



आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" JAIPUR
डा० एस. सीतालक्ष्मी न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI,
आयकर अपील सं./ITA Nos. 1162, 1164 to 1170, 1174 to 1178/JP/2025
निर्धारण वर्ष / Assessment Year : 2015-16 to 2021-22

Dy. Commissioner of Income Tax, Central Circle-02, Jaipur	बनाम Vs.	M/s Gokul Kripa Colonizers & Developers Pvt. Ltd. Central Circle-03, Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.:AAECG8317K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

CO. Nos. 34 to 46/JPR/2025
(Arising out of ITA. No. 769/JPR/2023)
निर्धारण वर्ष / Assessment Year : 2015-16 to 2021-22

M/s Gokul Kripa Colonizers & Developers Pvt. Ltd. Central Circle-03, Jaipur	बनाम Vs.	Dy. Commissioner of Income Tax, Central Circle-02, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAECG8317K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Vijay Goyal, CA &
Shri Gulshan Agrwal, CA
राजस्वकी ओरसे / Revenue by: MS. Alka Gautam, CIT-DR

सुनवाई की तारीख / Date of Hearing : 29/10/2025
उदघोषणा की तारीख / Date of Pronouncement: 13/11/2025

आदेश / ORDER

PER BENCH:

The present bunch of appeals were filed by the revenue and cross objections to those appeals so filed by the revenue were preferred by the

assessee. Since the issue raised by the revenue and that of the assessee in cross objection are similar in all the assessment year and since we have heard these bunch appeals and cross objections together with the consent of parties, we considered it to dispose of these bunch together with this common order. The details of the appeals filed by the revenue are as tabulated herein below:

Sr. No	ITA No.	A. Y.	Date of order of CIT(A)-4, Jaipur	Date and section under which the Addl./Jt. CIT passed order which was disputed before Id.CIT(A)
1	1162/JP/2025	2015-16	19.06.2025	Levy of penalty u/s 271D of the Act vide order dated 28.08.2023 for an amount of Rs. 2,37,98,650/-
2	1164/JP/2025	2015-16	19.06.2025	Levy of penalty u/s 271E of the Act vide order dated 28.08.2023 for an amount of Rs. 1,40,80,050/-
3	1165/JP/2025	2016-17	19.06.2025	Levy of penalty u/s 271D of the Act vide order dated 28.08.2023 for an amount of Rs. 1,26,03,513/-
4	1166/JP/2025	2016-17	19.06.2025	Levy of penalty u/s 271E of the Act vide order dated 28.08.2023 for an amount of Rs. 1,13,34,587/-
5	1167/JP/2025	2017-18	19.06.2025	Levy of penalty u/s 271D of the Act vide order dated 28.08.2023 for an amount of Rs. 11,02,13,000/-
6	1168/JP/2025	2017-18	19.06.2025	Levy of penalty u/s 271E of the Act vide order dated 28.08.2023 for an amount of Rs. 90,95,257/-
7	1169/JP/2025	2018-19	19.06.2025	Levy of penalty u/s 271E of the Act vide order dated 28.08.2023 for an amount of Rs. 3,22,15,053/-
8	1170/JP/2025	2019-20	19.06.2025	Levy of penalty u/s 271D of the Act vide order dated 28.08.2023 for an amount of Rs. 9,51,16,277/-
9	1174/JP/2025	2019-20	19.06.2025	Levy of penalty u/s 271E of the Act vide order dated 28.08.2023 for an amount of Rs. 4,20,26,176/-
10	1175/JP/2025	2020-21	19.06.2025	Levy of penalty u/s 271E of the Act vide order dated 28.08.2023 for an

				amount of Rs. 6,52,43,524/-
11	1176/JP/2025	2020-21	19.06.2025	Levy of penalty u/s 271D of the Act vide order dated 28.08.2023 for an amount of Rs. 8,33,67,454/-
12	1177/JP/2025	2021-22	19.06.2025	Levy of penalty u/s 271D of the Act vide order dated 28.08.2023 for an amount of Rs. 32,96,15,250/-
13	1178/JP/2025	2021-22	19.06.2025	Levy of penalty u/s 271E of the Act vide order dated 28.08.2023 for an amount of Rs. 6,99,87,788/-

Against all these appeals of the revenue the assessee preferred cross objections which were numbered as CO/39/JP/2025 to CO/46/JP/2025.

2. As agreed by the parties the lead case of revenue is considered in ITA no. 1168/JP/2025 for assessment year 2017-18 and the connected cross objection of assessee on it numbered as CO no. 39/JP/2025 is taken up for discussion as lead case and the finding shall apply mutatis mutandis on the similar issue in the other appeals and cross objection since the grounds were similar in other years.

3. Revenue feeling dissatisfied with the finding so recorded in the order of Commissioner of Income Tax, Appeal, Jaipur – 4 [for short CIT(A)] dated 19.06.2025 preferred the present appeal and thereby the assessee preferred the cross objection which arise from that order of the Id. CIT(A).

The dispute relates to the assessment year 2017-18. That order of the Id. CIT(A) arises because the assessee has challenged the order of levy of penalty passed on 28.08.2023 as per provision of section 271E of the Income Tax Act, 1961 [for short Act] by Addl./Jt. CIT, Central, Jaipur [for short AO].

4. Before moving towards the facts of the case we would like to mention that the revenue has assailed the appeal for assessment year 2017-18 in ITA No. 1168/JP/2025 on the following grounds.

(i) Whether on the facts and circumstances of the case, the Ld.CIT(A) has erred in deleting levy of penalty by CIT only on technical ground without giving any finding on the merits of levy of penalty?

(ii) Whether on the facts and circumstances of the case, the Ld.CIT(A) has erred in holding that the relevant date for determining the limitation period for imposing penalty u/s 271E of LT. Act is the date when the assessment order was passed by the A.O. and not the date when show cause notice was issued by the Addl./Jt. CIT & ignoring the legal aspect that the A.O. was not allowed to impose penalty u/s 271E of I.T. Act and therefore passing of assessment order by the A.O. and reference made by A.O. has no bearing on deciding the limitation date for imposing penalty u/s 271E of 1.T. Act?

(iii) Whether on the facts and in circumstances of the case, the Ld.CIT(A) has erred in ignoring the decision of Hon'ble Kerla High Court in the case of Grihalaxmi Vision v Addl. Commissioner of Income Tax, Range-1, Kozhikode in ITA No 83 & 86 of 2014 dated 08.07.2015, wherein it was held that limitation of penalty proceedings u/s 271D/E of LT. Act start from the issue of show cause notice(s) by the Addl./Jt. CIT?

(iv) Whether on the facts and in circumstances of the case Ld.CIT(A) has erred in relying on the decision of Hon'ble Apex court in the case of Hissaria Brothers without appreciating the fact that the facts of the case of Hissaria Brothers were different from the present case as in the case of Hissaria Brothers, the issue was regarding extension of limitation date for imposition of penalty u/s 271D/E of I.T.

Act on the ground of pendency of appeal against relevant assessment order but in present case, there is no such issue involved?

(v) The appellant craves leave or reserves right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.

4.1 In the connected cross objection no. 39/JP/2025 the assessee has raised the following ground:-

1. On the facts and in the circumstances of the case and in law the Ld. CIT (A) rightly deleted the penalty of Rs. 90,95,257/- levied by Ld. AO u/s 271E of I. Tax Act by holding that the penalty order passed on 28.08.2023 is beyond the date of limitation. However, in addition to or/and in alternative, the contentions of the assessee are as under

1.1 In the assessment order, no satisfaction was recorded for initiation of penalty u/s 271E of the Act, hence the penalty imposed is not maintainable, bad in law and deserves to be annulled on this count also.

1.2 the Ld. A.O. assessed the alleged loans as income of assessee so debit entries are repayments of income or return of income or expenses, therefore out of purview of section 269T of the Act.

2. The appellant craves leave to add, alter, amend, any of the grounds of appeal at or before the time of hearing of appeal.

5. Succinctly, the fact as culled out from the records is that in this case, search and seizure action u/s 132 of the Act and/or survey action u/s 133A of the Act was carried out on 19-01-2021 by the Income Tax Department on M/s Gokul Kripa Colonizers & Developers Pvt. Ltd (hereinafter referred as GKCDPL or assessee), one of the members of the Gokul Kripa Group. While in search proceeding various incriminating documents were

found/seized including forensic data from premises covered in the "Gokul kripa group. These incriminating documents include information related to repayment of cash loans by the assessee company GKCDPL through its founders/promoters/owners/key person namely Shri Sumer Singh Saini, Shri Phool Chand Saini, Shri Rajesh Kumar and Shri Ganga Singh Tanwar & others and these cash loans were utilized for the purpose of business of assessee company i.e. in the business of real estate done by the assessee company. Further, during the course of assessment proceedings, the assessee company was asked to explain these financial transactions done through its key persons for the purpose of business of real estate conducted by the assessee company, i.e. cash loans repayments by the assessee company through its key persons but the assessee was failed to provide any satisfactory reply regarding these cash loan repayments. Accordingly, the Assessing Officer i.e., ACIT, Central Circle-2, Jaipur referred the matter to Addl./Jt. CIT, Central Range, Jaipur for initiation of penalty proceedings under section 271E of the Act for contravention to the provisions of section 269T of the Act i.e. the assessee accepted loan or deposit in an amount exceeding the limit specified in section 269T by other than a cheque or bank draft, in violation of provisions of section 269T of the Act. The Addl. CIT, Central Range, Jaipur issued notice u/s 274 r.w.s. 271E

of the Act on 14.02.2023 initiating penalty under section 271E of the Act for violation of provisions of section 269T of the Act vide show cause notice dated 01.03.2023. The assessee filed its reply on 15.3.2023 in response to above show cause notice on ITBA. Again after change of incumbent, another show cause notice dated 03.08.2023 was issued to the assessee fixing the case for hearing on 10.08.2023. In response to this notice, the assessee submitted that the reply submitted on 15.03.2023 may be considered as reply to this notice. The salient points as jotted down by the Id. AO in his order on the reply dated 15.03.2023 10.08.2023 reads as under :

1. The assessee company was not right person to allege that it has taken cash loan;
 2. The AO assessed the alleged loan as Income so out of preview of section 269T of the Act.
 3. Complete working was not given either assessment stage or penalty proceedings stage;
 4. The company is artificial person so it cannot take or repay the loans, it always acts through living persons;
 5. The first onus is on the department to show cause that the assessee company has taken cash loan which has not been discharged,
 6. Presumption u/s 132(4) not available for penalty proceedings;
 - 7 The assessment proceedings and penalty proceedings are two separate proceedings:
 8. & 9) That the alleged loans were treated as income of the assessee and the same cannot be considered as a loan for the purpose of levy of penalty; and that without any credible evidences the caption amounts should be alleged as loans, it is submitted that the section 269T falls in Chapter XXB which deals with requirement as to mode of acceptance, payment or repayment in certain cases to counter act evasion of tax;
- And further enclosed the list of schemes developed by the assessee company along with percentage share of key persons.

Ld. AO noted that the reply of the assessee was considered but not tenable on account of the following reasons;

Para1

The assessee company has tried to camouflage the whole business done by it through its founders/promoters/owners/key person namely Sh. Sumer Singh Saini, Sh. Phool Chand Saini, Sh. Rajesh Kumar and Sh. Ganga Singh Tanwar in the garb of treating it as association of persons. Here, it is pertinent to emphasize the important points:

a) Firstly, the whole business had been done under the entity being company namely M/s Gokul Kripa Colonizers & Developers Pvt. Ltd. (PAN: AAECG8317K)

b) Secondly, the company being a artificial person always controlled by persons, here in this case being Sh. Sumer Singh Saini, Sh. Phool Chand Saini, Sh. Rajesh Kumar and Sh. Ganaga Singh Tanwar, who had been handling the day to day business activities of the assessee company i.e. business of real estate (developing different residential/commercial plotting schemes)

c) Thirdly, the assessee Group has filed returns as a company for the real estate business, neither any legal entity being AOP was created nor returns for AOP had been filed by the assessee group for transactions done in the name of M/s GKCDPL.

d) Fourthly, the assessee company has itself filed affidavits of its key persons during the course of assessment proceedings stating therein that "to avoid the additions in multiple hands and to avoid the multiple proceedings the same may kindly be considered in hands our lead company naming M/s. Gokul Kripa Colonizers & Developers Private Limited because the end use of such funds was for real estate business being carried out by us. This admission is given to our assessing officer just to avoid the addition in multiple hands and by way of this affidavit we hereby confirm that In future we will never challenge to the addition on the ground that the same has been considered in wrong hands."

e) The content of the affidavit is reproduced as under:

"We, (1) Sumer Singh Saini Slo Shri Gokul Chand Saini, Address: C-33, 6D, Engineers Colony, Mangayawas, Mansarover, Jaipur-Rajasthan (2) Phool Chand Saini S/o Shri Ram Dev Saini, Address: Plot No. 22, Monika Vihar-Ist, Behind Maharani Garden, Mangyawas Road, Mansarover, Jaipur (3) Rajesh Kumar S/o Shri Deep Chand Verma Address: - D-6/342, Chitrakoot, Vaishali Nagar, Jaipur (4)

Ganga Singh Tanwar S/o Shri Sahadev Singh Address: Flat No. 702, UDB Indus Tower, Opp. Pillar No. 5, Near Mansarover Metro Station, Jaipur do hereby solemnly declare and confirm that:-

- 1) We the above name persons are promoters and owners of various concerns of the group known as "Gokul Kripa Group", therefore competent to sign this affidavit on behalf of this group. This affidavit is being filed in our Individual capacity as well as by Shri Sumer Singh Saini in the capacity of director of company naming Gokul Kripa Colonizers & Developers Private Limited
- 2) We all four persons in association of each other were carrying on the business of real estate and under such association several schemes in several name were developed and sold.
- 3) The Income Tax department carried out search over our residential and business premises on 19.01.2021 and during the course of search found & seized various documents. As a consequence of search the assessment proceedings of various assessee of our group are pending with ACIT, Central Circle-2 Jaipur (hereinbelow referred as assessing officer) and we have submitted our explanation on the each and every query raised during assessment proceeding
- 4) During the course of assessment proceedings, the queries were raised regarding the alleged unsecured loans taken in cash by us from the various parties and explanation of the same has been submitted by us. However, without admitting anything contra, we have requested to our assessing officer that if our explanation is not accepted and such alleged loans are considered for addition than to avoid the additions in multiple hands and to avoid the multiple proceedings the same may kindly be considered in hands our lead company naming Gokul Kripa Colonizers & Developers Private Limited because the end use of such funds was for real estate business being carried out by us. This admission is given to our assessing officer just to avoid the addition in multiple hands and by way of this affidavit we hereby confirm that in future we will never challenge to the addition on the ground that the same has been considered in wrong hands.
- 5) During the course of search several data were found from the mobile of Shri Vikas Saini and the explanation of the same has been submitted in our submission filed to assessing officer. In this regard we also submitted to our assessing officer that Shri Vikash Saini in his individual capacity was not carrying any such activities for which the transactions noted in captioned images or data, would have been made by him as Individual. Shri Vikas Saini is mainly assisting to his father Shri Phool Chand Saini in the real estate business of Gokul

Kripa Group and he has no business in his individual capacity. The transactions mentioned in the data extracted from the mobile of Shri Vikas Saini is either pertaining to real estate business of the Gokul Kripa Group or someone else as explained in respective reply. Therefore, we have requested to our assessing officer that if our submission is not accepted and If any adverse interference is drawn on the basis of such data than the same may kindly be considered in the hands of company naming Gokul Kripa Colonizers & Developers Private Limited and due credit of such receipt on a/c of alleged unaccounted sales may kindly be allowed. We by way of this affidavit hereby confirm that in future we will never challenge that the same has been considered in wrong hands.”

Thus, the claim of the assessee company that the business was run as AOP has no basis and it is apparent from the above that the justification furnished by the assessee company has no basis and moreover, it is just an afterthought of the assessee company to safeguard itself from the penalty.

Para 2: On going through the assessment record, it may be noted that the assessee company GKCDPL (PAN: AAECG8317K) had repaid cash loans through key persons of Gokul kripa Group. It is also apparent from the assessment order itself that the details of repayment of loans were found in the seized record and all the key persons of the group accepted the repayment of cash loans taken by any of the key persons/associates, is for the business of the assessee company. An affidavit in this regard was filed by key persons of the assessee company, is appended in the assessment orders.

Moreover, on perusal of the assessment orders, it is further noted that the AO has comprehensively discuss the seized records, submissions of the assessee company which clearly shows that these receipts were nothing but repayment of cash loans by the assessee company thorough its key persons. The additions as unexplained business receipts are exclusive and independent of the fact that the cash loans were repaid in contraventions to the provisions of section 269T of the Act ad further the penalty proceedings are independent to the addition made during assessment proceedings.

Para 3: The plea of the assessee company regarding non-receipt of complete working of the amount so worked out alongwith reference of relevant seized material is nothing but an excuse as the detailed working has been mentioned in the assessment order itself and the seized material was provided to them and moreover, the digital seized material was only forensically cloned in the presence of the key persons of the assessee company during the search proceedings and it had been always available with the assessee company.

Para 4 & Para 5: The assessee company has taken the plea of artificial person so it cannot repaid the loans, it always act through living persons and the further that

the onus is on the department to show that the assessee company has taken cash loan which has not been discharged:

1 At the outset, the plea of the assessee company being artificial person so it cannot take the loans, it always act through living persons is totally irrelevant in the instant case as the company always being run by living persons and key managerial persons are the one totally responsible for the business activities conducted by the company.

2. Here, the assessee company has itself accepted the fact that in case of company, it always act through the living persons which is the case in the present scenario and this fact has been discussed in the assessment orders that these cash loans were repaid through its key persons namely Sh. Sumer Singh Saini, Sh. Phool Chand Saini, Sh. Rajesh Kumar and Sh. Ganaga Singh Tanwar for the business of the assessee company. Further, the affidavit filed by the key persons made it categorically clear that the transactions made by the key persons had been made by them in their capacity as key managerial persons of the assessee company not in their individual capacity.

3. Moreover, the fact that directors used to take cash loans from various parties and the cash loans obtained from these parties were ultimately utilized for the business purpose of M/s GKCDPL ile for cash expenses. This fact has been discussed in the assessment order of relevant years as under: It has been even accepted by the directors in their statement recorded during the search and post search proceedings. During the course of assessment proceedings, the assessee (through its directors) furnished an affidavit that "to avoid the additions in multiple hands and to avoid the multiple proceedings the same may kindly be considered in hands our lead company naming M/s. Gokul Kripa Colonizers & Developers Private Limited because the end use of such funds was for real estate business being carried out by us.

Para 6 & Para 7: The reply of the assessee company is perused and was not relevant in response to show cause notice of penalty proceedings as the department is justifiable in initiating the penalty proceedings which has been done after following due procedure as per the provisions of the Income Tax Act, 1961.

1. The assessment proceedings have been completed in the instant case of Assessee Company and matter was discussed in the assessment order regarding repayment of cash loans. Neither the assessee company has denied repayment of cash loans during the assessment proceedings nor furnished any substantial reply in response to penalty proceedings about contravention of section 269T of the Act done by the assessee company.

2 The penalty proceedings are separate proceedings and therefore, separate opportunity is provided to the assessee company to furnish its reply in terms of cash loans repayment by it in contravention of section 269T of the Act.

Para 8 & 9: (i) The assessee has taken the plea that alleged loans were taken as income and therefore, the same cannot be treated as loan repaid for the purpose of penalty u/s 271E of the Act is not acceptable as the assessee company has itself considering penalty proceeding as separate proceedings and therefore, the plea of the additions made in the assessment proceedings being separate proceedings cannot be taken.

(ii) Further, the additions as unexplained business receipts are exclusive and independent of the fact that the cash loans repayments were made in contraventions to the provisions of section 269T of the Act.

Based on the above discussion Id. AO did not accepted the contention of the assessee company and thereby he concluded that the assessee has violated the provisions of section 269T and thereby liable for levy of penalty as per provisions of section 271E of the Act for an amount of Rs. 90,95,257/- and she ordered accordingly vide her order dated 28.08.2023.

6. Aggrieved from the order of Assessing Officer, assessee preferred an appeal before the Id. CIT(A). Apropos to the grounds so raised the relevant finding of the Id. CIT(A) is reiterated here in below:

4.2 I have considered the facts of the case and written submissions of the appellant as against the observations/findings of the AO in the penalty order for the year under consideration. The contentions/submissions of the appellant are being discussed and decided as under:

In this case it is noticed that assessee company has made repayment of cash loans aggregating to Rs. 90,95,257/- on various dates of FY 2016-17 relevant to AY 2017-18, which is in violation to the section 269T of the Income Tax Act, 1961. It is noted that assessment order in this case was passed on 29.04.2022. The Addl./Jt. CIT finally summarized in the penalty order that the appellant has repaid a cash loan of Rs. 90,95,257/- which is in contravention of Section 269T and therefore levied penalty of section 271E of the Act for Rs. 90,95,257/-. In appeal the A/R of the appellant filed submission on merits as well as legality of

the penalty order. On legality he argued that the penalty levied is barred by limitation and the issue is covered by decisions of Hon'ble Supreme Court, Hon'ble Rajasthan High Court and Hon'ble Jurisdiction ITAT Jaipur.

The legal ground of the appellant is taken first for discussion. The main issue in legal ground is whether the penalty imposed is barred by limitation or not?

In this connection, the provisions of section 271E read with section 275 is reproduced as under:

271E. (1) if a person repay any loan or deposit or specified advances referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so repaid

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner.

Provided that any penalty under sub-section (1), on or alter the 1st day of April, 2025, shall be imposed by the Assessing Officer.

**275 Bar of limitation for imposing penalties (1) No order imposing a penalty under this Chapter shall be passed-*

(a) in a case where the relevant assessment or other order is the subject matter of an appeal to the Joint Commissioner (Appeals) or to the Commissioner (Appeals) under section 246 or section 245A or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, of six months from the end of the month in which the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or as the case may be the Appellate Tribunal is received by the Principal Commissioner of Commissioner, whichever period expires later

Provided that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Joint Commissioner (Appeals) or to the Commissioner (Appeals) under section 246 or section 246A, and the Joint Commissioner (Appeals) or the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) is received by the Principal Commissioner or Commissioner, whichever is later

(b) in a case where the relevant assessment or other order is the subject matter of revision under section 263 or section 264, after the expiry of six months from the end of the month in which such order of revision is passed,

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

In this case the limitation period is governed by clause (c) of Section 275(1). As per this section, the penalty order is to be passed before the end of the FY. in which the proceeding in the course of which the action for imposition of penalty has been initiated are completed or 6 months from the end of the month in which penalty is initiated, whichever expires later.

Now the issue at hand is to determine the correct date of limitation of passing of the penalty order. There are various situations which can arise with respect to the passing of the penalty order, i.e. whether it is passed before the passing of the assessment order or after the passing of the assessment order. In this case under discussion the penalty has been levied after the passing of the assessment order. From the perusal of the various cases laws relied upon by the appellant as well as other cases available in the legal domain, it is seen that the exact issue has been discussed in the following cases

Hon'ble Supreme Court in the case of Hissaria Brothers 386 ITR 719 held as under

"Penalty under ss. 2710 and 271E-Limitation under s 275- Computation-Penalty orders under ss. 2710 and 271E passed beyond six months from the end of the month in which the assessments were completed were barred by limitation-CIT v. Hissaria Bros. (2007) 211 CTR (Raj) 156 affirmed."

Hon'ble Rajasthan High Court in the CIT v. Jitendra Singh Rathore [2013] 31 taxmann.com 52/352 ITR 327 held as under:

"Penalty under s. 2710-Limitation under s. 275-Applicability of (a) or (c) of 275(1)- Show-cause notice was served on the assessee by AO on 27th March, 2003-Thereafter, the matter was referred to the Jt. CIT on 22nd March, 2004-Penalty levied by Jt. CIT by order dt. 28th May, 2004 was clearly barred by limitation- Sec. 275(1)(c) was applicable to the case Even when the authority competent to impose penalty under s. 271D was the Jt. CIT, the period of limitation for the purpose of such penalty proceedings was not to be reckoned from the issue of show cause by the Jt. CIT, but the period of limitation was to be reckoned from the date of issue of first show cause for initiation of such penalty proceedings"

Hon'ble ITAT Jaipur Bench in the case of Jagdish Chandra Suwalka v. Joint Commissioner of Income-tax [2023] 154 taxmann.com 504 (Jaipur - Trib.) held as under:-

"Thus, a penalty u/s 271D could not be imposed after the expiry of the larger period of limitation. In this case, we find that the Id. JCIT in the impugned penalty order has clearly observed that the assessment for A.Y 2015-16 was completed by the AO (ACIT Tonk) vide assessment order dated 28-12-2017 u/s 147/143(3) of the Act. The Id. JCIT also referred to the observation made by the AO that the assessee had received cash payment of Rs. 47,50,000/- from various persons as per details given, which are in contravention of Sec. 269SS of the IT Act. Thus, the relevant proceedings were the assessment proceedings during the course of which, the default of accepting cash over the prescribed limit was noted by the AO and since the assessment proceedings were completed on 28-12-2017, the related financial year ended on 31-3-2018. Accordingly, the first time limit thus expired on 31-3-2018. For the second time limit, an action for imposition of penalty was taken on 28-12-2017 by the AO, when the assessment was completed and six months from end of that month expired on 30-6-2018 which time limit clearly expires later. Hence, the penalty u/s 271D could have been validly imposed only on before 30-6-2018 as against which, in this case, the impugned penalty was imposed much later on 28-5-2019 hence, the same is clearly barred by limitation. The Id. D/R however, contended that for this period of 6 months has to be reckoned from the date of issue of show cause notice by the id. JCIT, who was the competent Authority to impose a penalty u/s 271D and since he issued the notice on dated 6-11-2018 and Imposed the penalty on 28-5-2019 itself, which was well within the period of 6 month from the month in which 28-5-2018 action for imposition of penalty was taken. The Id. A/R however, strongly contended that for this purpose the observation made by the AO in the assessment order has to be considered and the date of the assessment order being 28-12-2017 was relevant and therefore, the period of 6 months has to be reckoned from that date. Consequently, the limitation from that date the limitation had already expired.

7.2 After careful consideration, I find that the issue involved in the present case is fully covered by the decision of Hon'ble Jurisdictional High Court in the case of Hissaria Bros. (supra). The same has been affirmed by the Hon'ble Apex Court in the case of Hissaria Brothers [2016] 74 taxmann.com 22/243 Taxman 174/386 ITR 719 holding as under.

"Penalty under ss. 271D and 271E-Limitation under s. 275- Computation-Penalty orders under ss. 271D and 271E passed beyond six months from the end of the month in which the assessments were completed were barred by limitation-CIT v. Hissaria Bros. (2007) 211 CTR (Raj) 156 affirmed"

Similar view was taken again by the Hon'ble Rajasthan High Court in the CIT v. Jitendra Singh Rathore [2013] 31 taxmann.com 52/352 ITR 327 wherein it was held under:

"Penalty under s. 271D-Limitation under s. 275-Applicability of cl (a) or cl. (c) of 8. 275(1)- Show-cause notice was served on the assessee by AO on 27th March, 2003-

Thereafter, the matter was referred to the Jt. CIT on 22nd March, 2004-Penalty levied by Jt. CIT by order dt. 28th May, 2004 was clearly barred by limitation- Sec. 275(1)(c) was applicable to the case Even when the authority competent to impose penalty under s. 271D was the Jt. CIT, the period of limitation for the purpose of such penalty proceedings was not to be reckoned from the issue of show cause by the Jt. CIT, but the period of limitation was to be reckoned from the date of issue of first show cause for initiation of such penalty proceedings"

Since there is no dispute on the facts stated above, hence respectfully applying the binding judicial precedents, I hold that the penalty imposed u/s 271D, under challenge, is barred by limitation u/s 275(1)(c) of the Act. Hence, the same is hereby quashed. The additional ground of appeal taken by the assessee is therefore, allowed

8. Since I have already quashed the penalty on the short ground of limitation, we do not propose to adjudicate the other grounds on merits."

Hon'ble Delhi High Court in the case of Principal Commissioner of Income-tax-5 v. JKD Capital & Finance Ltd. [2017] 81 taxmann.com 80 (Delhi)/[2015] 378 ITR 614 (Delhi)[13-10-2015] held as under:-

"10. Considering that the subject matter of the quantum proceedings was the non-compliance with Section 269T of the Act, there was no need for the appeal against the said order in the quantum proceedings to be disposed of before the penalty proceedings could be initiated. In other words, the initiation of penalty proceedings did not hinge on the completion of the appellate quantum proceedings. This position has been made explicit in the decision in Worldwide Township Projects Ltd. (supra) in which the Court concurred with the view expressed in CIT v. Hissaria Bros. [2007] 291 ITR 244/[2008] 169 Taxman 262 (Raj.) in the following terms:

"The expression other relevant thing used in s. 275(1)(a) and cl. (b) of Sub-s. (1) of S. 275 is significantly missing from cl. (c) of s. 275(1) to make out this distinction very clear. We are, therefore, of the opinion that since penalty proceedings for default in not having transactions through the bank as required under ss. 269SS and 269T are not related to the assessment proceeding but are independent of it, therefore, the completion of appellate proceedings arising out of the assessment proceedings or the other proceedings during which the penalty proceedings under ss. 271D and 271E may have been initiated has no relevance for sustaining or not sustaining the penalty proceedings and, therefore, cl. (a) of sub-s. (1) of s. 275 cannot be attracted to such proceedings. If that were not so cl. (c) of s. 275(1) would be redundant because otherwise as a matter of fact every penalty proceeding is usually initiated when during some proceedings such default is noticed, though the final fact finding in this proceeding may not have any bearing on the issues relating to establishing default e.g. penalty for not deducting tax at source while making payment to employees, or contractor, or for that matter not making payment through cheque or demand draft where it is so required to be made. Either of the contingencies does not affect the computation of taxable income and levy of correct

tax on chargeable Income, if cl. (a) was to be invoked, no necessity of cl. (c) would arise." (emphasis supplied)

11. In fact, when the AO recommended the initiation of penalty proceedings the AO appeared to be conscious of the fact that he did not have the power to issue notice as far as the penalty proceedings under Section 271-E was concerned. He, therefore, referred the matter concerning penalty proceedings under Section 271-E to the Additional CIT. For some reason, the Additional CIT did not issue a show cause notice to the Assessee under Section 271-E (1) till 20th March 2012. There is no explanation whatsoever for the delay of nearly five years after the assessment order in the Additional CIT issuing notice under Section 271-E of the Act. The Additional CIT ought to have been conscious of the limitation under Section 275 (1) (c). i.e., that no order of penalty could have been passed under Section 271-E after the expiry of the financial year in which the quantum proceedings were completed or beyond six months after the month in which they were initiated, whichever was later. In a case where the proceedings stood initiated with the order passed by the AO, by delaying the issuance of the notice under Section 271- E beyond 30th June 2008, the Additional CIT defeated the very object of Section 275 (1) (c)."

Hon'ble Delhi High Court in the case of Principal Commissioner of Income-tax (Central)-2 v. Mahesh Wood Products (P.) Ltd. [2017] 82 taxmann.com 39 (Delhi)/[2017] 394 ITR 312 (Delhi) [05-05-2017] held as under-

"9. However, this question came up for consideration in JKD Capital & Finlease Ltd. (supra). The date on which the AO recommended the initiation of penalty proceedings was taken to be the relevant date as far as Section 275(1)(c) was concerned. There was no explanation for the delay of nearly five years in the ACIT acting on the said recommendation. The Court held that the starting point would be the "Initiation of penalty proceedings Given the scheme of Section 275(1)(c) it would be the date on which the AO wrote a letter to the ACIT recommending the issuance of the SCN. While it is true that the ACIT had the discretion whether or not to issue the SCN, if he did decide to issue a SCN, the limitation would begin to run from the date of letter of the AD recommeriding 'initiation of the penalty proceedings.

10. In the present case, the limitation in terms of Section 275 (1) (ii) of the Act began to run on 23rd July, 2012 and the last date for passing the penalty orders was 31st January, 2013 Therefore, the penalty orders issued on 26th February 2013 were clearly barred by limitation."

In view of the ratio laid down by the Hon'ble Apex Court in the case of Hissaria Brothers, the relevant date for determining the limitation period is the date from the passing of the assessment order by the Id. Assessing Officer. In this case since the assessment was passed by the assessing officer on 29.04.2022, hence the date of limitation for passing the penalty order u/s 271E is 31.10.2022 or 31.03.2023, whichever is later, that is, 31.03.2023 in this case. However, the

penalty order has been passed on 28.08.2023 which is beyond the limitation date.

In view of the above, the penalty order is found to have been passed beyond the date of limitation and thus the same cannot be sustained and due to this factual position, the penalty levied is directed to be deleted.

Since the penalty has been directed to be deleted on the legal ground that the order is passed after the date of limitation, the ground of appeal on the merits of such penalty is rendered academic and does not require adjudication. Accordingly the Ground Nos. 1 and 2 of appeal are hereby treated as disposed off.

5. Ground of Appeal No. 3 is as under:

Ground No. 3: Appellant prays for leave to add, alter and amend the aforesaid grounds of appeal at or before the time of hearing of appeal.

5.1 The appellant has not added or altered any of the above mentioned grounds of appeal. Accordingly, such mention by the appellant in its ground is treated as general in nature, not needing any specific adjudication and is accordingly treated as disposed off.

6. In the result, the appeal of the appellant is allowed.

7. Feeling dissatisfied with the above finding so recorded in the order of the Id. CIT(A), revenue preferred the present appeal before this tribunal on the grounds as reiterated herein above. Ld. DR vehemently argued that the Id. Addl./Jt. CIT considered the legal as well as the technical aspect raised by the assessee and has passed a detailed speaking order dealing with the merits of the case. While passing the order in dispute the Id. CIT(A) has totally ignored the merits of the dispute and has merely considered the technical ground and directed to delete the huge amount of penalty which is otherwise has merits and therefore, the issue being in favour of the revenue

as decided in the case of Grihalaxmi Vision Vs. Addl. CIT in ITA no. 83 & 86 of 2014 by the Hon'ble Kerala High Court. In that case the High Court has held that the limitation of penalty proceeding u/s. 271D & 271E start from the issue of show cause notice by the Addl. CIT. Therefore, action of the Id. CIT(A) in not considering that aspect of the argument the revenue preferred the present appeal.

8. Per contra, Id. AR of the assessee supported the order of the Id. CIT(A) and the decision of our Rajasthan High Court [CIT Vs. Hissaria Bros 169 Taxman 262 (Rajasthan)] which was followed by the Id. CIT(A) and as discussed in detailed in the order under challenged. Ld. AR of the assessee also submitted that the revenue challenged that order of Rajasthan High Court before the apex court and the SLP of the revenue against that finding was dismissed by the apex court. Therefore, that finding becomes final as given in the Hissaria Bros by the apex court [74 taxmann.com 22 (SC)]. The Id. AR of the assessee vehemently argued that when the penalty levied is time barred the order rightly quashed by the Id. CIT(A) considering the decision of Rajasthan High Court which is binding and that the contrary view is not binding and not required to be considered.

As regards the merits of the dispute he submitted that there is no satisfaction of the Id. AO while passing an order for levy of penalty and as

he considered these loans as income and has initiated penalty u/s. 270A and 271AAC(1) of the Act and therefore, there cannot be two penalty for same transaction or that of the income. To support this view he relied upon the judgment of the Apex Court in the case of Jai Laxmi Rice Mills 379 ITR 521 and therefore, even on merits of the dispute without satisfaction no penalty can be levied.

Ld. AR of the assessee to counter the grounds of the revenue and in support of the order of the Id. CIT(A) also filed a detailed written submission which reads as under :

1. Facts of the case: -

1.1 The above-named company (hereinbelow referred as Appellant or/and assessee) is a Private Limited Company and carrying the business of real estate development in association with other associate persons Shri Sumer Singh Saini, Shri Phool Chand Saini, Shri Rajesh Kumar and Shri Ganga Singh Tanwar. In this business, these persons purchased the agriculture land and there after applies to JDA for conversion of land for residential and commercial purpose. After approval of township plan and map by JDA, they started the development of land i.e. construction of road, lying of water supply lines, providing electrical polls, wiring, construction of overhead tanks, sewerage etc. and simultaneously booked & sold the plots to various persons.

1.2 The Search & seizure operations were carried out by the I.T. Department on 19-01-2021 on Gokul Kripa Group and the assessee was also covered in search. In consequent to search action, the assessment of the assessee for A.Y. 2015-16 to A.Y. 2020-21 was made u/s 153A of the Act and the assessment for A.Y. 2021-22 was made u/s 143(3) of the Act. The summary of the assessment made is as under: -

A.Y.	Date of Assessment	Returned income	Assessed income	Addition made	PB Page where assessment order available
2015-16	27.04.2022	1,45,95,550	6,49,33,920	5,03,38,369	1-30

2016-17	27.04.2022	1,68,70,840	5,60,04,220	3,91,33,381	31-85
2017-18	29.04.2022	2,87,89,300	19,44,18,090	16,56,28,786	86-146
2018-19	27.04.2022	18,28,93,140	21,75,43,310	3,46,50,173	147-203
2019-20	27.04.2022	3,92,77,480	17,02,82,090	13,10,04,612	204-273
2020-21	26.04.2022	6,69,95,750	18,79,04,440	12,09,08,688	274-324
2021-22	26.04.2022	10,49,04,680	65,30,18,040	54,81,13,364	325-405

Aggrieved from the additions made in the assessment order the assessee filed the appeal before CIT (A), which are pending to be disposal.

1.3 The addition made by the Ld. A.O. includes the alleged unsecured loan taken through various persons, which were worked out by Ld. A.O. at her own. The year wise detail of unsecured loans taken/repaid as worked out by Ld. A.O. at her own is as under: -

A.Y.	Alleged Unsecured loans taken	Alleged repayment of Unsecured loans
2015-16	2,37,98,650	1,40,80,500
2016-17	1,26,03,513	1,13,34,587
2017-18	11,02,13,000	90,95,257
2018-19	59,00,000	3,22,15,053
2019-20	9,51,16,277	4,20,26,176
2020-21	8,33,67,454	6,52,43,524
2021-22	32,96,15,250	6,99,87,788
Total	66,06,14,144	24,39,82,885

2. Imposition of penalty u/s 271D and 271E of abovementioned acceptance and repayment of alleged unsecured loans

2.1 In the assessment order, though the loans were added in the income of the assessee, considering the same as same as "*Unexplained Business receipts or unaccounted income*" but still the Id. AO referred the matter to Additional Commissioner of Income Tax, Central Range, Jaipur for initiating the penalty proceedings u/s 271D of the Act vide letter dated 21/07/2022 (Copy at PB page 406-409) and u/s 271E of the Act vide letter dated 21/07/2022 (Copy at PB page 410-411). Although the assessment order was passed with the Approval of

Additional Commissioner of Income Tax, Central Range, Jaipur, therefore the contents of assessment, entire assessment record, seized material etc. was within in his knowledge. Furthermore, transactions which were termed as loan, for which the reference letter for penalty u/s 271D/271E was given by Ld. AO to Addl. CIT were held as “*Unexplained Business receipts or unaccounted income*”, in the assessment order itself.

2.2 On being reference by Id. A.O., the Additional/Joint Commissioner of Income Tax, Central Range, Jaipur issued notice u/s 274 r.w.s. 271D of the Income Tax Act, 1961 on 14.02.2023 (Copy PB page 412-418) and u/s 274 r.w.s. 271E of the Income Tax Act, 1961 on 14.02.2023 (Copy PB page 419-425). Thereafter, show cause notices dated 01.03.2023 (Copy PB page 426-446) were issued to assessee and in response to the same the assessee filed its reply on 15.03.2023 (Copy PB page 475-670). Again, on change of incumbent, another show cause notices dated 03.08.2023 (Copy PB page 447-474) was issued by Joint Commissioner of Income Tax, Central, Jaipur and reply of the same was filed on 10.08.2023, wherein it was requested that the reply filed on 15.03.2023 may be considered as reply to this notice.

2.3 The Id. Joint Commissioner of Income Tax, Central Range, Jaipur, without accepting the submission of the assessee, passed the penalty order on 28.08.2023 and imposed the penalties u/s 271D and 271E of the amounts mentioned in table in para 1.3 supra. The salient main crux, in the light of which the penalty u/s 271D and 271E of the Act was imposed is as under: -

1. *Ongoing through the assessment record, it may be noted that the assessee company had taken cash loans including repayments through the key persons of Gokul kripa Group. It is also apparent from the assessment order itself that the details of loans were found in the seized record and all the key persons of the group accepted the receipt of cash loans taken by any of the key persons/associates, is for the business of the assessee company.*

2. *The AO has comprehensively discussed the seized records, submissions of the assessee company which clearly shows that these receipts were nothing but receipt of cash loans by the assessee company thorough its key persons. The additions as unexplained business receipts are exclusive and independent of the fact that the cash loans were accepted in contraventions to the provisions of section 269SS of the Act ad further, the penalty proceedings are independent to the addition made during assessment proceedings*

3. *The plea of the assessee company regarding non-receipt of complete working of the amount so worked out along with reference of relevant seized material is nothing but an excuse as the detailed working has been mentioned in the assessment order itself*

and the seized material was provided to them and moreover, the digital seized material was only forensically cloned in the presence of the key persons of the assessee company during the search proceedings and it had been always available with the assessee company.

4. The assessment proceedings have been completed in the instant case of Assessee Company and matter was discussed in the assessment order regarding receipts of cash loans. Neither the assessee company has denied the cash loans during the assessment proceedings nor furnished any substantial reply in response to penalty proceedings about contravention of section 269SS and 269T of the Act done by the assessee company.

The similar finding was given, for imposing the penalty u/s 21E of the Act.

3. Appeal before CIT (A)

3.1 Aggrieved from the penalty-imposed u/s 271D and 271E of the Act, the assessee filed the appeal before CIT(A). The assessee filed the elaborate written submission before CIT (A) and contested its case on following footings: -

1. No satisfaction was recorded in assessment order for imposing the penalty u/s 271D and 271E of the Act.

2. Penalty order passed is barred by time limitation as the same has not been passed within the time stipulated u/s 275 (1)(c) of Income Tax Act, 1961.

3 The AO assessed the alleged loan as Income so out of preview of section 269SS and 269T of the Act.

4. Double Penalty Not Permissible for Same Default as Ld. AO issued show cause notice 274 r.w.s 271(1)(c) to the assessee for the same addition.

5. Assessee company was not right person to allege that it has taken cash loan and the same were taken by some other persons.

6. Complete working was not given either assessment stage or penalty proceeding stage: -

7. The first onus is on department to show that the assessee company has taken cash loan which has not been discharged: -

8. Presumption u/s 132(4) not available for penalty proceedings. The assessment proceedings and penalty proceedings are two separate proceedings. and in penalty proceedings relying on such finding it cannot be opined that the assessee has controverted the provision of relevant section.

9. *Motive for which provisions of section 269SS and 269T were brought in statue were not proved.*

3.2 The CIT (A) decided the appeal of the assessee vide order dated 19.06.2025. The CIT (A) deleted the penalty on the ground that the same is beyond the date of limitation. The other issues raised by the assessee in appeal were not adjudicated.

3.3 The finding of CIT (A) is at Para 4.2 (Page 27 to 33 of CIT (A) order of A.Y. 2015-16 271D penalty) and for ready reference, the finding of CIT (A) is reproduced hereunder: -

4.2 I have considered the facts of the case and written submissions of the appellant as against the observations/findings of the AO in the penalty order for the year under consideration. The contentions/submissions of the appellant are being discussed and decided as under: -

In this case it is noticed that the appellant company has accepted cash loan aggregating to Rs. 2,37,98,650/- on various dates of FY 2014-15 relevant to AY 2015-16, which is in violation to the section 269SS of the Income Tax Act, 1961. It is noted that assessment order in this case was passed on 27.04.2022. The Addl./Jt. CIT finally summarized in the penalty order that the appellant has taken a cash loan of Rs. 2,37,98,650/- which is in contravention of Section 269SS and therefore levied penalty of section 271D of the Act for Rs. 2,37,98,650/-. In appeal the A/R of the appellant filed submission on merits as well as legality of the penalty order. On legality he argued that the penalty levied is barred by limitation and the issue is covered by decisions of Hon'ble Supreme Court, Hon'ble Rajasthan High Court and Hon'ble Jurisdiction ITAT Jaipur.

The legal ground of the appellant is taken first for discussion. The main issue in legal ground is whether the penalty imposed is barred by limitation or not?

In this connection, the provisions of section 271D read with section 275 is reproduced as under:

271D. (1) If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so taken or accepted.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner.

Provided that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.

"275 Bar of limitation for imposing penalties –(1) No order imposing a penalty under this Chapter shall be passed-

(a) in a case where the relevant assessment or other order is the subject matter of an appeal to the Joint Commissioner (Appeals) or to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or as the case may be, the Appellate Tribunal is received by the Principal Commissioner or Commissioner, whichever period expires later :

Provided that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Joint Commissioner (Appeals) or to the Commissioner (Appeals) under section 246 or section 246A, and the Joint Commissioner (Appeals) or the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) is received by the Principal Commissioner or Commissioner, whichever is later;

(b) in a case where the relevant assessment or other order is the subject matter of revision under section 263 or section 264, after the expiry of six months from the end of the month in which such order of revision is passed;

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed , or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

In this case the limitation period is governed by clause (c) of Section 275(1). As per this section, the penalty order is to be passed before the end of the F.Y. in which the proceeding in the course of which the action for imposition of penalty has been initiated are completed or 6 months from the end of the month in which penalty is initiated, whichever expires later.

Now the issue at hand is to determine the correct date of limitation of passing of the penalty order. There are various situations which can arise with respect to the passing of the penalty order, i.e. whether it is passed before the passing of the assessment order or after the passing of the assessment order. In this case under discussion the penalty has been levied after the passing of the assessment order. From the perusal of the various cases laws relied upon by the appellant as well as other cases available in the legal domain, it is seen that the exact issue has been discussed in the following cases: -

Hon'ble Supreme Court in the case of Hissaria Brothers 386 ITR 719 held as under:

"Penalty under ss. 271D and 271E-Limitation under s. 275- Computation- Penalty orders under ss. 271D and 271E passed beyond six months from the end of the month in which the assessments were completed were barred by limitation-CIT v. Hissaria Bros. (2007) 211 CTR (Raj) 156 affirmed."

Hon'ble Rajasthan High Court in the CIT v. Jitendra Singh Rathore [2013] 31 taxmann.com 52/352 ITR 327 held as under:

"Penalty under s. 271D-Limitation under s. 275-Applicability of cl (a) or cl. (c) of s. 275(1)- Show-cause notice was served on the assessee by AO on 27th March, 2003- Thereafter, the matter was referred to the Jt. CIT on 22nd March, 2004-Penalty levied by Jt. CIT by order dt. 28th May, 2004 was clearly barred by limitation- Sec. 275(1)(c) was applicable to the case Even when the authority competent to impose penalty under s. 271D was the Jt. CIT, the period of limitation for the purpose of such penalty proceedings was not to be reckoned from the issue of show cause by the Jt. CIT, but the period of limitation was to be reckoned from the date of issue of first show cause for initiation of such penalty proceedings".

Hon'ble ITAT Jaipur Bench in the case of Jagdish Chandra Suwalka v. Joint Commissioner of Income-tax [2023] 154 taxmann.com 504 (Jaipur - Trib.) held as under:-

"Thus, a penalty u/s 271D could not be imposed after the expiry of the larger period of limitation. In this case, we find that the Id. JCIT in the impugned penalty order has clearly observed that the assessment for A.Y 2015-16 was completed by the AO (ACIT Tonk) vide assessment order dated 28-12-2017 u/s 147/143(3) of the Act. The Id. JCIT also referred to the observation made by the AO that the assessee had received cash payment of Rs. 47,50,000/- from various persons as per details given, which are in contravention of Sec.269SS of the IT Act. Thus, the relevant proceedings were the assessment proceedings during the course of which, the default of accepting cash over the prescribed limit was noted by the AO and since the assessment proceedings were completed on 28-12-2017, the related financial year ended on 31-3-2018. Accordingly, the first time limit thus expired on 31-3-2018. For the second time limit, an action for imposition of penalty was taken on 28-12-2017 by the AO, when the assessment was completed and six months from end of that month expired on 30-6-2018 which time limit clearly expires later. Hence, the penalty u/s 271D could have been validly imposed only on before 30-6-2018 as against which, in this case, the impugned penalty was imposed much later on 28-5-2019 hence, the same is clearly barred by limitation. The Id. D/R however, contended that for this period of 6 months has to be reckoned from the date of issue of show cause notice by the Id. JCIT, who was the competent Authority to impose a penalty u/s 271D and since he issued the notice on dated 6-11-2018 and imposed the penalty on 28-5-2019 itself, which was well within the period of 6 month from the month

in which 28-5-2018 action for imposition of penalty was taken. The Id. A/R however, strongly contended that for this purpose the observation made by the AO in the assessment order has to be considered and the date of the assessment order being 28-12-2017 was relevant and therefore, the period of 6 months has to be reckoned from that date. Consequently, the limitation from that date the limitation had already expired.

7.2 After careful consideration, I find that the issue involved in the present case is fully covered by the decision of Hon'ble Jurisdictional High Court in the case of Hissaria Bros. (supra). The same has been affirmed by the Hon'ble Apex Court in the case of Hissaria Brothers [2016] 74 taxmann.com 22/243 Taxman 174/386 ITR 719 holding as under.

"Penalty under ss. 271D and 271E-Limitation under s. 275- Computation- Penalty orders under ss. 271D and 271E passed beyond six months from the end of the month in which the assessments were completed were barred by limitation-CIT v. Hissaria Bros. (2007) 211 CTR (Raj) 156 affirmed."

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"Penalty under s. 271D-Limitation under s. 275-Applicability of cl (a) or cl. (c) of s. 275(1)- Show-cause notice was served on the assessee by AO on 27th March, 2003- Thereafter, the matter was referred to the Jt. CIT on 22nd March, 2004-Penalty levied by Jt. CIT by order dt. 28th May, 2004 was clearly barred by limitation- Sec. 275(1)(c) was applicable to the case Even when the authority competent to impose penalty under s. 271D was the Jt. CIT, the period of limitation for the purpose of such penalty proceedings was not to be reckoned from the issue of show cause by the Jt. CIT, but the period of limitation was to be reckoned from the date of issue of first show cause for initiation of such penalty proceedings".

Since there is no dispute on the facts stated above, hence respectfully applying the binding judicial precedents, I hold that the penalty imposed u/s 271D, under challenge, is barred by limitation u/s 275(1)(c) of the Act. Hence, the same is hereby quashed. The additional ground of appeal taken by the assessee is therefore, allowed.

8. Since I have already quashed the penalty on the short ground of limitation, we do not propose to adjudicate the other grounds on merits."

Hon'ble Delhi High Court in the case of Principal Commissioner of Income-tax-5 v. JKD Capital & Finlease Ltd. [2017] 81 taxmann.com 80 (Delhi)/[2015] 378 ITR 614 (Delhi)[13-10-2015] held as under:-

"10. Considering that the subject matter of the quantum proceedings was the non-compliance with Section 269T of the Act, there was no need for the appeal against the said order in the quantum proceedings to be disposed of before the penalty proceedings could be initiated. In other words, the initiation of penalty proceedings did not hinge on

the completion of the appellate quantum proceedings. This position has been made explicit in the decision in Worldwide Township Projects Ltd. (supra) in which the Court concurred with the view expressed in CIT v. Hissaria Bros. [2007] 291 ITR 244/[2008] 169 Taxman 262 (Raj.) in the following terms:

"The expression other relevant thing used in s. 275(1)(a) and cl. (b) of Sub-s. (1) of S. 275 is significantly missing from cl. (c) of s. 275(1) to make out this distinction very clear. We are, therefore, of the opinion that since penalty proceedings for default in not having transactions through the bank as required under ss. 269SS and 269T are not related to the assessment proceeding but are independent of it, therefore, the completion of appellate proceedings arising out of the assessment proceedings or the other proceedings during which the penalty proceedings under ss. 271D and 271E may have been initiated has no relevance for sustaining or not sustaining the penalty proceedings and, therefore, cl. (a) of sub-s. (1) of s. 275 cannot be attracted to such proceedings. If that were not so cl. (c) of s. 275(1) would be redundant because otherwise as a matter of fact every penalty proceeding is usually initiated when during some proceedings such default is noticed, though the final fact finding in this proceeding may not have any bearing on the issues relating to establishing default e.g. penalty for not deducting tax at source while making payment to employees, or contractor, or for that matter not making payment through cheque or demand draft where it is so required to be made. Either of the contingencies does not affect the computation of taxable income and levy of correct tax on chargeable income; if cl. (a) was to be invoked, no necessity of cl. (c) would arise." (emphasis supplied)

9. *In fact, when the AO recommended the initiation of penalty proceedings the AO appeared to be conscious of the fact that he did not have the power to issue notice as far as the penalty proceedings under Section 271-E was concerned. He, therefore, referred the matter concerning penalty proceedings under Section 271-E to the Additional CIT. For some reason, the Additional CIT did not issue a show cause notice to the Assessee under Section 271-E (1) till 20th March 2012. There is no explanation whatsoever for the delay of nearly five years after the assessment order in the Additional CIT issuing notice under Section 271-E of the Act. The Additional CIT ought to have been conscious of the limitation under Section 275 (1) (c), i.e., that no order of penalty could have been passed under Section 271-E after the expiry of the financial year in which the quantum proceedings were completed or beyond six months after the month in which they were initiated, whichever was later. In a case where the proceedings stood initiated with the order passed by the AO, by delaying the issuance of the notice under Section 271- E beyond 30th June 2008, the Additional CIT defeated the very object of Section 275 (1) (c)."*

Hon'ble Delhi High Court in the case of Principal Commissioner of Income-tax (Central)-2 v. Mahesh Wood Products (P.) Ltd. [2017] 82 taxmann.com 39 (Delhi)/[2017] 394 ITR 312 (Delhi)[05-05-2017] held as under:-

“9. However, this question came up for consideration in JKD Capital & Finlease Ltd. (supra). The date on which the AO recommended the initiation of penalty proceedings was taken to be the relevant date as far as Section 275(1)(c) was concerned. There was no explanation for the delay of nearly five years in the ACIT acting on the said recommendation. The Court held that the starting point would be the 'initiation' of penalty proceedings. Given the scheme of Section 275(1)(c) it would be the date on which the AO wrote a letter to the ACIT recommending the issuance of the SCN. While it is true that the ACIT had the discretion whether or not to issue the SCN, if he did decide to issue a SCN, the limitation would begin to run from the date of letter of the AO recommending 'initiation' of the penalty proceedings.

10. In the present case, the limitation in terms of Section 275 (1) (iii) of the Act began to run on 23rd July, 2012 and the last date for passing the penalty orders was 31st January, 2013. Therefore, the penalty orders issued on 26th February 2013 were clearly barred by limitation.”

In view of the ratio laid down by the Hon'ble Apex Court in the case of Hissaria Brothers, the relevant date for determining the limitation period is the date from the passing of the assessment order by the Id. Assessing Officer. In this case since the assessment was passed by the assessing officer on 27.04.2022, hence the date of limitation for passing the penalty order u/s 271D is 31.10.2022 or 31.03.2023, whichever is later, that is, 31.03.2023 in this case. However, the penalty order has been passed on 28.08.2023 which is beyond the limitation date.

In view of the above, the penalty order is found to have been passed beyond the date of limitation and thus the same cannot be sustained and due to this factual position, the penalty levied is directed to be deleted.

3.4 The similar finding given for deleting the penalty levied u/s 271E and for this the reference may kindly be drawn at Para 4.2 (Page 26 to 32 of CIT (A) order of A.Y. 2015-16 271E penalty).

4. Appeal before Hon'ble Bench of ITAT Jaipur

4.1 Aggrieved from the order of CIT (A), the department filed the appeal and the assessee also filed the C.O.

4.2 The department raised 4 grounds in each appeal in form 36 and the same are reproduced hereunder: -

(i) *Whether on the facts and circumstances of the case, the Ld. CIT (A) has erred in deleting levy of penalty by Addl./Jt. CIT only on technical ground without giving any finding on the merits of levy of penalty?*

(ii) *Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in holding that the relevant date for determining the limitation period for imposing penalty u/s 271D of I.T. Act is the date when the assessment order was passed by the A.O and not the date when show cause notice was issued by the Addl./Jt. CIT & ignoring the legal aspect that Act the AO was not allowed to impose penalty u/s 271D of I.T. Act and therefore passing of assessment order by the A.O and reference made by A.O. has no bearing on deciding the limitation date for imposing penalty u/s 271D of T. T. Act?*

(iii) *Whether on the facts and in circumstances of the case, the Ld. CIT(A) has erred in ignoring the decision of Hon'ble Kerla High Court in the case of Grihalaxmi Vision v Addl. Commissioner of Income Tax, Range-1, Kozhikode in ITA No 83 & 86 of 2014 dated 08.07.2015, wherein it was held that limitation of penalty proceedings w/s 271D/E of 1T. Act start from the issue of show cause notice(s) by the Addl/Jt. CIT?*

(iv) *Whether on the facts and in circumstances of the case Ld. CIT(A) has erred in relying on the decision of Hon'ble Apex court in the case of Hissaria Brothers without appreciating the fact that the facts of the case of Hissaria Brothers were different from the present case as in the case of Hissaria Brothers, the issue was regarding extension of limitation date for imposition of penalty u/s 271D/E of I. T. Act on the ground of pendency of appeal against relevant assessment order but in present case, there is no such issue involved?*

4.3 The assessee raised following ground in the cross objection: -

a) Ground Taken in A.Y. 2015-16 in appeal filed against the deletion of penalty u/s 271D of the Act: -

1. On the facts and in the circumstances of the case and in law the Ld. CIT (A) rightly deleted the penalty of Rs. 2,37,98,650/- levied by Ld. AO u/s 271D of I. Tax Act by holding that the penalty order passed on 28.08.2023 is beyond the date of limitation. However, in addition to or/and in alternative, the contentions of the assessee are as under

1.1 In the assessment order, no satisfaction was recorded for initiation of penalty u/s 271D of the Act, hence the penalty imposed is not maintainable, bad in law and deserves to be annulled on this count also.

1.2 the Ld. A.O. assessed the alleged loans as business income of assessee, therefore it is out of purview of section 269SS of the Act.

b) Ground Taken in A.Y. 2015-16 in appeal filed against the deletion of penalty u/s 271E of the Act: -

1. On the facts and in the circumstances of the case and in law the Ld. CIT (A) rightly deleted the penalty of Rs. 1,40,80,050/- levied by Ld AO u/s 271E of I. Tax Act by holding that the penalty order passed on 28.08.2023 is beyond the date of limitation.

However, in addition to or/and in alternative, the contentions of the assessee are as under

1.1 In the assessment order, no satisfaction was recorded for initiation of penalty u/s 271E of the Act, hence the penalty imposed is not maintainable, bad in law and deserves to be annulled on this count also.

1.2 the Ld. A.O. assessed the alleged loans as income of assessee so debit entries are repayment of income or return of income or expenses, therefore out of purview of section 269T of the Act.

c) The ground taken in cross objection filed for A.Y. 2016-17 to 2021-22 are same as reproduced hereinabove except change in amount of penalty.

5. Submission on grounds of appeal of departmental appeal (ITA No. 1162, 1164 to 1170 and 1174 to 1178/JPR/2025)

5.1 Since, the grounds taken by the department for deleting the penalty u/s 271D as well as 271E of the Act are similar, therefore the same are commonly dealt with. Before submitting the submission on each ground of appeal, firstly it would be relevant to tabulate the chronology of relevant dates from the assessment to penalty order and thus the same is tabulated hereunder: -

A.Y.	Date of Assessment	Date of reference sent by A.O to Addl./Jt. CIT for penalty u/s 271D/271E	Financial Year of assessment made expires on	6 months expires from date of asstt.	6 months expires from date of letter of AO sent to Addl CIT for levy of penalty
2015-16	27.04.2022	21.07.2022	31-03-2023	31-10-2022	31-01-2023
2016-17	27.04.2022	21.07.2022	31-03-2023	31-10-2022	31-01-2023
2017-18	29.04.2022	21.07.2022	31-03-2023	31-10-2022	31-01-2023
2018-19	27.04.2022	21.07.2022	31-03-2023	31-10-2022	31-01-2023
2019-20	27.04.2022	21.07.2022	31-03-2023	31-10-2022	31-01-2023
2020-21	26.04.2022	21.07.2022	31-03-2023	31-10-2022	31-01-2023
2021-22	26.04.2022	21.07.2022	31-03-2023	31-10-2022	31-01-2023

5.2 As per the provisions of section 275 (1) (c) of the Act the penalty orders are time barred

5.2.1 At the outset, it is submitted that based on the undisputed facts available on record, imposition of penalty vide the impugned orders u/s 271D and 271E passed by the Id. JCIT, Jaipur on 28.08.2023, is clearly barred by the limitation in as much as, the law u/s 275(1)(c) reads as under: -

275. (1) No order imposing a penalty under this Chapter shall be passed

xxxxxx

c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

5.2.2 It may be noted that the provision uses the phrase initiation of action for imposition of penalty which does not mean the issue of show cause notice but it is a preliminary exercise and the AO being the first person who can possibly notice the contravention, mostly during the course of assessment proceedings and the competent authority being JCIT, who is the person to impose the penalty, therefore, the fact of contravention must be noted by the AO who may refer to the JCIT. Such reference is the initiation of action for imposition of penalty, as contemplated by the law. Thus, the law contained u/s 275(1)(c) does not provide that the limitation to be reckoned from the end of the month in which the competent authority (JCIT) issued a SCN. The issue of show cause notice is not initiation of levy of penalty, and if so, he may wake up after 10-20 year, and may issue SCN after 10-20 years and impose penalty in 6 months after SCN, which is against legislative intent. The initiation means beginning, starting a legal process, or action or proceedings. The Id AO in assessment order has dealt the fact of receiving cash loans and repayment of cash loans by the assessee and the assessment orders were passed after approval u/s 153D from Addl CIT. Therefore, the action of levy of penalty starts from the date of assessment or in worst case from the date of issue of letter by AO to Addl CIT for levy of penalty u/s 271D and 271E.

5.2.3 The assessment order of the assessee u/s 153A of the Income Tax Act, 1961 for AY 2015-16 was passed on dated 27/04/2022 after prior approval of Addl CIT/Joint CIT, Central Range Jaipur. Before the approval, Addl CIT/Joint CIT gone thoroughly the draft assessment order, seized records and other material relevant to Assessment Order. In assessment order the cash loan is

clearly mentioned. Therefore, the cause of action of levy of penalty arose on the date of the assessment order which was April-2022.

5.2.4 Furthermore, Id. AO referred the matter to Additional Commissioner of Income Tax, Central Range, Jaipur for initiating the penalty proceedings u/s 271D/271E of the Act vide letter dated 21/07/2022.

5.2.5 Therefore, the time limit u/s 275(1)(c) of the Act for passing the order u/s 271D of I. Tax Act should be as under: -

(i) On the basis of date of assessment order 31/03/2023 (after the expiration of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed)

(ii) Expiry of 6 month from initiation of levy of penalty i.e 31-10-2022 from expiry of six months from assessment order or 31-01-2023 from expiry of 6 months from the date of reference sent by AO to Addl CIT for levy of penalty.

whichever is later means the penalty u/s 271D/271E cannot be levied after 31-03-2023.

5.2.6 The words "in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed" used in section 275 indicate the proceedings in which the income-tax authority is satisfied about the default which attracts the penalty. In the case of Id Addl CIT/JCIT satisfied about the default of the assessee at the time of approval of assessment order u/s 153D. In the case of the assessee penalty order was passed on 28/08/2023 therefore, the penalty order was passed without jurisdiction and time barred on 31-03-2023.

5.2.7 Thus, the Ld. CIT (A) rightly deleted the penalty on the ground that the same are beyond the limitation date. Therefore, on this aspect, we rely on the finding of CIT (A), which is reproduced in para 3.3 supra.

5.2.8 In addition to judgments relied by CIT (A) in his order the assessee place the reliance on following latest judgement dated 26.06.2025 as given in the case of DCIT V/s Kiran Fine Jewellers Private Limited 2025 (9) TMI 83 (Copy of judgement is at case law PB Page 163 to 179). For ready reference, the head note of judgement is reproduced hereunder: -

Penalty u/s 271D/271E - period of limitation - HELD THAT:- As decided in the binding precedent in the case of Hissaria Bros [2006 (7) TMI 163 - RAJASTHAN HIGH COURT] and said decision has been affirmed by the Hon'ble Apex Court in the case of Hissaria Brothers [2016 (8) TMI 1044 - SC ORDER] wherein our High Court held that ""Penalty under ss. 271D and 271E-Limitation u/s 275-Computation- Penalty orders under ss.

271D and 271E passed beyond six months from the end of the month in which the assessments were completed were barred by limitation. Therefore, based on that binding precedent he held that the relevant date for determining the limitation period is the date when the reference was made by the Id. AO to the Id. Joint Commissioner / Addl. Commissioner and not the date when the show cause notice was issued by the Id. Addl. Commissioner. He thereby noted that in the present case the reference was made by the Id. AO to the Id. Addl. Commissioner on the date of 20.01.2020. Accordingly considering the period provided under section 275 of the Act, the penalty order should have been passed on or before 31.07. 2020.

However, the order has been passed on 30.08.2022 and therefore, the penalty order is found to have been passed beyond the date of limitation and thus the same cannot be sustained and due to this position, he directed that the penalty levied is to be deleted. Appeals of the revenue are dismissed.

5.2.8 The further reliance is also placed on following judgements: -

1. The Hon'ble Jurisdictional High Court in case of CIT vs. M.A. Prestressed Works, 220 ITR 226 (Raj.) (Copy at Case laws PB Page No. 44-46).
2. ITAT Jaipur in the case of Shri Ram Kishan Verma Vs Addl CIT, Range -1 Kota ITA No 405/JP/2019 AY 2015-16 order dated 03/07/2019. (Copy at Case laws PB Page No. 88-105)
3. Lodha Builders (P) LTD. vs. ACIT (2014) 163 TTJ (Mumbai) 778

The relevant finding of these judgement are available at Page 12 to 15 of order of CIT (A) of A.Y. 2015-16 (against penalty u/s 271D) and therefore in order to brevity, the same is not reproduced here again.

5.3 Submission on Ground No. 1 of departmental appeal wherein it is contended that CIT(A) erred in deleting the penalty only on technical ground without giving the findings in the merits of the penalty.

5.3.1 At the outset, it is respectfully submitted that, in order to examine the foundation of the maintainability of an order, it is essential to first ascertain whether the order satisfies the legal test on all four corners and is devoid of any legal infirmity. If an order does not satisfy the legal test, it ceases to be a valid and maintainable order in the eyes of law. Consequently, the appellate authorities are not obliged to enter into or adjudicate upon the merits of such an order. In the present case, since the penalty order was not legally valid, therefore the CIT (A) rightly not deal with the merit of the case.

5.3.2 This view is fortified from the finding given by Hon'ble ITAT Jaipur Bench in the case of DCIT V/s Kiran Fine Jewellers Private Limited 2025 (9) TMI 83 (Copy of judgement is at case law PB Page 163 to 179). The finding of Hon'ble ITAT as given on this issue is as under: -

"Since we have confirmed the view of the Id. CIT(A) on technical grounds we are of the considered view that the Id. CIT(A) has rightly not decided the merits of the dispute as the proceeding were barred by limitation and therefore, ground no. 1 raised by the revenue stands dismissed."

5.3.3 Without prejudice to above, regarding the merit of the case, we relied upon the elaborate submission given during penalty proceeding, which is available in paper book. Further, we also relied upon the submission given on merit before CIT (A), which is reproduced by CIT (A) in his order. In order to brevity and not considering it relevant here, the same is not reproduced herein again.

5.4 Submission on Ground No. 2 and 3 of the departmental appeal wherein it is contended that Ld. CIT(A) has erred in holding that the relevant date for determining the limitation period for imposing penalty u/s 271D of I.T. Act is the date when the assessment order was passed by the A.O and not the date when show cause notice was issued by the Addl./Jt. CIT and in this regard the reliance was also placed on the decision of Hon'ble Kerla High Court in the case of Grihalaxmi Vision v Addl. Commissioner of Income Tax, Range-1, Kozhikode in ITA No 83 & 86 of 2014 dated 08.07.2015.

5.4.1 In this regard this is to submit that decision of Hon'ble Kerla High Court is not binding in the case of assessee because the binding judicial precedence of jurisdictional Rajasthan High Court on this issue is available in favour of assessee. Based on that binding precedent the Ld. CIT(A) held that the relevant date for determining the limitation period is the date when the assessment order is passed by Id. AO and not the date when the show cause notice was issued by the Id. Addl./Jt. CIT. The Ld. CIT (A) thereby noted that in the present case the assessment orders were passed in the month of April-2022 and accordingly considering the period provided under section 275 of the Act, the penalty order should have been passed on or before 31.03. 2023. However, since the order has been passed on 28.08.2023 and therefore, the penalty order is found to have been passed beyond the date of limitation and thus the same cannot be sustained and due to this position, he directed that the penalty levied is to be deleted.

5.4.2 The above, submission is duly covered from the finding given by Hon'ble ITAT Jaipur Bench in the case of DCIT V/s Kiran Fine Jewellers Private Limited 2025 (9) TMI 83 (Copy of judgement is at case law PB Page 163 to 179). The finding of Hon'ble ITAT as given on this issue is as under: -

"Since, we have binding precedent over the other High Court decision cited by the revenue and we are also of the considered view that our High Court view is further confirmed by the apex court and even the revenue has accepted this fact has changed the provision in the Act w.e.f. 01.04.2025 wherein the power to levy this penalty has been given to the assessing officer, the relevant amended provision reads as under:

Penalty for failure to comply with the provisions of section 269SS.

271D. (1) If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so taken or accepted.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

¹⁴⁻¹⁸[Provided that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.]

Thus, the reading of the amended provision of the law and the view of our High Court in the case of Hissaria Bros supra we are of the considered view that there is no infirmity in the finding of the Id. CIT(A) and thereby ground no. 2 & 3 raised by the revenue stands dismissed."

5.5 Submission on Ground No. 4 of the departmental appeal wherein it is contended that CIT (A) erred in relying on the decision of Hon'ble Apex court in the case of Hissaria Brothers without appreciating the fact that the facts of the case of Hissaria Brothers were different from the present case as in the case of Hissaria Brothers, the issue was regarding extension of limitation date for imposition of penalty u/s 271D/E of I. T. Act on the ground of pendency of appeal against relevant assessment order.

5.5.1 In this regard this is to submit that, admittedly in the case of Hissaria Brothers the penalty was levied by taking the recourse of extension of limitation date for imposition of penalty u/s 271D/E of I. T. Act on the ground of pendency of appeal against relevant assessment order. However, in this case the Hon'ble High Court categorically held that the extension period on account of pendency of appeal would not be available in the case of penalty levied u/s 271D/E and also

held that the period of limitation reckoned from the date of assessment order. The relevant finding of Hon'ble High Court is reproduced hereunder: -

19. *In the facts and circumstances noticed above, the Tribunal has held the penalty orders to be barred by time in terms of section 275(1)(c).*

20. *The revenue contends that the provisions of section 275(1)(a) are attracted so far as limitation in the present case is concerned and if section 275(1)(a) is applicable, the limitation for completing the penalty proceedings is extended up to six months from the date of expiry of the month in which the order has been passed in appeal or other proceedings arising out of the assessment in the course of which penalty proceedings have been initiated and the order imposing penalties under sections 271D and 271E had been passed within such extended period from the date of the appellate decision against the assessment order for the assessment year during which notice under sections 271D and 271E was issued.*

21. *It would be apposite here to refer to section 275 in its fullness :*

"275. Bar of limitation for imposing penalties.—(1) No order imposing a penalty under this Chapter shall be passed—

(a)	<i>in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Tribunal is received by the Chief Commissioner or Commissioner whichever period expires later;</i>
(b)	<i>in a case, where the relevant assessment or other order is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;</i>
(c)	<i>in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated whichever period expires later.</i>

(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.

Explanation.—In computing the period of limitation for the purposes of this section—

i)	<i>the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;</i>
ii)	<i>any period during which the immunity granted under section 245H remained in force; and</i>
iii)	<i>any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any Court."</i>

22. *It would not be out of place to consider the relevant legislative history of the provision in question for the present purposes.*

23. *Under the Income-tax Act, 1961, as originally enacted, no limitation was prescribed for completion of the penalty proceedings. However, considering that there should not be any inordinate delay in imposing penalty and to streamline the levy of penalty within reasonable time in the Act of 1961, section 275 was enacted as a new provision for regularising imposition of penalty. It is pertinent to notice that if at the relevant time when the scheme for levy of penalty was enacted in the 1961 Act, the case in which the penalty was envisaged under Chapter XXI, the penalty proceedings were required to be initiated during the course of relevant assessment proceedings or its appellate proceedings by the appellate authority. Attention may be invited to the provisions contained in sections 271 and 273 which were the principal provisions for imposing penalty. The simple provision which was enacted was that no order in this chapter shall be passed after the expiration of two years from the completion of proceedings, in the course of which the proceedings for imposition of penalty have been commenced. Thus, the limitation for imposing penalty under section 275 as originally enacted was directly linked with the completion of proceedings in the course of which the penalty proceedings were initiated in terms of section 271 or section 273 which were the principal provisions for imposing penalty under Chapter XXI. Since the initiation of penalty proceedings was linked with assessment proceedings and the orders in such assessments were subject to appeal, the findings in such proceedings ordinarily became the foundation for initiating proceedings for penalty and remained relevant evidence to reach a final conclusion in penalty proceedings which were otherwise independent. Where assessment proceedings in the course of which penalty proceedings were initiated became the subject-matter of appeal and there was modification or reversal of findings, it affected final result of penalty proceedings also.*

24. Section 275 was substituted by the Taxation Laws (Amendment) Act, 1970, which came into effect from 1-4-1971. The change was explained by the Board vide Circular No. 56, dated 19-3-1971. Significantly, it postulated that section 275 of the Income-tax Act which specified the time-limit for completion of penalty proceedings has been substituted by a new section. Under the existing section, penalty proceedings for concealment of income or defaults in furnishing the return or accounts called for by notice or failure to pay advance tax on the taxpayer's own estimate, etc., are required to be completed within two years from the date of completion of the proceedings in the course of which the penalty proceedings were commenced. The operation of this time-limit has resulted in practical difficulties in cases where the AAC remands the appeal against the assessment for further enquiry by the ITO or deletes or reduces the addition made on account of concealed income and the Department takes up the matter in further appeal before the Tribunal. Sometimes, a final decision on the quantum of the concealed income becomes available only after the expiry of the two years time-limit.

25. Section 275 as substituted aims at obviating difficulties in such cases, reducing avoidable work and avoiding hardship to the assesseees. It provides that the time-limit for making an order imposing a penalty under the provisions of Chapter XXI of the Income-tax Act will, ordinarily, be two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed. However, in a case where the relevant assessment or other order is the subject-matter of an appeal to the AAC or an appeal by the ITO to the Tribunal, the time-limit for completing the penalty proceedings will be either the two years' period as stated above or a period of six months from the end of the month in which the order of the AAC or, as the case may be, of the Tribunal is received by the CIT, whichever period expires later. It may be noted that the two years period will henceforth expire at the end of a financial year, instead of on different dates during the financial year, and the six months period will expire at the end of a calendar month. This facilitates the exercise of vigilance by the tax administration on the expiry of the limitation period and ensures that penalty proceedings are completed in all cases in time.

26. Secondly, the Direct Tax Laws (Amendment) Act, 1987, which came into effect from 1-4-1989, section 275 was amended. Vide amendment, the time-limit for completion of penalty proceedings which was generally two years from the end of financial year in which such proceedings were completed or six months

from the end of the month in which action for imposition for penalty was initiated, whichever period expires later.

27. By these amendments, the three categories were made for applying limitation for completing the penalty proceedings taking into consideration the various penalty proceedings for default of certain provisions of the Income-tax Act which are not necessarily linked with proceedings for any particular assessment year in the course of which only penalty proceedings were required to be initiated. Such consequences of default were not linked with the principal assessment proceedings for any specific assessment year but were independent of it.

28. By substituting section 275(1), which became operative from 1-4-1989, the provision of divided cases for the purpose of prescribing limitation for completing penalty proceedings into three categories :

i)	Category I covers cases where the assessment to which the proceedings for imposition of penalty relate is the subject-matter of an appeal to the Dy. CIT(A) or the CIT(A) under section 246 or with effect from 1-6-2000, section 246A or an appeal to the Tribunal under section 253;
ii)	Category II covers cases where the relevant assessment is the subject-matter of revision under section 263; and
iii)	Category III covers all other cases not falling within category I and category II which is governed by clause (c).

29. By dividing into three categories the period of limitation for cases falling under category (i), i.e., clause (1)(a) is the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed or six months from the end of the month in which the order of the Dy. CIT(A) or the CIT(A) or, as the case may be, the Tribunal is received by the Chief CIT or CIT, whichever period expires later.

30. The period of limitation for the cases falling under category II is six months from the end of the month in which such order on revision is passed and the period of limitation for the cases falling under the above category III is the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later. In the last category, filing of appeal in respect of order passed in proceedings during which penalty proceedings were initiated is not relevant.

31. To this effect, a Circular No. 551, dated 23-1-1990 [(1990) 82 CTR (St.) 325] and another Circular No. 554, dated 13-2-1990 [(1990) 82 CTR (St.) 280] were issued by the CBDT.

32. A close scrutiny of section 275 which is reproduced hereinabove shows that clause (1)(a) covers those cases where the penalty proceedings are in respect of a default related to principal assessment for a particular assessment year and the penalty proceedings are required to be initiated in the course of that proceedings only. In such cases where the relevant assessment order or other orders are the subject-matter of an appeal to the CIT(A) under section 246 or an appeal to the Tribunal under section 253, after the expiry of the financial year in which the proceedings in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of CIT(A) or, as the case may be, of the Tribunal is received by the Chief CIT or CIT, whichever period expires later.

33. Apparently, clause (a) governs the categories which are integrally related to the assessment proceedings and are not independent of it.

34. We have also noticed that this provision was brought into effect in 1970 with effect from 1-4-1971, so that proceedings may not require rectification or modification depending on the outcome of the appeal against the orders passed in the relevant assessment proceedings or the other proceedings in the course of which the penalty proceedings are required to be initiated.

35. We have also noticed that sections 271 and 273 were the two original penalty provisions, which require the penalty proceedings to be initiated during the course of relevant assessment proceedings or the other relevant proceedings, as the case may be. The penalty proceedings could also be initiated during the appellate proceedings arising out of the relevant assessment proceedings. It is only where the assessment proceedings are independent and not directly linked to the assessment proceedings that the result of such proceedings in the course of which the penalty proceedings were initiated does not affect the levy of penalty. On such penalty proceedings, independent of the assessment proceedings, clause (c) has been made applicable. In this category, the period of limitation for completing the penalty proceedings is linked with the initiation of the penalty proceedings itself.

36. In such cases, the penalty proceedings can be initiated independent of any proceedings but obviously, the penalty proceedings can be initiated only when the default is brought to the notice of the concerned authority which may be

during the course of any proceedings and, therefore, for this type of cases where the penalty proceedings have been initiated in connection with the defaults for which no statutory mandate is there about any particular proceedings during the course of which only such penalty proceedings can be initiated, a different period of limitation has been prescribed under clause (c) as a separate category. In cases falling under clause (c), penalty proceedings are to be completed within six months from the end of the month in which the proceedings during which the action for imposition of penalty is initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later. There is no provision under clause (c) for the extended period of limitation commensurating with completion of the appellate proceedings, if any, arising from the proceedings during the course of which such penalty proceedings are initiated as in the case where the penalty proceedings are linked with the assessment proceedings or the other relevant proceedings.

37. The expression 'other relevant thing' used in section 275(1)(a) and clause (b) of sub-section (1) of section 275 is significantly missing from clause (c) of section 275(1) to make out this distinction very clear.

38. We are, therefore, of the opinion that since penalty proceedings for default in not having transactions through the bank as required under sections 269SS and 269T are not related to the assessment proceedings but are independent of it, therefore, the completion of appellate proceedings arising out of the assessment proceedings or the other proceedings during which the penalty proceedings under sections 271D and 271E may have been initiated has no relevance for sustaining or not sustaining the penalty proceedings and, therefore, clause (a) of sub-section (1) of section 275 cannot be attracted to such proceedings. If that were not so, clause (c) of section 275(1) would be redundant because otherwise, as a matter of fact every penalty proceeding is usually initiated when during some proceedings such default is noticed, though the final fact finding in this proceeding may not have any bearing on the issues relating to establishing default, e.g., penalty for not deducting tax at source while making payment to employees, or contractor, or for that matter not making payment through cheque or demand draft where it is so required to be made. Either of the contingencies does not affect the computation of taxable income and levy of correct tax on chargeable income; if clause (a) was to be invoked, no necessity of clause (c) would arise.

39. Thus, both on the ground that the transaction in question of retention of sale price by the Kachcha Arhatiya did not amount to deposit and its utilisation and dealing with it at the instance of farmer constituents did not amount to repayment

of loan or deposits within the meaning of section 269SS or section 269T, and on the ground that limitation under section 275(1)(c) applies to such proceedings, we hold in favour of the respondent.

29. Accordingly, these appeals fail and are hereby dismissed. No order as to costs.

5.5.2 Thus, from the above finding of Hon'ble Court it is well apparent that in the finding it has been categorically held that penalty u/s 271D and 271E has to be imposed as per the provisions of section 275(1)(c) of the Act and this period is not impacted from the pendency of quantum appeal before CIT (A). Therefore, the law established by the court in this judgement in view of the fact that the penalty was time barred on account of extension of time limit assumed on account of pendency of CIT(A) or for any other reason. As per the law settled down in this order, if the penalty order not passed within the time allowed u/s 275(1)(c) of the Act the same is time barred and this law having nothing to do with facts of the case.

5.5.3 Hon'ble ITAT Jaipur Bench in the case of DCIT V/s Kiran Fine Jewellers Private Limited 2025 (9) TMI 83 (Copy of judgement is at case law PB Page 163 to 179) by relying on the finding of Hon'ble Rajasthan High Court in the case of Hissaria Brothers, the penalty was deleted.

6. Cross Objection filed by Assessee. (CO No. 34 to 46/JPR/2025)

In CO filed by the assessee, the assessee has relied upon the findings of Id CIT(A). However, in addition to or in alternative to the findings of Id CIT(A), the assessee has raised certain grounds discussed hereunder. Since, the grounds taken by the assessee for appeal against penalty u/s 271D as well as 271E of the Act are similar, therefore the same are commonly dealt with.

6.1 Ground No. 1.1: - in this ground it is contended that in the assessment order no satisfaction was recorded for initiation of penalty u/s 271D/271E, hence the penalty imposed is not maintainable, bad in law and deserves to be annulled on this count also.

6.1.1 Ld. AO in the assessment order has not initiated penalty proceeding u/s 271D/271E and did not record any finding that there has been any violation of the provisions of section 269SS/269T by the assessee, nor was any satisfaction recorded to the effect that the alleged transaction of acceptance of loan would attract penal consequences u/s 271D/271E (Copy of Assessment Order at Page 1-405). Rather the satisfaction was recorded for levy of penalty for concealment

of income or/and u/s 271(1)(c) /271AAB(1A) /270A. Therefore, the penalty under section 271D/271E, without satisfaction note in assessment order cannot be levied.

6.1.2 The satisfaction of the Assessing Officer is required to be recorded before taking any action for levy of penalty. In this case, the Id AO has recorded the satisfaction for levy of penalty u/s 271(1)(c)/271AAB(1A) but he referred to Addl /Joint Commissioner for levy of penalty u/s 271D/271E for violation of provisions of section 269SS/269T, the action of Ld. AO is bad in law and all the subsequent proceedings deserves to be annulled and set aside.

6.1.3 It is a well-settled principle that penalties under Section 271D and 271E cannot be initiated without the AO first forming a satisfaction on record during the assessment proceedings. In CIT v. Jai Laxmi Rice Mills (SC 2015) 379 ITR 521, (Copy at Case laws PB Page No. 1-3) the Supreme Court held that

"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."

6.1.4 Further Reliance on following decisions: -

1. Hon'ble Rajasthan High Court in the case of SUNIL AGRAWAL, VIJAY KUMAR CHORDIA, HARI MOHAN DANGAYACH, RAKESH KUMAR VIJAY, RADHA MOHAN MAHESHWARI, NIRMAL KUMAR BARDIYA, DWARKA PRASAD KHANDELWAL, SANJEEV KUMAR JAIN, RAVI SHANKAR JHANWAR VERSUS ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE - 4, JOINT COMMISSIONER OF INCOME TAX, CENTRAL JODHPUR (Copy at Case laws PB Page No. 40-43)

Penalty u/s 271D and 271E - mandation of recording satisfaction to be recorded in the reassessment proceedings by the concerned AO - HELD THAT:- In Jai Laxmi Rice Mills [2015 (11) TMI 1453 - SUPREME COURT] 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 u/s 271E. Though the AO stated for initiation of proceedings u/s 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.

In the case in hand the DCIT had only recorded satisfaction for proceedings u/s 271(1)(c) and no satisfaction was recorded to initiate penalty proceedings u/s 271D.

The notice issued u/s 271E and the proceedings in pursuance thereto are quashed. Decided in favour of assessee.

2. Hon'ble ITAT Jaipur Bench in the case Sh. Anil Sharma Versus The ITO, Ward-1 (3), Jaipur 2025 (3) TMI 212 - ITAT Jaipur ITA No. 1480/JPR/2024 dated 16/01/2025 (Copy at Case laws PB Page No. 84-87) held as under:-

Penalty imposed u/s 271E - violation of provisions of Section 269T by making repayment of a sum in cash - HELD THAT:- Assessing Officer nowhere recorded satisfaction that it was a case of violation of provisions of section 269T calling for initiation of penalty proceedings u/s 271E of the Act.

In Jai Laxmi Rice Mills Ambala City's case [\[2015 \(11\) TMI 1453 - SUPREME COURT\]](#) while dealing with penalty order u/s 271E of the Act, observed that in the fresh assessment order, no satisfaction was recorded regarding penalty proceedings u/s 271E of the Act, and that the AO had expressed therein only for initiation of penalty proceedings u/s 271(1)(c). Accordingly, it was held that the penalty levied u/s 271E of the Act could not be levied without recording of satisfaction in the assessment order as regards penalty under section 271E of the Act.

Thus, AO having not recorded satisfaction that it was a case calling for initiation of penalty proceedings u/s 271E penalty order deserves to be set aside. Decided in favour of assessee.

3. High Court Of Andhra Pradesh in the case of Grandhi Sri Venkata Amarendra vs. Joint Commissioner of Income-tax [2024] 167 taxmann.com 352 (Andhra Pradesh)/[2024] 301 Taxman 516 (Andhra Pradesh)[03-10-2024] (Copy at Case laws PB Page No. 55 -59) held as under:-

■ *The Assessing Officer, except to base his addition on the letter of the assessee did not record any finding that there has been any violation of the provisions of section 269SS by the assessee, nor was any satisfaction recorded to the effect that the alleged transaction of acceptance of loan would attract penal consequences. In the absence of any finding to the said effect, the penalty under*

section 271D cannot be levied. A presumption can be drawn, in the absence of a finding by the Assessing Officer to the effect that the petitioner has violated the provisions of section 269SS, that the department has accepted the explanation furnished by the petitioner denying allegation of loan in cash. Therefore, it can unhesitatingly be said that, having satisfied with the explanation of the assessee, the Assessing Officer did not record any satisfaction in the assessment order to the effect that the provisions of section 269SS, are violated and did not contemplate levy of penalty under section 271D. [Para 8]

■ *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 section 271D, 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. [Para 9]*

■ *In view of the aforesaid, the order passed under section 271D is set aside. [Para 10]*

4. *ITAT RAIPUR BENCH in the case of Bhowmick Raj Singh vs. Joint Commissioner of Income-tax [2025] 171 taxmann.com 575 (Raipur - Trib.) [02-01-2024] (Copy at Case laws PB Page No. 106-115).*

6.2 Ground No. 1.2: - in this ground of appeal it is contended that the Ld. A.O. assessed the alleged loans as business income of assessee, therefore it is out of purview of section 269SS/269T of the Act.

Not pressed.

7. Prayer of Assessee

In view of the submission made hereinabove, the humble assessee prays your honour kindly to dismiss the appeal filed by the revenue and allow the CO filed by assessee.

9. To support the contention so raised in the written submission reliance was placed on the following evidence / records / decisions by the Id. AR of the assessee :

S. No.	Particulars	Page No.
1	Copy of Assessment order passed u/s 153A/143(3) for AY 2015-16 to 2021-22	1-405
2	Copy of Letter dated 21/07/2022 by ACIT to JCIT, Central Range for reference for the penalty u/s 271D r.w.s 269SS for AY 2015-16 to AY 2021-22	406-409
3	Copy of Letter dated 21/07/2022 by ACIT to JCIT, Central Range for reference for the penalty u/s 271E r.w.s 269T for AY 2015-16 to AY 2021-22	410-411
4	Copy of show cause notice dated 14/02/2023 issued u/s 274 r.w.s 271D for AY 2015-16 to AY 2021-22	412-418
5	Copy of show cause notice dated 14/02/2023 issued u/s 274 r.w.s 271E for AY 2015-16 to AY 2021-22	419-425
6	Copy of show cause notice dated 01/03/2023 issued u/s 274 r.w.s 271D for AY 2015-16 to AY 2021-22	426-432
7	Copy of show cause notice dated 01/03/2023 issued u/s 274 r.w.s 271E for AY 2015-16 to AY 2021-22	433-446
8	Copy of show cause notice dated 03/08/2023 issued u/s 274 r.w.s 271D for AY 2015-16 to AY 2021-22	447-460
9	Copy of show cause notice dated 03/08/2023 issued u/s 274 r.w.s 271E for AY 2015-16 to AY 2021-22	461-474
10	Copy of Acknowledgement receipt and submission dated 01/03/2023 filed in response to notice u/s 274 r.w.s 271D for AY 2015-16 to AY 2021-22	475-572
11	Copy of Acknowledgement receipt and submission dated 01/03/2023 filed in response to notice u/s 274 r.w.s 271E for AY 2015-16 to AY 2021-22	573-670

- **Case laws relied upon:**

S. No.	Particulars	Page No.
1	Hon'ble Supreme Court in CIT v. Jai Laxmi Rice Mills (SC 2015) 379 ITR 521	1-3
2	Hon'ble Supreme Court in Prem Dass Vs ITO 103 Taxmann 65 (SC)	4-9

3	Hon'ble Supreme Court in Dilip N. Shroff v. Joint CIT [2007] 291 ITR 519 (SC)	10-32
4	Hon'ble Supreme Court in Asst. Director of Inspection (Investigation) Versus Kumari AB Shanthi & Chamundi Granites (P) Ltd. Versus Deputy Commissioner of Income-Tax And Another - 2002 (5) TMI 4 (SC)	33-39
5	Hon'ble Rajasthan High Court Sunil Agrawal, Vijay Kumar Chordia, Hari Mohan Dangayach, Rakesh Kumar Vijay, Radha Mohan Maheshwari, Nirmal Kumar Bardiya, Dwarka Prasad Khandelwal, Sanjeev Kumar Jain, Ravi Shankar Jhanwar Versus Assistant Commissioner Of Income Tax, Central Circle - 4, Joint Commissioner Of Income Tax, Central Jodhpur D. B. Civil Writ Petition No. 1102/2025	40-43
6	Hon'ble Rajasthan High Court CIT vs. M.A. Presstressed Works, 220 ITR 226 (Raj.)	44-46
7	Hon'ble Rajasthan High Court Gyarsi Lal Vijay Vs. CIT ITA No.7/2002 order dt. 24.08.2016 (Raj.) (HC)	47-49
8	Hon'ble Rajasthan High Court CIT Vs. Krishi Tyre Retreading and Rubber Industries 360 ITR 580 (Raj.)	50-54
9	Hon'ble Andhra Pradesh High Court in the case of Grandhi Sri Venkata Amarendra vs. Joint Commissioner of Income-tax [2024] 167 taxmann.com 352 (Andhra Pradesh)/[2024] 301 Taxman 516 (Andhra Pradesh)[03-10-2024]	55-59
10	Hon'ble Madras High Court Director of Income Tax Exemptions, Chennai Vs M/s. Young Men Christian Association, Madras, ITA Nos.1661, 2002 & 2003/MDS/ 2012, 111 DTR 77 (Mad.) (HC)	60-66
11	Hon'ble Delhi High Court Diwan Enterprises Vs. CIT & Ors. (2000) 246 ITR 571 (Del) (HC)	67-74
12	Hon'ble Delhi High Court CIT Vs. Standard Brands Ltd. 285 ITR 295 (Del.) (HC)	75-76
13	Hon'ble Gujarat High Court Commissioner of Income Tax Vs. Shyam Corporation 218 Taxman 136 (Guj.),	77-78
14	Hon'ble Calcutta High Court Durga Kamal Rice Mills v/s. CIT (2004) 265 ITR 25 (Cal.).	79-83
15	Hon'ble ITAT Jaipur Bench Sh. Anil Sharma Versus The ITO, Ward-1 (3), Jaipur 2025 (3) TMI 212 - ITAT Jaipur ITA No. 1480/JPR/2024 dated 16/01/2025	84-87
16	Hon'ble ITAT Jaipur Bench in the case of Shri Ram Kishan Verma Vs Addl CIT, Range -1 Kota ITA No 405/JP/2019 AY 2015-16 order dated	88-105

03/07/2019.

17	ITAT RAIPUR BENCH in the case of Bhowmick Raj Singh vs. Joint Commissioner of Income-tax [2025] 171 taxmann.com 575 (Raipur - Trib.)(02-01-2024]	106-115
18	ITAT MUMBAI BENCH Deputy Commissioner Of Income Tax vs G.S. Entertainment, (2007) 109 TTJ Mum 54	116-118
19	ITAT MUMBAI BENCH Fame Engineering Pvt. Ltd. vs ITO-12(2)(1) ITA No. 3978/MUM/ 2019,	119-123
20	ITAT Ahmedabad in the case of M/S. Apple Weigh infra Limited vs JCIT, Central Range-1, Ahmedabad 2021 (9) TMI 129	124-127
21	ITAT AMRITSAR BENCH Navin Kumar v. Jt. CIT (2006) 99 TTJ 267 / 98 ITD 242 (TM)(Amritsar)(Trib.).	128-156
22	ITAT PUNA BENCH Dy. CIT Cent. Cir. 2(2) Pune Vs. M/s. Sneh Builders [I.T.A. No. 520/PN/2008 : A.Y. 2004-05	157-162
23	ITAT JAIPUR BENCH Dy CIT CC-2, Jaipur Vs Kiran Fine Jewellers Pvt Ltd ITA No 268, 270, 271 and 274/JP/2025 order dated 26-06-2025 - 2025(9) TMI 83 ITAT JAIPUR	163-179
24	ITAT JODHPUR BENCH Hissaria Brothers Vs JCIT TTJ 073, 001 order dated 17-08-2001 2001(8) TMI 295-ITAT JODHPUR	180-193
25	Hon'ble Rajasthan High Court CIT vs Hissaria Brothers (2007) 291 ITR 244	194-202
26	Hon'ble Supreme Court in CIT vs Hissaria Brothers (2016) 386 ITR 719	203

10. We have heard the rival contentions and perused the material placed on record and have gone through the various judicial precedents cited before us. In the present appeal filed by the revenue we note that though the ground raised are five, fifth being general does not require our finding and ground no. 1 to 4 raised are related to the action of the Id. CIT(A) in deleting the penalty levied on the technical ground without considering the Judgment of the Hon'ble Kerla High Court in the case of Grihalaxmi Vision v

Addl. Commissioner of Income Tax, Range-1, Kozhikode in ITA No 83 & 86 of 2014 dated 08.07.2015 wherein the issue of time limit is discussed by the High Court contrary to the view taken by the Id. CIT(A) and thereby the revenue challenged that finding. The revenue also contended that the finding on the order relied being different on fact and thereby challenged that order and contended that Id. CIT(A) should have considered the merits of the dispute too.

Since all these grounds are interrelated to the dispute, we take it to dispose off together. The brief facts related to the dispute are that there was an action of search and seizure u/s 132 of the Act and/or survey u/s 133A of the Act which was carried out on 19-01-2021 by the revenue on M/s Gokul Kripa Colonizers & Developers Pvt. Ltd (for short GKCDPL or assessee). In that action various incriminating documents were found/seized including forensic data from premises covered in the "Gokul kripa group". These incriminating documents include information related to repayment of cash loans by the assessee company GKCDPL through its founders/promoters/owners/key person namely Shri Sumer Singh Saini, Shri Phool Chand Saini, Shri Rajesh Kumar and Shri Ganga Singh Tanwar & others and these cash loans were utilized for the purpose of business of assessee company i.e. in the business of real estate done by the assessee

company. Further, while assessment proceedings, the assessee company was asked to explain these financial transactions done through its key persons for the purpose of business of real estate conducted by the assessee company, i.e. cash loans repayments by the assessee company through its key persons but the assessee was failed to provide any satisfactory reply regarding these cash loan repayments.

Based on that set of facts Id. AO i.e., ACIT, Central Circle-2, Jaipur referred the matter to Addl./Jt. CIT, Central Range, Jaipur for initiation of penalty proceedings under section 271E of the Act for contravention to the provisions of section 269T of the Act i.e. the assessee accepted loan or deposit in an amount exceeding the limit specified in section 269T by other than a cheque or bank draft, in violation of provisions of section 269T of the Act.

The Addl. CIT, Central Range, Jaipur issued notice u/s 274 r.w.s. 271E of the Act on 14.02.2023 initiating penalty under section 271E of the Act for violation of provisions of section 269T of the Act vide show cause notice dated 01.03.2023. The assessee filed its reply, Id. AO considered that reply but did not find it as acceptable and thereby she concluded that the assessee has violated the provisions of section 269T of the Act and thereby liable for levy of penalty as per provisions of section 271E of the Act

for an amount of Rs. 90,95,257/- and she ordered accordingly vide her order dated 28.08.2023.

When the matter was challenged before the Id. CIT(A) he considered the plea of the assessee based on the decision of Hissaria Brothers (Supra) that the relevant date for determining the limitation period is the date from the passing of the assessment order by the Id. AO. As in this case the assessment order was passed on 29.04.2022 and thereby the limitation for passing the penalty order u/s. 271E is 31.10.2022 or 31.03.2023 whichever is later, that is 31.03.2023 but the penalty order in this case was passed on 28.08.2023 which is beyond the limitation date and thereby he quashed the order levying the penalty considering the binding legal precedent cited before him.

Before us the Id. DR cited the decision the decision of Hon'ble Kerla High Court in the case of Grihalaxmi Vision v Addl. Commissioner of Income Tax, Range-1, Kozhikode in ITA No 83 & 86 of 2014 dated 08.07.2015 wherein the issue of time limit is discussed by the High Court contrary to the view taken by the Id. CIT(A) and thereby the revenue challenged that finding while doing so Id. DR did not dispute that that issue of counting of limitation for levy of penalty has already been decided by our Jurisdictional High Court in the case of Hissaria Brothers [291 ITR 244].

So based on that legal precedent let us examine that legal issue based on the facts as available on record. Before we deal with that aspect of the matter legally, we would like to reproduced the provision of section 271E read with section 275 of the Act.

Penalty for failure to comply with the provisions of section 269T.

271E. (1) If a person repays any loan or deposit or specified advance referred to in [section 269T](#) otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified advance so repaid.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

Bar of limitation for imposing penalties.

275. (1) No order imposing a penalty under this Chapter shall be passed after the expiry of six months from the end of the quarter in which,-

a)	the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, ⁵⁹ if the relevant assessment or other order is not the subject matter of an appeal under section 246 or section 246A or section 253 ;
(b)	the order of revision under section 263 or section 264 is passed, if the relevant assessment or other order is the subject matter of revision under the said sections;
c)	the order of appeal under section 246 or section 246A is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject matter of an appeal under the said sections and no further appeal has been filed under section 253 ;
d)	the order of appeal under section 253 is received by the jurisdictional Principal Commissioner or Commissioner, if the relevant assessment or other order is the subject matter of an appeal under the said section;
e)	notice for imposition of penalty is issued, in any other case.

(2) The order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be revised on the basis of assessment as revised by giving effect to the order passed under [section 246](#) or [section 246A](#) or [section 253](#) or [section 260A](#) or [section 261](#) or revision under [section 263](#) or [section 264](#), where the relevant assessment or other order is the subject matter of an appeal or a revision under the said sections.

(3) No order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty under sub-section (2) shall be passed-

a)	<i>unless the assessee has been heard, or has been given a reasonable opportunity of being heard;</i>
b)	<i>after the expiry of six months from the end of the quarter in which the order passed under section 246 or section 246A or section 253 or section 260A or section 261 is received by the jurisdictional Principal Commissioner or Commissioner, or the order of revision under section 263 or section 264 is passed.</i>

(4) The provisions of sub-section (2) of [section 274](#) shall apply to the order imposing or enhancing or reducing penalty under sub-section (2).

(5) In computing the period of limitation for the purposes of this section, the following period shall be excluded:-

a)	<i>the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;</i>
b)	<i>the period commencing on the date on which stay on proceeding for levy of penalty was granted by an order or injunction of any court and ending on the date on which certified copy of the order vacating the stay was received by the jurisdictional Principal Commissioner or Commissioner.]</i>

When we read the provision of the law we note that the limitation period is governed by clause (c) of Section 275(1) in this case. As per this section, the penalty order is to be passed before the end of the F.Y. in which the proceeding in the cause of which the action for imposition of penalty has been initiated are completed or 6 months from the end of the month in which penalty is initiated, whichever expires later. Record reveals that in this case the assessment order was passed on 29.04.2022 and thereby the limitation for passing the penalty order u/s. 271E is 31.10.2022 or 31.03.2023 whichever is later. In this case the same is 31.03.2023 but the penalty order in this case was passed on 28.08.2023 which is beyond the

limitation date and thereby the same is rightly quashed by the Id. CIT(A) as the order was not passed within the timeline as given in section 275 of the Act. This co-ordinate bench of Jaipur has taken a similar view of the matter while dealing with the case of revenue in DCIT vs. Kiran Fine Jewellers Private Limited in ITA no. 268/JP/2024 wherein the bench held as under :

Page 18 onwards of the said decision

The assessee alternatively also stated that the penalty proceedings are barred by limitation as the same have not been passed after expiry of financial year in which the quantum proceedings were completed. The assessee has also cited certain case-laws to support this contention. The Id. Addl./Jt. CIT having considered the submissions, records and the contentions raised he contended in his order that the Assessing Officer had only sent a proposal/reference for initiating proceedings u/s 271E in this case to the Additional Commissioner. The Assessing Officer is not empowered to initiate the penalty proceedings u/s 271E. In fact, the penalty proceedings u/s 271E were initiated by him only on 24/02/2022 by issuance of show-cause notice. Thus, the penalty proceedings were concluded within six months from the Initiation of proceedings and, therefore, the plea taken regarding limitation was not tenable. As regards the merits of the contention he stated that the assessee had only debited the loan account of M/s Mohit Jewellers by passing journal entry of Rs.9,36,57,733/ for the outstanding amount due from the said concern on account of sales, it is to be stated that such repayment is in clear contravention of the provisions of Section 269 T of the Act. Therefore, considering that provision of the section the contention of the assessee that the repayment of loan by way of adjustment through journal entries would not come within the ambit of Section 269T and the said contention was not acceptable as per his contention. As Section 269T requires the entities specified therein not to make repayment of loan/deposit together with interest, if any, otherwise than by, an account payee cheque/bank draft if the amount of loan/deposit with interest, if any, exceeds the limits prescribed therein. Therefore, the contention of the assessee that there is no violation of the loan has been repaid by debiting the account through journal entries was not considered as tenable. For that contention he placed reliance on the decision of the Hon'ble Bombay High Court in the case of CIT Vs. Triumph International Finance (I) Ltd ITA No.5746/2010 (Bom), wherein the Hon'ble High Court held that where the loan/deposit has been repaid by debiting the account through journal entries, it must be held that the assessee has contravened the provisions of Section 269T of the Income Tax Act, 1961. Further, the assessee has not cited any reasonable cause for violation of the provisions of section 269T of the Act. In view of these facts, it is a case where the assessee, without any reasonable cause, has

contravened the provisions of section 269T of the Act. Therefore, Id. AO holds that the assessee has violated the provisions of section 269T of the Act, which puts an embargo on re-payment of loans except by the modes specified therein and, therefore, penalty u/s 271E is clearly exigible and consequently, he ordered to levy penalty of Rs. 9,36,57,733/- i.e., equal to the amount of repayment of loan other than account payee cheque, is imposed on the assessee in terms of section 271E of the Act.

When the matter carried before the Id. CIT(A), considered the binding precedent of our Rajasthan High Court in the case of CIT Vs. Hissaria Bros 169 Taxman 262 (Rajasthan). The said decision has been affirmed by the Hon'ble Apex Court in the case of Hissaria Brothers [2016] 74 taxmann.com 22/243 Taxman 174/386 ITR 719 wherein our High Court held that "Penalty under ss. 271D and 271E-Limitation under s. 275-Computation-Penalty orders under ss. 271D and 271E passed beyond six months from the end of the month in which the assessments were completed were barred by limitation. Therefore, based on that binding precedent he held that the relevant date for determining the limitation period is the date when the reference was made by the Id. AO to the Id. Joint Commissioner / Addl. Commissioner and not the date when the show cause notice was issued by the Id. Addl. Commissioner. He thereby noted that in the present case the reference was made by the Id. AO to the Id. Addl. Commissioner on the date of 20.01.2020. Accordingly considering the period provided under section 275 of the Act, the penalty order should have been passed on or before 31.07. 2020. However, the order has been passed on 30.08.2022 and therefore, the penalty order is found to have been passed beyond the date of limitation and thus the same cannot be sustained and due to this position, he directed that the penalty levied is to be deleted.

Before us Id. DR relied upon the decision of Hon'ble Kerla High Court in the case of Grihalaxmi Vision v Addl.Commissioner of Income Tax, Range-1, Kozhikode' and submitted that the Id. CIT(A) has erred in directing to delete the penalty merely on the technical ground and thus as held Grihalaxmi Vision's case (Supra) he should not only decide the technical ground in revenue's favour but would have decided the merits also. The bench noted that the Id. DR relied on the decision in the case of Grihalaxmi Vision's case (Supra) wherein the Hon'ble Kerala High Court held that

"Question to be considered is whether proceedings for levy of penalty, are initiated with the passing of the order of assessment by the Assessing Officer or whether such proceedings have commenced with the issuance of the notice issued by the Joint Commissioner. From statutory provision, it is clear that the competent authority to levy penalty being the Joint Commissioner. Therefore, only the Joint Commissioner can initiate proceedings for levy of penalty. Such initiation of proceedings could not have been done by the Assessing Officer. The statement in the assessment order that the proceedings under [Section 271D](#) and E are initiated is inconsequential. On the other hand, if the assessment order is taken as the initiation of penalty proceedings, such initiation is by an authority who is incompetent and the proceedings thereafter would be proceedings without jurisdiction. If that be so, the initiation of the penalty proceedings is only with the

issuance of the notice issued by the Joint Commissioner to the assessee to which he has filed his reply.”

Whereas in the case of the Commissioner of Income Tax Vs. Hissaria Bros [169 Taxman 262 (Rajasthan)] has decided this issue thread bear and confirmed that the initiation of penalty has linked with the assessment proceeding and thereby the detailed finding of our Hon'ble High Court reads as under :

12. In the facts and circumstances noticed above, the Tribunal has held the penalty orders to be barred by time in terms of section 275(1)(c).

13. The revenue contends that the provisions of section 275(1)(a) are attracted so far as limitation in the present case is concerned and if section 275(1)(a) is applicable, the limitation for completing the penalty proceedings is extended up to six months from the date of expiry of the month in which the order has been passed in appeal or other proceedings arising out of the assessment in the course of which penalty proceedings have been initiated and the order imposing penalties under sections 271D and 271E had been passed within such extended period from the date of the appellate decision against the assessment order for the assessment year during which notice under sections 271D and 271E was issued.

14. It would be apposite here to refer to section 275 in its fullness :

"275. *Bar of limitation for imposing penalties.*—(1) No order imposing a penalty under this Chapter shall be passed—

(a)	in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later;
(b)	in a case, where the relevant assessment or other order is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;
(c)	in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall

apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i)		the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;
(ii)		any period during which the immunity granted under section 245H remained in force; and
(iii)		any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any Court."

15. It would not be out of place to consider the relevant legislative history of the provision in question for the present purposes.

16. Under the Income-tax Act, 1961, as originally enacted, no limitation was prescribed for completion of the penalty proceedings. However, considering that there should not be any inordinate delay in imposing penalty and to streamline the levy of penalty within reasonable time in the Act of 1961, section 275 was enacted as a new provision for regularising imposition of penalty. It is pertinent to notice that if at the relevant time when the scheme for levy of penalty was enacted in the 1961 Act, the case in which the penalty was envisaged under Chapter XXI, the penalty proceedings were required to be initiated during the course of relevant assessment proceedings or its appellate proceedings by the appellate authority. Attention may be invited to the provisions contained in sections 271 and 273 which were the principal provisions for imposing penalty. The simple provision which was enacted was that no order in this chapter shall be passed after the expiration of two years from the completion of proceedings, in the course of which the proceedings for imposition of penalty have been commenced. Thus, the limitation for imposing penalty under section 275 as originally enacted was directly linked with the completion of proceedings in the course of which the penalty proceedings were initiated in terms of section 271 or section 273 which were the principal provisions for imposing penalty under Chapter XXI. Since the initiation of penalty proceedings was linked with assessment proceedings and the orders in such assessments were subject to appeal, the findings in such proceedings ordinarily became the foundation for initiating proceedings for penalty and remained relevant evidence to reach a final conclusion in penalty proceedings which were otherwise independent. Where assessment proceedings in the course of which penalty proceedings were initiated became the subject-matter of appeal and there was modification or reversal of findings, it affected final result of penalty proceedings also.

17. Section 275 was substituted by the Taxation Laws (Amendment) Act, 1970, which came into effect from 1-4-1971. The change was explained by the Board *vide* Circular No. 56, dated 19-3-1971. Significantly, it postulated that section 275 of the Income-tax Act which specified the time-limit for completion of penalty proceedings has been substituted by a new section. Under the existing section, penalty proceedings for concealment of income or defaults in furnishing

the return or accounts called for by notice or failure to pay advance tax on the taxpayer's own estimate, etc., are required to be completed within two years from the date of completion of the proceedings in the course of which the penalty proceedings were commenced. The operation of this time-limit has resulted in practical difficulties in cases where the AAC remands the appeal against the assessment for further enquiry by the ITO or deletes or reduces the addition made on account of concealed income and the Department takes up the matter in further appeal before the Tribunal. Sometimes, a final decision on the quantum of the concealed income becomes available only after the expiry of the two years time-limit.

18. Section 275 as substituted aims at obviating difficulties in such cases, reducing avoidable work and avoiding hardship to the assesseees. It provides that the time-limit for making an order imposing a penalty under the provisions of Chapter XXI of the Income-tax Act will, ordinarily, be two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed. However, in a case where the relevant assessment or other order is the subject-matter of an appeal to the AAC or an appeal by the ITO to the Tribunal, the time-limit for completing the penalty proceedings will be either the two years' period as stated above or a period of six months from the end of the month in which the order of the AAC or, as the case may be, of the Tribunal is received by the CIT, whichever period expires later. It may be noted that the two years period will henceforth expire at the end of a financial year, instead of on different dates during the financial year, and the six months period will expire at the end of a calendar month. This facilitates the exercise of vigilance by the tax administration on the expiry of the limitation period and ensures that penalty proceedings are completed in all cases in time.

19. Secondly, the Direct Tax Laws (Amendment) Act, 1987, which came into effect from 1-4-1989, section 275 was amended. *Vide* amendment, the time-limit for completion of penalty proceedings which was generally two years from the end of financial year in which such proceedings were completed or six months from the end of the month in which action for imposition for penalty was initiated, whichever period expires later.

20. By these amendments, the three categories were made for applying limitation for completing the penalty proceedings taking into consideration the various penalty proceedings for default of certain provisions of the Income-tax Act which are not necessarily linked with proceedings for any particular assessment year in the course of which only penalty proceedings were required to be initiated. Such consequences of default were not linked with the principal assessment proceedings for any specific assessment year but were independent of it.

21. By substituting section 275(1), which became operative from 1-4-1989, the provision of divided cases for the purpose of prescribing limitation for completing penalty proceedings into three categories :

(i)	Category I covers cases where the assessment to which the proceedings for imposition of penalty relate is the subject-matter of an appeal to the Dy. CIT(A) or the CIT(A) under section 246
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		or with effect from 1-6-2000, section 246A or an appeal to the Tribunal under section 253;
(ii)		Category II covers cases where the relevant assessment is the subject-matter of revision under section 263; and
(iii)		Category III covers all other cases not falling within category I and category II which is governed by clause (c).

By dividing into three categories the period of limitation for cases falling under category (i), *i.e.*, clause (1)(a) is the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed or six months from the end of the month in which the order of the Dy. CIT(A) or the CIT(A) or, as the case may be, the Tribunal is received by the Chief CIT or CIT, whichever period expires later.

22. The period of limitation for the cases falling under category II is six months from the end of the month in which such order on revision is passed and the period of limitation for the cases falling under the above category III is the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later. In the last category, filing of appeal in respect of order passed in proceedings during which penalty proceedings were initiated is not relevant.

To this effect, a Circular No. 551, dated 23-1-1990 [(1990) 82 CTR (St.) 325] and another Circular No. 554, dated 13-2-1990 [(1990) 82 CTR (St.) 280] were issued by the CBDT.

23. A close scrutiny of section 275 which is reproduced hereinabove shows that clause (1)(a) covers those cases where the penalty proceedings are in respect of a default related to principal assessment for a particular assessment year and the penalty proceedings are required to be initiated in the course of that proceedings only. In such cases where the relevant assessment order or other orders are the subject-matter of an appeal to the CIT(A) under section 246 or an appeal to the Tribunal under section 253, after the expiry of the financial year in which the proceedings in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of CIT(A) or, as the case may be, of the Tribunal is received by the Chief CIT or CIT, whichever period expires later.

Apparently, clause (a) governs the categories which are integrally related to the assessment proceedings and are not independent of it.

24. We have also noticed that this provision was brought into effect in 1970 with effect from 1-4-1971, so that proceedings may not require rectification or modification depending on the outcome of the appeal against the orders passed in the relevant assessment proceedings or the other proceedings in the course of which the penalty proceedings are required to be initiated.

25. We have also noticed that sections 271 and 273 were the two original penalty provisions, which require the penalty proceedings to be initiated during the course

of relevant assessment proceedings or the other relevant proceedings, as the case may be. The penalty proceedings could also be initiated during the appellate proceedings arising out of the relevant assessment proceedings. It is only where the assessment proceedings are independent and not directly linked to the assessment proceedings that the result of such proceedings in the course of which the penalty proceedings were initiated does not affect the levy of penalty. On such penalty proceedings, independent of the assessment proceedings, clause (c) has been made applicable. In this category, the period of limitation for completing the penalty proceedings is linked with the initiation of the penalty proceedings itself.

In such cases, the penalty proceedings can be initiated independent of any proceedings but obviously, the penalty proceedings can be initiated only when the default is brought to the notice of the concerned authority which may be during the course of any proceedings and, therefore, for this type of cases where the penalty proceedings have been initiated in connection with the defaults for which no statutory mandate is there about any particular proceedings during the course of which only such penalty proceedings can be initiated, a different period of limitation has been prescribed under clause (c) as a separate category. In cases falling under clause (c), penalty proceedings are to be completed within six months from the end of the month in which the proceedings during which the action for imposition of penalty is initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later. There is no provision under clause (c) for the extended period of limitation commensurating with completion of the appellate proceedings, if any, arising from the proceedings during the course of which such penalty proceedings are initiated as in the case where the penalty proceedings are linked with the assessment proceedings or the other relevant proceedings.

26. The expression 'other relevant thing' used in section 275(1)(a) and clause (b) of sub-section (1) of section 275 is significantly missing from clause (c) of section 275(1) to make out this distinction very clear.

27. We are, therefore, of the opinion that since penalty proceedings for default in not having transactions through the bank as required under sections 269SS and 269T are not related to the assessment proceedings but are independent of it, therefore, the completion of appellate proceedings arising out of the assessment proceedings or the other proceedings during which the penalty proceedings under sections 271D and 271E may have been initiated has no relevance for sustaining or not sustaining the penalty proceedings and, therefore, clause (a) of sub-section (1) of section 275 cannot be attracted to such proceedings. If that were not so, clause (c) of section 275(1) would be redundant because otherwise, as a matter of fact every penalty proceeding is usually initiated when during some proceedings such default is noticed, though the final fact finding in this proceeding may not have any bearing on the issues relating to establishing default, *e.g.*, penalty for not deducting tax at source while making payment to employees, or contractor, or for that matter not making payment through cheque or demand draft where it is so required to be made. Either of the contingencies does not affect the computation of taxable income and levy of correct tax on

chargeable income; if clause (a) was to be invoked, no necessity of clause (c) would arise.

28. Thus, both on the ground that the transaction in question of retention of sale price by the Kachcha Arhatiya did not amount to deposit and its utilisation and dealing with it at the instance of farmer constituents did not amount to repayment of loan or deposits within the meaning of section 269SS or section 269T, and on the ground that limitation under section 275(1)(c) applies to such proceedings, we hold in favour of the respondent.

29. Accordingly, these appeals fail and are hereby dismissed. No order as to costs.

Since, we have binding precedent over the other High Court decision cited by the revenue and we are also of the considered view that our High Court view is further confirmed by the apex court and even the revenue has accepted this fact has changed the provision in the Act w.e.f. 01.04.2025 wherein the power to levy this penalty has been given to the assessing officer, the relevant amended provision reads as under:

Penalty for failure to comply with the provisions of section 269SS.

271D. (1) If a person takes or accepts any loan or deposit or specified sum in contravention of the provisions of [section 269SS](#), he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so taken or accepted.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:

¹⁴⁻¹⁸**[Provided that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.]**

Thus, the reading of the amended provision of the law and the view of our High Court in the case of Hissaria Bros supra we are of the considered view that there is no infirmity in the finding of the Id. CIT(A) and thereby ground no. 2 & 3 raised by the revenue stands dismissed.

Since we have confirmed the view of the Id. CIT(A) on technical grounds we are of the considered view that the Id. CIT(A) has rightly not decided the merits of the dispute as the proceeding were barred by limitation and therefore, ground no. 1 raised by the revenue stands dismissed.

On being consistent to the findings recorded herein above wherein all the contention of the revenue that has been raised has already been dealt with and therefore, we see no infirmity in the finding of the Id. CIT(A) in following the binding precedent of our Rajasthan High Court in the case of Hissaria

Brothers 74 taxmann.com 22. In view of the finding so recorded herein above we see no infirmity in the finding of the Id. CIT(A) and thereby the appeal of the revenue in ITA no. 1168/JP/2025 is dismissed.

11. Now coming to the cross-objection ground no. 1.1 wherein the assessee contended that while passing the the assessment order, no satisfaction was recorded for initiation of penalty u/s 271E of the Act, hence the penalty imposed is not maintainable, bad in law and deserves to be annulled on this count also. On this count we note that there was no satisfaction for levy of penalty in the assessment and even the Id. AO considered that income and opted to levy the penalty on the other sections of the Act. Be that it so may then in that circumstance on this issue Id. AR of the assessee serviced before us the decision of Apex Court in the case of CIT Vs. Jai Laxmi Rice Mills 379 ITR 521 wherein the Apex court has also held that;

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.

Here is also the facts of the case is that while passing an order of assessment Id. AO mentioned a satisfaction for levy of penalty as he considered these loans as income and has initiated penalty u/s. 270A and 271AAC(1) of the Act and therefore, the ratio of the above Judgment of the Apex Court squarely applicable in this case and thereby also the levy of penalty without any satisfaction in the order of the assessment cannot survive as held in the above case. A similar view is taken by our Jurisdictional High Court recently while dealing with the case of Sunil Agarwal, Vijay Kumar Chordia and others Vs. JCIT, Central Jodhpur [172 taxmann.com 54 (Rajasthan) wherein Hon'ble High Court held that;

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.

12. The writ petitions are allowed.

Thus, this decision of the Apex Court is also considered by our High Court in the recent decision and therefore, even on this ground, the penalty levied is not sustainable and therefore, we considered the ground no. 1.1 raised by the assessee in the cross objection.

The Id. AR of the assessee fairly accepted that since they are pressing for ground no. 1.1. ground no. 1.2 not pressed and thereby the same is not decided and left open.

Based on these observations the cross objection filed by the assessee in CO/39/JP/2025 stands partly allowed.

In the result the appeal of the revenue in ITA no. 1168/JP/2025 stands dismissed, and the cross-objection no. 39/JP/2025 stands Partly Allowed.

12. The facts of the case in ITA Nos. 1162, 1164 to 1167, 1169 to 1170, 1174 to 1178/JP/2025 and CO No. 34 to 38 & 40 to 46/JP/2025 are similar to the case in ITA No. 1168/JP/2025 and CO No. 39/JP/2025 and we have heard both the parties and persuaded the materials available on record. The bench noticed that the issues raised by the revenue and the assessee in this appeal ITA No. 1168/JP/2025 and CO No. 39/JP/2025 are equally similar on set of facts and grounds as that of with the appeal of the revenue in ITA No. ITA No. 1168/JP/2025 and CO No. 39/JP/2025. Therefore, it is not imperative to repeat the facts and various grounds raised by both the parties. Hence, the bench feels that the decision taken by us in ITA No. 1168/JP/2025 and CO No. 39/JP/2025 for Assessment Year 2017-18 shall apply mutatis mutandis in ITA Nos. ITA Nos. 1162, 1164 to 1167, 1169 to

1170, 1174 to 1178/JP/2025 and CO No. 34 to 38 & 40 to 46/JP/2025 for the Assessment Years 2015-16 to 2016-17, 2018-19 to 2021-22.

In the result, the appeals of the revenue stands dismissed, and the cross objection of the assessee are partly allowed.

Order pronounced in the open court on 13/11/2025.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 13/11/2025

*Ganesh Kumar, Sr. PS

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- DCIT, Central Circle-2, Jaipur
2. प्रत्यर्थी / The Respondent- Gokul Kripa Colonizers & Developers Pvt. Ltd., Jaipur
3. आयकरआयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्डफाईल / Guard File (ITA Nos. 1164 to 1170/JP/2025 and 1174 to 1178/JP/2025 & CO Nos. 34 to 46/JP/2025)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar