आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.:2655/Chny/2024**
निर्धारण वर्ष / **Assessment Year: 2017-18**

Siluvaikani Chelliah, 103, CLTRI Quarters Chengalpattu, Kanchipuram – 603 001.	vs.	**ITO,** Non Corporate Ward -22 (6), Tambaram.
[PAN:AIKPC-9087-F] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Dr. CA. Abhishek Murali
प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 18.09.2025
घोषणा की तारीख/Date of Pronouncement : 07.10.2025

आदेश /O R D E R

PER S. R. RAGHUNATHA, AM :

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals),NFAC, Delhi (hereinafter referred to as "the Ld.CIT(A)"), dated 12.09.2024 for the Assessment Year (hereinafter referred to as "A.Y.") 2017-18 against the action of the Ld.CIT(A) confirming the penalty levied u/s.271D of the Income Tax Act, 1961 (hereinafter

referred to as "the Act") by the Faceless Assessing Officer (hereinafter referred to as the "FAO") dated 20.12.2022.

2. The brief facts of the case are that the assessee, an individual, filed her return of income for the A.Y.2017-18 on 23.06.2017, declaring a total income of Rs.6,31,600/-. The assessee was employed with the Central Leprosy Teaching and Research Institute, Chennai, and derived income under the head "Salaries."

3. The case of the assessee for the impugned assessment year was selected for limited scrutiny to examine the cash deposits made during the demonetization period. It was noticed that the assessee had deposited cash aggregating to Rs.23,80,000/- in her bank account during the said period. The assessee was accordingly called upon to explain the source of the aforesaid deposits. In response, the assessee submitted that she had sold an immovable property on 17.11.2016 for a total consideration of Rs.27,62,500/-, which was received entirely in cash, and out of the same, the deposits in question were made into her bank account. Since the assessee had not offered the resultant capital gains to tax in her return of income, the assessment was completed u/s.143(3) of the Act, on 25.09.2019, assessing long term capital gains at Rs.22,79,080/-.

4. Subsequently, penalty proceedings u/s.271D of the Act were initiated by issuance of a show cause notice u/s.274 r.w.s 271D of the Act, dated 16.06.2022, by the Joint Commissioner of Income Tax, Non-Corporate Range-

22, Chennai (TBM). The said proceedings were later assigned to the FAO, who passed the impugned penalty order dated 20.12.2022 u/s.271D of the Act, levying a penalty of Rs.23,80,000/- for contravention of the provisions of section 269SS of the Act, on account of acceptance of cash consideration for the sale of immovable property.

5. Being aggrieved, the assessee preferred an appeal before the ld.CIT(A), who vide order dated 12.09.2024, confirmed the levy of penalty u/s.271D of the Act. The assessee, being further aggrieved, is now in appeal before this Tribunal.

6. We have carefully considered the submissions of both parties and examined the material available on record. The assessee has assailed the impugned order passed by the FAO levying penalty u/s.271D of the Act on multiple grounds. The principal contention urged by the assessee is that the AO, while framing the assessment u/s.143(3) of the Act vide order dated 25.09.2019, did not record any satisfaction regarding a violation of section 269SS of the Act, which is a sine qua non for initiation of penalty proceedings u/s.271D of the Act. In support of this contention, the Ld.AR invited our attention to the assessment order dated 25.09.2019 passed u/s.143(3) of the Act and pointed out that no finding or satisfaction has been recorded therein by the AO with respect to the alleged contravention of section 269SS of the Act, i.e., the receipt of a specified sum in contravention of the said provision. It was thus contended that, in the

absence of such satisfaction recorded in the assessment order, the subsequent levy of penalty u/s.271D of the Act by the FAO is unsustainable in law.

7. To fortify the above proposition, the Ld.AR placed reliance upon the judgment of the Hon'ble Supreme Court in CIT v. Jai Laxmi Rice Mills [2015] 379 ITR 521 (SC), as well as the decision of the Hon'ble Telangana High Court in Srinivasa Reddy Reddeppagari v. JCIT (W.P. No. 44285 of 2022). Further reliance was placed on various decisions rendered by coordinate benches of this Tribunal.

8. Per contra, the ld.DR for the revenue, strongly supported the orders of the authorities and prayed for confirming the order of the ld.CIT(A) as the entire amount of sale consideration has been received in cash.

9. In this regard, in similar case, we note that the Hon'ble Supreme Court in the case of CIT v. Jai Laxmi Rice Mills [supra], wherein, the Hon'ble Apex Court while examining similar contention/legal issue of levy of penalty u/s.271E which is pari materia to sec.271D of the Act 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 27 JE of the Act, though in that order the Assessing Officer wanted penalty proceeding to be initiated under Section 271 (l)(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."*

10. Thereafter, the Hon'ble Telangana High Court in the case of Sirnivasa Reddy Reddeppagari (supra) while deciding similar legal issue regarding levy of penalty u/s 271D for violating section 269SS held as under:

> *"22. From an analysis of Sections 271D and 271E of the Act, it is seen that both the provisions are pari materia to each other. While Section 271D of the Act would be attracted on a person accepting loan or deposit or specified sum in contravention of Section 269SS of the Act, penalty under Section 271 E of the Act would be imposable on a person who makes or repays the loan or deposit or specified advance in contravention of Section 269T. Therefore, in a way, the two provisions are complimentary to each other.*
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> *23. In Jai Laxmi Rice Mills Ambala City (supra}, Supreme Court considered the question as to whether penalty proceedings under Section 271D of the Act is independent of the assessment proceeding? In the facts of that case, it was found that the penalty order was issued following the assessment order. However in appeal, Commissioner of Income Tax (Appeals) had set aside the original assessment order with a direction to frame assessment de nova. In the fresh assessment order, no satisfaction was recorded by the assessing officer regarding initiation of penalty proceedings under Section 271 E of the Act. It was noticed that the penalty order was passed before the appeal of the assessee was allowed by the Commissioner of Income Tax (Appeals). It was in that context that Supreme Court held as follows:*
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> > *The Tribunal as well as the High Court has held that it could not be so for the simple reason that when the original assessment order itself was set aside, the satisfaction recorded therein for the purpose of initiation of the penalty proceeding under Section 271E would also not survive. This according to us is the correct proposition of law stated by the High Court in the impugned order.*
> >
> > *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.*
>
> *24. Reverting back to the facts of the present case, we find that petitioner had submitted reply to the show cause notice on*

02.06.2022. In his reply, petitioner mentioned that no satisfaction was recorded by the assessing officer in the assessment order as to infraction of Section 269SS of the Act. Therefore, no penalty could be levied under Section 271D of the Act without recorded satisfaction. In this connection, reference was made to the decision of the Supreme Court in Jai Laxmi Rice Mills Ambala City (I supra) wherein it was clarified that provisions of Section 271E are in pari materia with the provisions of Section 271D of the Act. However, this aspect of the matter was not considered by respondent No.1 while passing the impugned order. Respondent No.I relying upon the Kerala High Court decision in Grihalaxmi Vision (2 supra) noted that competent authority to levy penalty is the Joint Commissioner. He has also referred to an earlier decision of the Supreme Court in CIT V. Mac Data Ltd. wherein it was observed that assessing officer has to satisfy himself as to whether penalty proceedings should be initiated or not. Assessing officer is not required to record his satisfaction in a particular manner or reduce it into writing. Therefore, respondent No. 1 imposed the penalty under Section 271D of the Act.

25. We are afraid respondent No. I had completely overlooked the decision of the Supreme Court in Jai Laxmi Rice Mills Ambala City (1 supra). In the said decision as extracted above, Supreme Court had concurred with the view taken by the High Court holding that satisfaction must be recorded in the original assessment order for the purpose of initiation of penalty proceedings under Section 271E of the Act. We have already discussed above that provisions of Section 271E and 271D of the Act are in pari materia. When there is a decision of the Supreme Court, it is the bounden (2013) 3 5 2 ITR 1 duty of an adjudicating authority, be it an income tax authority or any other civil authority or for that matter any court in the country, to comply with the decision of the Supreme Court."

11. Following the Hon'ble Courts decisions (supra), this Tribunal in several cases [T Shiju v. JCIT in ITA No.2829/Chny/2018 dated 07.06.2019] has held that recording of satisfaction by the AO in the assessment order regarding the violation of the provisions of section 269SS is a mandatory requirement for valid initiation of penalty proceedings u/s.271D of the Act and no penalty could be levied if the AO failed to record such satisfaction in the assessment order. In the present case, on perusal of the assessment order u/s.143(3) of the Act dated 25.09.2019, it is seen that no such satisfaction has been recorded by the AO in

the said assessment order. Hence, having regard to the failure of the AO to record his satisfaction in the assessment order with regard to the violation of the provisions of Sec. 269SS, it is held that the penalty proceedings u/s.271D of the Act have not been validly initiated and consequently, the penalty order dated 20.12.2022 levying penalty of Rs.23,80,000/- by the FAO u/s.271D of the is held to be bad in Law.

12. Since the assessee succeeds on the legal issue as noted supra as held by the Hon'ble Supreme Court & High Courts as well as this Tribunal supra, we are inclined to allow the legal issue raised by the assessee and all other grounds raised by the assessee have become academic in nature and therefore not adjudicated.

13. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 07th October, 2025 at Chennai.

Sd/-	**Sd/-**
(मनु कुमार गिरि)	**(एस. आर. रघुनाथा)**
(MANU KUMAR GIRI)	**(S. R. RAGHUNATHA)**
न्यायिक सदस्य/**Judicial Member**	लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 07th October, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3.आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF