

**आयकर अपीलीय अधिकरण, कटक न्यायपीठ, 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.377/CTK/2025

आयकर अपील सं/ITA No.378/CTK/2025

(निर्धारण वर्ष / Assessment Year : 2016-2017)

<b>Modern Engineering &amp; Management Foundation,</b> Banaparia, Kuruda, Balasore	Vs	<b>JCIT, Central Circle, Balasore</b>
PAN No. : <b>AACTM 1058 J</b>		
<b>(अपीलार्थी / Appellant)</b>	..	<b>(प्रत्यर्थी / Respondent)</b>
<b>निर्धारिती की ओर से / Assessee by</b>	:	Shri K.C.Jena & Shri Mohit Sheth, ARs
<b>राजस्व की ओर से / Revenue by</b>	:	Shri Ashim Kumar Chakraborty, CIT-DR
<b>सुनवाई की तारीख / Date of Hearing</b>	:	25/09/2025
<b>घोषणा की तारीख/Date of Pronouncement</b>	:	25/09/2025

**आदेश / O R D E R**

**Per Bench :**

These two appeals are filed by the assessee against the separate orders of the Ld.CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 28/04/2025 for the assessment year 2016-2017 arising out of the penalty levied u/s.271E & 271D and confirmed by the Id.CIT(A).

2. It was submitted by the learned AR that there was a search on the premises of the assessee on 20<sup>th</sup> October, 2016. The assessment orders came to be passed for the impugned assessment year on 27.12.2018 under section 153A read with section 143 of the Act. It was the submission that no satisfaction has been recorded in the assessment order for the purpose of levying penalty under section 271 D and 271 E of the Act. It was the submission that in the course of assessment it was noticed that the assessee has received cash payment from 8 persons for

an amount of Rs.17 lakhs and consequently penalty under section 271 D had been levied for the said receipt. It was also noticed that the assessee has repaid cash of Rs.7,50,000/- for which penalty under section 271 E of the Act has been levied. The learned AR place reliance on the decision of the coordinate bench of this tribunal in the case of Maleckunnel Philip Varghese in ITA Nos.256 & 258/CTK/2025, order dated 12.08.2025 wherein the coordinate bench of this Tribunal following 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), as also the decision of the Hon'ble Andhra Pradesh High Court in the case of Grandh Sri Venkata Amarendra, reported in [2024] 167 taxmann.com 352(Andhra Pradesh) has held as follows

*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 ITA Nos.256&258/CTK/2025 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.*

3. It was the prayer that as there is no satisfaction recorded in the assessment order before initiating penalty under section 271 D and 271 E of the Act, therefore, the penalty as levied by the AO and as confirmed by the learned CIT(A) may be deleted.

4. In reply, the learned CIT-DR vehemently supported the order of the AO and CIT(A). The learned CIT-DR submitted that the Hon'ble Supreme Court in the case of Vassan Health Care Private Limited, reported in 125 taxman.com 266 has held that no satisfaction required to be recorded for the purpose of penalty under section 271D and E of the Act.

5. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that in the coordinate bench of this Tribunal in the case of Maleckunnel Philip Varghees, referred to supra has already considered the decisions of the Hon'ble Supreme Court in the case of Jai Lakshmi Rice Mills Ambala City as also the decision of the Hon'ble Andhra Pradesh in the case of Grandhi Sri Venkata Amarendra, referred to supra, as also the decision of the Hon'ble Supreme Court in the case of Vassan Health Care Private Limited, referred to supra and has held that satisfaction is required to be recorded by the AO before initiating penalty under section 271D and 271E of the Act, consequently, respectfully following the decision of the coordinate bench of this tribunal,

wherein both of us were parties, the penalty as levied by the AO and confirmed by the Id. CIT(A) under section 271D and 271E of the Act stands deleted.

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

Order dictated and pronounced in the open court on 25/09/2025.

**Sd/-**

(राजेश कुमार)

**(RAJESH KUMAR)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

**Sd/-**

(जार्ज माथन)

**(GEORGE MATHAN)**

न्यायिक सदस्य / **JUDICIAL MEMBER**

दिनांक Dated 25/09/2025

*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.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**(Assistant Registrar)**

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack