

आयकर अपीलीय अधिकरण, कटक न्यायापीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
(THROUGH VIRTUAL HEARING)

श्री जार्ज माथन, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष ।

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

आयकर अपील सं/ITA No.256/CTK/2025

AND

आयकर अपील सं/ITA No.258/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2017-2018)

Maleckunnel Philip Varghese AT/PO/PS: Ainthapali, Dist : Sambalpur-768004	Vs	DCIT, Central Circle, Sambalpur
PAN No. : ABVPV 8418 K		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Sh P.K.Mishra, Himanshu Jena & Narahari Swain, ARs
राजस्व की ओर से / Revenue by	:	Shri Ashim Kumar Chakraborty, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	12/08/2025
घोषणा की तारीख / Date of Pronouncement	:	12/08/2025

आदेश / O R D E R

Per Bench :

ITA No.256/CTK/2025 is filed by the assessee against the order dated 28.02.2025, passed by the Id. CIT(A), Bhubaneswar-2 for the assessment year 2017-2018, thereby confirming the penalty levied by the AO u/s.271D of the Act. ITA No.258/CTK/2025 is filed by the assessee against the order dated 04.03.2025, passed by the Id. CIT(A), Bhubaneswar-2 for the assessment year 2017-2018, thereby confirming the penalty levied by the AO u/s.271E of the Act.

2. Shri P.K.Mishra, Himanshu Jena and Narahari Swain, Id. ARs appeared on behalf of the assessee and Shri Ashim Kumar Chakraborty, Id. CIT-DR appeared on behalf of the revenue.

3. At the time of hearing, Id. AR submitted that he has challenged the penalties levied by the AO and confirmed by the Id.CIT(A) u/s.271D & 271E of the Act in the respective appeals of the assessee on the following three grounds :-

- i) No satisfaction has been recorded by the AO in the assessment years in both the appeals for the purpose of levying/initiating penalty u/s.271D or 271E of the Act.
- ii) The respective penalties levied u/s.271D & 271E of the Act in both appeals were barred by limitation;
- iii) The assessee has not paid nor received any cash during the impugned assessment years.

4. Ld. AR drew our attention to the assessment order. It was the submission that in the assessment order there is no satisfaction recorded for the levy of penalty u/s.271D or 271E of the Act. Ld. AR placed reliance on the decision of the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills Ambala City, reported in [2015] 64 taxmann.com 75 (SC), wherein the Hon'ble Supreme Court has categorically in para 5 held as under :-

5. As pointed out above, insofar as, fresh assessment order is concerned, there was no satisfaction recorded regarding penalty proceeding under Section 271E of the Act, though in that order the Assessing Officer wanted penalty proceeding to be initiated under

Section 271(1)(c) of the Act. Thus, insofar as penalty under Section 271E is concerned, it was without any satisfaction and, therefore, no such penalty could be levied. These appeals are, accordingly, dismissed.

5. It was further submitted that following the decision of the Hon'ble Supreme Court, referred to above, the Hon'ble Andhra Pradesh High Court in the case of Grandhi Sri Venkata Amarendra, reported in [2024] 167 taxmann.com 352 (Andhra Pradesh) has also held in para 9 as follows :-

9. In our view, the satisfaction of the Assessing Officer is required to be recorded because the officer, who passed the assessment order would not be levying the penalty under Sec.271D of the Act, unless it is recorded in the assessment order, he cannot refer the file to superior officer i.e., Joint Commissioner, for initiating levy of penalty. Unless the Assessing Officer, who is the primary authority, based on the material before it, during assessment proceedings, arrives at a finding that there has been a violation of the provisions, like in the present case, of Section 269SS, there will not be any occasion to the Joint Commissioner, who is not the Assessing Officer, to exercise his jurisdiction to levy Penalty under Section 271D. Following the decision of the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills referred supra, we set aside the order passed under Sec.271D of the Act.

6. Ld. AR also drew our attention to the decision of the Hon'ble Rajasthan High Court in the case of Sunil Agrawal, reported in [2025] 172 taxmann.com 54 (Rajasthan), following the decision of the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills Ambala City, referred to supra, has, in paras 9, 10 & 11, held as follows :-

9. *In Jai Laxmi Rice Mills Ambala City (supra) the Supreme Court was dealing with the issue as to whether the penalty proceedings under section 271D are independent of the assessment proceedings. In that case, in the assessment order passed in pursuance to the remand no satisfaction was recorded for initiating the proceedings under section 271E. Though the AO stated for initiation of proceedings under section 271(1)(c). The penalty proceeding was quashed on the ground that in absence of satisfaction recorded by the AO the penalty can not be imposed. 10. In the case in hand the DCIT had only recorded satisfaction for proceedings under Section 271(1)(c) of the Act of 1961 and no satisfaction was recorded to initiate penalty proceedings under Section 271D. 11. The issue involved in the present writ petition is squarely covered by the decision of the Supreme Court in Jai Laxmi Rice Mills Ambala City (supra). The notice issued under Section 271E and the proceedings in pursuance thereto are quashed.*

7. It was the submission that as no satisfaction has been recorded in the assessment order, the penalty levied u/s.271D of the in ITA No.256/CTK/2025 and u/s.271E of the Act in ITA No.258/CTK/2025 are liable to be quashed.

8. In reply, Id. CIT-DR referred to the decision of the Hon'ble Supreme Court in the case of Vasan Healthcare (P.) Ltd., reported in [2021] 125 taxmann.com 266 (SC), wherein the Hon'ble Supreme Court has held that no satisfaction is required to be recorded for the purpose of penalty u/s.271D or 271E of the Act. It was the prayer that the order of the Id. CIT(A) is liable to be upheld.

9. We have considered the rival submissions. Admittedly, the decision of the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills Ambala

City, referred to supra, favours the assessee and the decision of the Hon'ble Supreme Court in the case of Vasan Healthcare (P) Ltd.(supra), relied on by the Id.CIT-DR stating that the same is against the assessee but not on the issue of satisfaction. When we are faced with two judgments, one being in favour of the assessee and other being against the assessee, in view of the decision of the Hon'ble Supreme Court in the case of Vegetable Products Ltd., reported in [1973] 88 ITR 192 (SC), the decision in favour of the assessee should get preference. Even otherwise, the Hon'ble Andhra Pradesh High Court in the case of Grandhi Sri Venkata Amarendra (supra) and the Hon'ble Rajasthan High Court in the case of Sunil Agrawal (supra) have followed the decision of the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills Ambala City (supra) to hold that if no satisfaction is recorded before initiating of penalty u/s.271D or 271E of the Act, the penalty proceedings should be quashed. This being so, as it is noticed that the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills Ambala City (supra) has categorically held that satisfaction is to be recorded before initiating penalty u/s.271D or 271E of the Act, applying the same principle, it is held that there is no satisfaction recorded by the AO before initiating penalty u/s.271D and 271E of the Act. Consequently, the penalty levied u/s.271D of the in ITA No.256/CTK/2025 and u/s.271E of the Act in ITA No.258/CTK/2025 are quashed.

10. Since, we have already quashed the respective penalties levied in both the appeals on the ground of non-recording of satisfaction before

initiating penalty u/s.271D and 271E of the Act, the other issues raised by the Id.AR of the assessee are not being adjudicated upon.

11. In the result, both appeals of the assessee are allowed.

Order dictated and pronounced in the open court on 12/08/2025.

Sd/-

(राजेश कुमार)
(RAJESH KUMAR)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(जार्ज माथन)
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

दिनांक Dated 12/08/2025

Prakash Kumar Mishra, Sr.P.S.

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

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack