanated from the order of the Addl. CIT, Range-1, Bathinda dated 12.09.2022 imposing penalty amounting to Rs. 1,75,000/-.

2. Brief facts emerging from the record are that the assessee has received advance of an amount of Rs.1,75,000/- in cash from one *Smt. Sneha Goel* in lieu of an agreement for sale of immovable property. The assessment for the year has been completed by accepting the returned of income u/s 143(1) of the Act.

3. It is further observed that the advance received by the assessee against the proposed sale of immovable property has been refunded to the buyer in cash, in lieu of cancellation of the agreement for sale and consequential penalty was initiated on the grounds that specified advance in relation to transfer of immovable property has been refunded in cash which violates the provisions of section 269T of the Act, resulting in imposing of penalty of Rs.1,75,000/- u/s 271E of the Act vide order dated 12.09.2022.

4. The matter was carried in appeal before the Id. first appellate authority and the Id. first appellate authority has dismissed the appeal by discussing and stating the provisions of section 271D of the Act. It is seen from the appellate order dated 16.08.2023 that at the very first paragraph of the appellate order, the Id. CIT(A) has stated as follows:

“The present appeal arises from the penalty order passed u/s 271D dated 12.09.2022 of the Income Tax Act ('the Act') by Assessing Officer, Range- Bhatinda ('the AO') for the F.Y 2016-17 relevant to the A.Y. 2017-18. The appeal in this case has been filed on 02.11.2022 after service notice of demand 10.10.2022 as mentioned in form no. 35. Notices u/s 250 was issued to the appellant.”

5. In the findings of the Id. appellate authority, the same relates to the provisions of section 271D of the Act. The relevant portion is reproduced as under:

“8. I have carefully considered the facts and circumstances of the case and found that there is no need to interfere the addition made by AO u/s 271D of the IT Act amounting to Rs. 175000/-. Hence the objection raised by appellant is hereby dismissed and addition made by AO is sustained.”

6. Even in para 9 of the appellate order, the Id. appellate authority has stated as under:

“9. There is violation of provisions u/s 269SS of the Act, accordingly the appellant is liable for imposition of penalty u/s 271D of the Act. The penalty of Rs. 1,75,000/-imposed by the AO is upheld and the grounds of appeal are rejected.”

7. From the above observations, it is seen that the Id. CIT(A) has not decided or adjudicated on the penalty order passed u/s 271E (*r.w.s.* 269T) and has discussed issues relating to section 271D and 269SS of the Act, which is an inadvertent mistake apparent from the record, because the instant appeal relates to penalty imposed u/s 271E for alleged violation of section 269T of the Act.

8. As such, we are of the opinion that this matter should be remanded back to the Id. CIT(A) for adjudication on the grounds of appeal contained in the memorandum of appeal in Form No. 35 relating to the penalty imposed u/s 271E of the Act.

9. The ld. AR appearing for the assessee has no objection.
10. The ld. DR has no objection if the matter is remanded back to the ld. CIT(A). As such, in the interest of justice, we remand the matter back to the files of the ld. CIT(A) for proper adjudication considering the grounds in Form No. 35 and the penalty imposed u/s 271E of the Act.
11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 29.05.2025.

Sd/-
(Krinwant Sahay)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order