

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.2085, 2086 & 2087/Chny/2025  
निर्धारण वर्ष/Assessment Years: 2016-17, 2017-18 & 2019-20

Mr.B. Anand Babu, 225A, Sambal Thottam, Samichettipalayam, Coimbatore-641 047. [PAN: AHNPB 9506 A]	v.	The DCIT, Central Circle-3, Coimbatore.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.A.G. Sathyanarayana, Advocate & Mr. Shrenik Chordia, CA
प्रत्यर्थी की ओर से /Respondent by	:	Ms.R. Anitha, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	04.12.2025
घोषणाकीतारीख /Date of Pronouncement	:	22.12.2025

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

These are appeals preferred by the assessee is against the orders of the Learned Commissioner of Income Tax (Appeals), (hereinafter referred to as 'Ld.CIT(A)'), Chennai-18, all dated 13.06.2025 for the Assessment Year (hereinafter referred to as 'AY') 2016-17, 2017-18 & 2019-20.

2. Briefly stated, the facts relating to the present appeal are that, a search action u/s.132 of the Income Tax Act, 1961 (hereinafter referred



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to as 'the Act') was conducted on 06.03.2019 at the business premises of Shri K. K. Kalyanasundaram [Sri Sri Masaniamman Thunai Chit Funds Kovai Pvt. Ltd. (hereinafter referred to as 'SMT Chit Funds'). In the course of search, it was *inter alia* certain incriminating materials were discovered, which according to the Revenue revealed that assessee had received cash loan of ₹15,50,000/-, ₹1,50,00,000/- and ₹1,22,23,000/- for AYs 2016-17, 2017-18 & 2019-20 respectively from Shri Kalyanasundaram, which was admitted by the searched person in his sworn statement recorded u/s.132(4) of the Act. Based on the aforesaid facts, the AO initiated penalty proceedings u/s 271D against the assessee for accepting cash in violation of Section 269SS of the Act, but didn't pass any assessment order against assess for those AY's. Pursuant to the AO's letter to Addl./Joint Commissioner of Income Tax dated 21.04.2022 in this regard for penalty, the Addl/JCIT in-turn by letter dated 29.04.2022, forwarded the same to the 'Faceless Unit' which gave notice of penalty u/s.271D on 10.06.2022; and thereafter, the Income Tax Authority acknowledges that assessee replied by letter dated 29.08.2022, wherein he denied receiving any loan in cash from Shri Kalyanasundaram. Not satisfied with the reply of assessee, and holding the denial of assessee to have received cash loan from searched person to be self serving, the Income Tax Authority finally levied penalty u/s.271D of the Act in



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December, 2022 by levying penalty @100% of the alleged amount taken as cash across captioned three (3) AY's.

**3.** Aggrieved by levy of penalty supra by the Faceless Income Tax Unit, the assessee preferred appeals before the Ld. CIT(A). In the appellate proceedings, the assessee again reiterated his stand that he didn't take any cash loan as alleged by the Revenue. Moreover, the Ld. CIT(A) found the denial of assessee to be not acceptable for the reason that assessee failed to discharge the burden of rebutting the incriminating material found during search against him for levy of penalty u/s.271D of the Act and confirmed the penalty for all the three assessment years by passing the appellate order on 13.06.2025.

**4.** Being aggrieved by the order of the Ld. CIT(A), the assessee has filed the present appeals. And since both parties agree that facts are same for all three (3) AYs & there is no change in facts or law, but only the variation in the amount of penalty levied in each AY, for convenience, the appeal for AY 2016-17 is taken as the lead case and the decision of which will be followed for all the other two assessment years. The assessee has raised the following grounds for AY 2016-17:

a) The order passed by the CIT(A) is opposed to the facts of the appellant case and the law as applicable to such facts.

b) Based on the evidence seized from the business premises of Shri K. Kalyanasundaram, (PAN: AFBPK6901Q) at Sri Masaniamman Thunai Chit Funds Kovai Pvt. Ltd., at Saraswati Complex and based on his sworn statement, the AO & CIT(A) has concluded that appellant Shri B Anand Babu



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(PAN: AHNPB9506A) had received Cash loans from Shri K. Kalyanasundaram of Rs.15,50,000/-, Rs.1,50,00,000/- and Rs.1,22,23,000/- for AYs 2016-17, 2017-18 and 2019-20 respectively. The Appellant has only been investing in chit scheme operated by SMT Chit Funds Covai P Ltd, in which the said person is one of the shareholder and director. The assessee has been acquainted with Mr. Kalyanasundaram only in the capacity of director. Based on the sworn statement of a third party and loose sheets, the proceedings were concluded by assessing officer and the same was confirmed by the CIT(A).

c) The DCIT, Coimbatore, sent a letter on April 21, 2022, to the Addl./Joint Commissioner of Income Tax, suggesting initiating Section 271D proceedings against the appellant. The letter stated that despite evidence from the seized material, the appellant didn't admit to it during the Kalyana Sundaram assessment. However, the DCIT did not specify the nature of this evidence in the letter. The assessee understands this evidence to be a sworn statement from the person searched and seized under Section 132 on March 6, 2019, and some loose sheets recovered during that operation. There is no other evidence known to the assessee in this context.

d) The Penalty Levied by the CIT(A) u/s.271 Dis. bad in law.

As per Section 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. In the present case, the impugned penalty order has been passed by Assessing Officer (AO) which is confirmed by CIT(A), who is not empowered under the Act to initiate or impose penalty under section 271D. The AO does not have the statutory jurisdiction to levy this penalty. Hence, the order suffers from a jurisdictional defect and without authority of law and is liable to be treated as null and void ab initio.

e) Also, the explanation given by the appellant during the proceedings, was not taken for consideration and the penalty was levied. Section 271D was invoked solely based on the noting in loose sheets. The Appellant, a regular filer of IT Returns, in none of his returns for any of the 4 relevant Assessment years in question does he contain any evidence that he needed to borrow such large sums of money or use them for his own personal or business needs. Before the order was issued, none of this was investigated or asked about.

f) I respectfully submit that no assessment order has been passed prior to initiating penalty proceedings. In the absence of such assessment, the penalty lacks legal foundation .Additionally, as per the Hon'ble Supreme Court in CBI vs. V.C. Shukla (1998), loose sheets or uncorroborated third-party documents have no evidentiary value. Multiple courts have held that penalties based solely on such documents are bad in law. No corroboration, cross-examination, or confirmation was provided in this case. In light of the above, the penalty is liable to be dropped.

g) The appellant seeks your leave to add, alter, amend or delete any of the grounds urged, at the time of hearing.

**5.** The assessee has also filed additional grounds by raising the following grounds of appeal:



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'q) For that the penalty order passed w/s.271D by the Assessment Unit, NFAC, is null and void, as the order for the subject assessment year was not passed by the prescribed competent authority, and the amendment granting powers to Assessing Officer, introduced by the Finance Act, 2025, is for penalties imposable after 01.04.2025.

r) Without Prejudice to the above ground, for that the penalty order passed u/s.271D of the Act is barred by limitation within the meaning of section 275(1)(c) of the Act, in as much as the Learned Assessing Officer had made a reference to the Additional/Joint Commissioner of Income Tax, Non-Corporate Range 2, for initiation of penalty proceedings on 21.04.2022, and such reference being the triggering point for initiation of penalty proceedings, the impugned penalty order is null and void.'

In this regard, it is submitted that the appellant has raised the ground (q) and (r)supra, on question of law challenging the validity of the penalty order passed u/s 271D of the Act for the subject AY for the first time before Your Authority. The Hon'ble Supreme Court in the case of National Thermal Power Co. Lid. v. CIT [1998] 97 Taxman 358/229 ITR 383 had very clearly held that legal grounds can be raised at any time, including proceedings before the appellate authorities.

**6.** At the time of hearing, it was brought to our notice that, the assessee raised a legal issue in additional Ground No. 'r' challenging the validity of the penalty order on the ground of being barred by limitation and contented that if this legal issue is found to be valid, it goes to the root of the jurisdiction to levy the impugned penalty. Hence, we take it up first for adjudication.

**7.** The Ld.AR Shri Shrenik Chordia, CA appearing for the assessee assailed the action of the Income Tax Authority (Faceless Income Tax Unit) levying penalty on 31.08.2023, submitted that the time-limit for levying penalty u/s 271D of the Act is governed by Section 275(1)(c) of the Act, which reads as under:-



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*"275(1) No order imposing a penalty under this Chapter shall be passed—*

- (a) .....*
- (b) .....*
- (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."*

**8.** Further, the Ld. AR also relied on **CBDT Circular No. 10/2016** [F.NO.279/Misc./M-140/2015-ITJ], dated **26-4-2016**. According to him, the order levying penalty u/s 271D is required to be passed before (a) the expiry of financial year in which proceedings had been initiated or (b) six months from end of month in which action for imposition of penalty was initiated, whichever is later. According to the Ld. AR, it is not in dispute that, the first limb of Section 275(1)(c), is not attracted in the facts of the case in hand, because there was no proceedings in the course of which action for the imposition of penalty has been initiated, meaning no assessment proceedings were there in this case for the captioned AYs. Explaining this, the Ld.AR Shri. Shrenik Chordia, pointed out that generally the AO while framing the assessment order, records his satisfaction about violation of Section 269SS & 269ST attracting penalty u/s.271D & 271E respectively. However, since in this case, the AO didn't frame any assessment, the time-limit stated in the first limb of Section 275(1)(c) of the Act is not applicable i.e. the end of financial year in which the assessment proceedings get completed. In such a scenario, the Ld.AR submits that only the second limb of Section 275(1)(c) of the Act



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will govern the time-limit for completion of penalty proceedings. And when the second limb of Section 275(1)(c) of the Act is considered, the only dispute relates to the "*reckoning of date of initiation of penalty proceedings*" i.e. when does the six month period from the end of the month in which action for imposition of penalty was initiated, and consequently it expires. Further according to the Ld AR, the Act has not provided the methodology to be followed for initiating penalty proceedings u/s 27D of the Act viz., how, when and by whom and therefore, according to him, the same needs to be interpreted from the language of provisions governing penalties, from analogous provisions and reported judicial decisions. In the opinion of the Ld. AR, generally the date on which '**action for imposition of penalty is considered as initiated**' is to be reckoned is with reference to the date on which the AO recorded his satisfaction in the assessment order for initiation of penalty u/s 271D of the Act (*in the present case, it is absent as noted supra*). Further, he submitted that, in order to levy penalty, the Constitutional Courts have consistently held that, there has to be a satisfaction recorded by the AO in the assessment order for the Jt/Addl. CIT to levy penalty u/s.271D of the Act and in absence of the same, any show cause issued or order passed by the Jt/Addl.CIT is void in the eyes of law, which is his alternate plea. In such factual background, the date on which the penalty is initiated is the date on which the AO records his satisfaction in the assessment order. In



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support of his contention, the Ld. AR relied on a series of decisions as under:-

- CIT v. Jai Laxmi Rice Mills Ambala City [2015] 64 taxmann.com 75 (SC)
- Grandhi Sri Venkata Amarendra v. JCIT [2024] 167 taxmann.com 352 (Andhra Pradesh)
- Sunil Agarwal v. ACIT [2025] 172 taxmann.com 54 (Rajasthan)
- Anil Sharma v. ITO [2025] 172 taxmann.com 94 (ITAT, Jaipur)
- Bhowmick Raj Singh v. JCIT [2025] 171 taxmann.com 575 (ITAT, Raipur)
- Umakant Sharma v. JCIT in ITA Nos.364 to 366/Ind/2022 for AYs 2008-09 & 2009-10 order dated 19.07.2023

**9.** In the absence of assessment orders for the relevant AY's, according to the Ld.AR, since the AO has written to the Addl./JCIT on 21.04.2022, regarding violation of provisions of section 269SS attracting penalty u/s 271D, the date of letter i.e. 21.04.2022 is to be reckoned as the date on which action for imposition of penalty was initiated for the purpose of limitation u/s 275(1)(c) of the Act. According to him therefore, under the second limb, six months expires on 31.10.2022. Hence, the date of limitation for passing penalty in this case was 31.10.2022. And because the impugned penalty order was passed on 13.12.2022, it was urged by the assessee that the impugned order is barred by limitation. In order to complete the facts, he also brought to our notice that pursuant to the AO making the reference to the Addl./JCIT on 21.04.2022, the Addl./JCIT in-turn forwarded the same on 29.04.2022 to the Faceless Income Tax Unit/Penalty Unit for further action. However, according to the Ld.AR, still the limitation period expires on 31.10.2022. Likewise, the penalty for



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other years is noted to have been passed also after the time-baring date i.e. on 27.12.2022 for AY 2017-18 & on 19.12.2022 for AY 2019-20.

**10.** Countering the submissions of the Ld. AR, the Ld. CIT, DR argued that, the date on which '**action for imposition of penalty is considered as initiated**' is to be reckoned with reference to the date on which the Penalty Faceless Unit first issued notice i.e. on 10.06.2022. And if reference is made to 10.06.2022, then the period of limitation in terms of the second limb of Section 275(1)(c) expires only on 31.12.2022. Thus, according to her, the impugned penalty order dated 13.12.2022 (and other penalty orders are dated in December, 2022) were passed well within the period of limitation. She contended that, the AO was not the competent authority to levy penalty and therefore the reference made by him in his letter dated 21.04.2022 cannot be regarded as valid initiation and hence can't be considered as date of initiation of penalty proceedings and wants us to dismiss the legal issue.

**11.** Heard both the parties. In order to adjudicate this legal issue, it is first relevant to cull out the legal provisions and relevant jurisprudence governing the law of limitation in the cases of penalty u/s 271D / 271E of the Act. It is observed that, the time limit for levying penalty u/s 271D/271E is governed by section 275 of the Act which provides the



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period by which the order imposing the penalty is required to be passed. Clause (a) of sub-section (1) deals with limitation in case of penalties initiated in the assessment or other orders based on quantum of additions made in such orders. Clause (b) covers penalties initiated in the assessment or other orders which are the subject matter of revision u/s 263 or 264. Clause (c) covers other cases viz., penalty proceedings in other cases. It is seen that, the CBDT in their **Circular No. 10/2016** (supra) has clarified that, the time limits laid down in Section 275(1)(c) would apply for levying penalty under section 271D / 271E of the Act. The relevant portion of the Circular (supra) is reproduced as under:

*"The issue whether the limitation for imposition of penalty under sections 271D and 271E of the Income-tax Act, 1961, (hereinafter referred to as the Act) is determined under section 275(1)(a) or section 275(1)(c) of the Act, has given rise to considerable litigation.*

*2. The Hon'ble Delhi High Court in the case of Commissioner of Income Tax v. Worldwide Township Projects Ltd., vide its order dated 21-5-2014 in ITA No. 232/2014, considered the issue and observed that, "It is well settled that a penalty under this provision is independent of the assessment. The action inviting imposition of penalty in acceptance of loans above the prescribed limit otherwise than through banking channels and as such infringement of Section 269SS of the Act is not related to the income that may be assessed or finally adjudicated. **In this view Section 275(1)(a) of the Act would not be applicable and the provisions of Section 275(1)(c) would be attracted. "The judgment has been accepted by the Central Board of Direct Taxes".***

*3. **In view of the above, it is a settled position that the period of limitation of penalty proceedings under sections 271D and 271E of the Act is governed by the provisions of section 275(1)(c) of the Act.** Therefore, the limitation period for the imposition of penalty under these provisions would be 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. The limitation period is not dependent*



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*on the pendency of appeal against the assessment or other order referred to in section 275(1)(a) of the Act.*

*4. Accordingly, no appeals may henceforth be filed on this ground by the officers of the Department and appeals already filed, if any, on this issue before various Courts/Tribunals may not be pressed upon.*

*5. The above may be brought to the notice of all concerned.”[emphasis supplied]*

**12.** In view of the above Circular, which is binding upon all income-tax authorities including the AO, we are of the considered view that, the time-limit for passing the penalty order u/s 271D of the Act, is required to be reckoned in terms of Section 275(1)(c) of the Act. It is seen that, Section 275(1)(c) contain two limbs viz., (a) expiry of the financial year in which the act of imposition of penalty proceedings is initiated and (b) six months from the end of the month in which the penalty is initiated, whichever is later. Hence, the crucial aspect which is to be examined is which date is to be considered as the date on which '**action for imposition of penalty is considered as initiated**'. According to the Ld. AR, in the present case, since there is no assessment framed in the hands of the assessee, the first limb of Section 275(1)(c) of the Act is not applicable. In this regard, we note that there was no proceeding in the course of which action for initiation of penalty u/s.271D of the Act was undertaken by the AO. In other words, there was no assessment proceeding in the course of which action for initiation of penalty u/s.271D of the Act was undertaken by the AO. Hence, the time-limit prescribed in the first limb is not applicable in



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the facts of these cases. Having held so, we note that the AO made reference to the Addl./JCIT on 21.04.2022, who in turn had intimated the "Faceless Penalty Unit" to proceed further vide letter dated 29.04.2022; and pursuant to it, they issued notice dated 10.06.2022 and then levied penalty in the month of December, 2022. According to the Ld.DR, since the notice was issued by the "Faceless Penalty Unit" on 10.06.2022, six months needs to be reckoned from 30.06.2022 & thereby the time barring date is on 31.12.2022 and therefore, the impugned penalty's being passed well within that date, hence is not time barred. However, we don't agree with the submissions of the Ld.DR and in this regard, find that the AO made reference for imposition of penalty u/s.271D of the Act on 21.04.2022 to the Addl./JCIT [and Addl./JCIT had intimated the same to the "Faceless Penalty Unit" on 29.04.2022]. And hence, the action of the AO dated 21.04.2022 needs to be construed as the date of initiation of penalty proceedings for the purpose of reckoning time-limit as per 275(1)(c) of the Act. Having held so, i.e. the date of initiation is taken as 21.04.2022, the time-limit for imposition of penalty expires on 31.10.2022. Since impugned penalties have been imposed in December, 2022, all the penalty orders impugned before us are found to be vitiated and held to be barred by limitation.



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(AYs 2016-17, 2017-18 & 2019-20)  
Mr.B. Anand Babu

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**13.** Since the assessee succeeds on the legal issue of time-barring, other legal issues & penalty levied on merits are not adjudicated and left open.

**14.** In the result, all the penalty appeals are allowed.

Order pronounced on the 22<sup>nd</sup> day of December, 2025, in Chennai.

**Sd/-**  
**(एस. आर. रघुनाथा)**  
**(S.R.RAGHUNATHA)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**  
**(एबी टी. वर्की)**  
**(ABY T. VARKEY)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 22<sup>nd</sup> December, 2025.  
**TLN**

**आदेश की प्रतिलिपि अग्रेषित/Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF