

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G. ACCOUNTANT MEMBER

आ.अपी.सं / **ITA Nos.972 & 973/Hyd/2024**
Assessment Years 2019-2020 & 2020-2021

And

आ.अपी.सं / **ITA.Nos.1300 & 1301/Hyd./2025**
Assessment Years 2017-2018 and 2020-2021

Ravi Rishi Educational Society, Hyderabad. PAN AAAAR1952M Telangana.	vs.	The DCIT, Central Circle-2(4), Hyderabad. Telangana.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	CA P Murali Mohan Rao	
राजस्व द्वारा / Revenue by:	Dr. Narendra Kumar Naik, CIT-DR	
सुनवाई की तारीख / Date of hearing:	20.01.2026	
घोषणा की तारीख / Pronouncement:	18.02.2026	

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

These four appeals by the Assessee are directed against the four separate Orders of the learned CIT(A). The appeals in ITA Nos.972 and 973/Hyd/2024 are directed against the two separate Orders both dated 27.08.2024 of the learned CIT(A)-12, Hyderabad arising from the processing of the return of

income u/sec.143(1) of the Income Tax Act [in short "the Act"], 1961 for the assessment years 2019-2020 and 2020-2021, respectively. The appeals ITA.No.1300/Hyd./2025 is directed against the Order dated 07.07.2025 of the learned CIT(A)-12, Hyderabad arising from penalty levied u/sec.271D of the Act for the assessment year 2017-2018. The appeal ITA.No.1301/ Hyd./ 2025 is directed against the Order dated 10.07.2025 of the learned CIT(A) arising from the Order passed u/sec.154 of the Act for the assessment year 2020-2021.

2. In the quantum appeals for the assessment years 2019-2020 and 2020-2021 the assessee has raised common grounds. The grounds raised for the assessment year 2019-2020 in ITA.No.972/Hyd./2024 are reproduced as under:

“The order passed u/s 250 of the Act dated 27.08.2024 is

1. *erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.*
2. *The Ld. CIT(A) erred in dismissing the appeal.*
The Ld. CIT(A) has erred in holding that he is of the
3. *considered opinion that the assessee is not prevented from reasonable cause for filing Form 10B within the prescribed time limit.*
The Ld. CIT(A) has erred in holding that since the
- 3.1. *application for condonation of delay in filing Form 10B has*

been rejected by the DGIT(Inv), Hyderabad, the entire gross receipts of Rs.10,76,34,264/- are to be treated as income of the appellant for the AY 2019-20.

The Ld. CIT(A) erred in observing that the natural consequence of rejection by the DGIT (Inv), Hyderabad, of
3.2. *condonation of delay in filing Form 10B is loss of Tax Exemption to the appellant and that the appellant-trust becomes liable to pay income tax on its earnings.*

The Ld. CIT(A) ought to have appreciated that when there
3.3. *is a valid registration granted to the assessee-trust, making it liable to pay income tax on its earnings is not justified.*

The Ld. CIT(A) ought to have fairly appreciated that the
3.4. *delay upto 3 years period in filing Form-10B can be condoned by the Authority of Revenue.*

The Ld. CIT(A) ought to have appreciated the fact that the
3.5. *delay in filing of Audit Report in Form No. 10B is due to the search operation conducted which delayed the finalisation of books of accounts and the further delay is due to COVID-19 pandemic and post COVID effects.*

The Ld. CIT(A) erred in dismissing the appeal without
3.6. *appreciating the fact that the genuine claim of exemption cannot be disallowed on a technical reason of delay in filing of the Audit Report in Form No. 10B, which is due to a reasonable cause and the same is beyond the control of the appellant.*

The Ld. CIT(A) has erred in observing that the appellant
4. *has not given any reasonable cause for delay in filing the appeal by over 188 days and that therefore the delay is*

not condoned leading to the dismissal of the appeal in limine.

4.1. *The Ld. CIT(A) ought to have appreciated the fact that the delay in filing of the appeal is due to COVID-19 pandemic and post COVID effect and that the delay is due to reasons which are beyond the control of the appellant.*

4.2. *The Ld. CIT(A) erred in rejecting the petition for condonation of delay in filing of the appeal when the delay is unintentional and the appellant has a reasonable cause for the said delay.*

5. *Without prejudice to other grounds, the Ld. CIT(A) The Ld. CIT(A) erred in not appreciating that the entire amount of Rs.10,76,34,264/- has been duly expended towards the objects of the trust on Revenue account which is clearly evident from the Return of Income filed.*

5.1. *Without prejudice to other grounds, the Ld. CIT(A) ought to have fairly appreciated the factual position that the assessee gross receipts are Rs.10,76,34,264/- which was spent for the aims and that there is no excess of receipts over expenditure either to be taxed or to be exempted.*

5.2. *Without prejudice to other grounds, the Ld. CIT(A) ought to have appreciated that the assessee has duly complied with the provisions of Sec 11 of the Act in all the previous years and that not allowing the claim on the reason of delay in filing the audit report is against principles of natural justice.*

6. *Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”*

3. The assessee is an educational society registered under Cooperative Societies Act and was also registered u/sec.12AA of the Act as 'Charitable Institution'. The assessee filed its return of income for the year under consideration [A.Y. 2019-2020] on 30.11.2020 admitting Rs.NIL income after claiming exemption u/secs.11 and 12 of the Act. The return was processed u/sec.143(1) of the Act whereby the CPC has denied the benefit of secs.11 and 12 of the Act and assessed the total income at Rs.10,76,30,364/- due to non-filing of the audit report in Form-10B/10BB. Aggrieved by the Order of the CPC dated 12.02.2022 passed u/sec.143(1) of the Act, the assessee filed an appeal before the learned CIT(A) but could not succeed as the appeal of the assessee was dismissed by the learned CIT(A) on the ground that the DGIT (Inv.), Hyderabad has rejected the application of the assessee for condonation of delay in filing the Audit Report in Form-10BB. Aggrieved by the Order of the learned CIT(A), the assessee has filed the present appeal before the Tribunal.

4. Before the Tribunal, the learned Authorised Representative of the Assessee has submitted that the assessee has applied the entire receipts/income for the charitable purpose and therefore, assessing the total income of the assessee by the CPC without considering the fact that the entire income has been applied by the assessee for charitable purpose is unjustified and highly arbitrary. The learned Authorised Representative of the Assessee has submitted that there is no excess of receipt at all for the expenditure to claim any exemption u/sec.11 or attract taxing provisions. He has pointed out that even if the benefit of secs.11 and 12 of the Act is not given to the assessee, the total income of the assessee would be Rs. NIL as the entire receipts were incurred for charitable purpose and therefore, would be an allowable claim of expenditure against the receipts. The learned Authorised Representative of the Assessee has further submitted that the time period within which the audit report in Form-10BB is only a 'directory requirement' and what is 'mandatory' is filing of the audit report. In the case in hand, the return of income was not

taken up for scrutiny assessment but it was processed by the CPC and therefore, the assessee could not get the opportunity to file the audit report before the assessment and hence, the assessee filed the audit report during the pendency of the appeal before the learned CIT(A). He has submitted that the audit report was filed on 17.09.2022 whereas the impugned order was passed on 27.08.2024. The learned Authorised Representative of the Assessee has further submitted that the majority period of the delay in filing the audit report in Form-10B/10BB is covered during the Covid pandemic period and therefore, after giving the benefit of **Hon'ble Supreme Court in the case of Cognizance for Extension of Limitation, 441 ITR 722 (SC)** the delay in filing the audit report in Form-10B was only 111 days. Thus, the learned Authorised Representative of the Assessee has submitted that as per the CBDT's Circular the power to condone the delay was vested with the Commissioner of Income Tax as it was less than 365 days. He has also referred to the subsequent CBDT Circular No.16/2024 dated 18.11.2024 and submitted that the CBDT has again clarified that the Pr. CIT or CIT to admit and deal

with the application for condonation of delay in filing *inter alia*, Form-10B/10BB for assessment year 2018-2019 and subsequent assessment year where the delay is up to 365 days. In case the delay is more than 365 days, this power is vested with the Pr. CIT or CCIT to deal with the application for condonation of delay. Thus, from the latest Circular of the CBDT the delay in filing Form-10B/10BB can be condoned by the Prescribed Authority if there is a 'reasonable cause' provided, the application is made within three years of the relevant assessment year. The learned Authorised Representative of the Assessee has submitted that the assessee has already made the application for condonation of delay in filing Form-10BB before the Pr. CIT, Hyderabad within the said period provided under the latest Circular of the CBDT. Thus, he has submitted that the matter may be remanded to the record of the Assessing Officer to consider the benefit of secs.11 and 12 of the Act as per the outcome of the application for condonation of delay in filing Form-10B/10BB before the Pr. CIT. He has further submitted that identical issue has been considered by this Tribunal in cases

of the other group concerns/institutions namely M/s. Church Educational Society, Hyderabad vs. ACIT, Central Circle-2(4), Hyderabad [ITA.Nos.394 & 395/Hyd./2024]; M/s. Aurora Education Society, Hyderabad vs. ACIT, Central Circle-2(4), Hyderabad [ITA.Nos.476 & 393/Hyd./2024] and Karshak Vidya Parishad, Hyderabad vs. ACIT, Central Circle-2(4), Hyderabad [ITA.Nos.475 & 392/Hyd./2024] Order dated 14.11.2024, for the assessment years 2019-2020 and 2020-2021. Thus, the learned Authorised Representative of the Assessee has submitted that the Tribunal has observed that the delay in filing Form-10B is condoned, and Assessing Officer be decided the issue of exemption/sec.11 of the Act after the outcome of the application filed before the CBDT/Pr. CIT. Alternatively, the learned Authorised Representative of the Assessee has submitted that the all the receipts of the assessee cannot be assessed to tax without allowing the deduction of expenditure which is also considered and directed by the Tribunal in the other group cases referred above.

5. On the other hand, the learned DR has submitted that the application for condonation of delay in filing Form-10B has already been rejected by the DGIT and therefore, the remedy against the said Order is to file a writ petition before the Hon'ble Jurisdictional High Court and not before the Tribunal. He has referred to the finding of the learned CIT(A) and submitted that the learned CIT(A) has considered this fact of rejection of application of the assessee for both the assessment years 2019-2020 and 2020-2021 and thereby, dismissed the appeal of the assessee on the issue of allowing the exemption u/secs.11 and 12 of the Act. He has relied upon the Orders of the learned CIT(A).

6. We have considered the rival submissions as well as the relevant material on record. There is no dispute that the due date for filing the audit report in Form-10B/10BB for the assessment years 2019-2020 and 2020-2021 were 13.10.2019 and 15.01.2021 respectively. The assessee filed the audit report in Form-10B for both the assessment years on 17.09.2022 during the pendency of the appeals before the learned CIT(A) against the Order of CPC passed u/sec.143(1)

while processing the return of income of the assessee. It is pertinent to note that for the assessment year 2019-2020 as well as for the assessment year 2020-2021 the majority of the delay period is covered by the Covid-2019 pandemic and the limitation was extended by the Hon'ble Supreme Court in *suo motu* **Cognizance for Extension of Limitation (supra)**. Thus, the benefit of secs.11 and 12 of the Act was denied by the CPC as well as by the learned CIT(A) for want of filing of the Form-10B/10BB and delay in filing of these Forms. This Tribunal in the case of other Group Educational Institutions viz., **Church Educational Society, Hyderabad & Others (supra) vide Order dated 14.11.2024** has considered an identical issue in Paras-9 to 14 as under:

“9. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. We have also carefully considered various case laws relied upon by the assessee. Admittedly, the appeal filed by the assessee for the A.Y 2019-20 and 2020-21, before the learned CIT (A) barred by limitation. The appeal for the A.Y 2019-20 ought to have been filed on or before 14/03/2021, whereas the appeal was filed on 6/9/2022 and thus, there is a delay of 541 days. Similarly, the appeal for A.Y 2020-21 ought to have been filed on or before 31/12/2021, whereas the appeal was filed only on 6/9/2022 after a delay of 250

days. The delay in filing of the appeal before the learned CIT (A) is covered by Covid period and non-covid period. Further, even if you exclude delay covered by Covid Period, in view of the decision of the Hon'ble Supreme Court in M.A. 21/2022, still there is delay of 189 in filing of the appeal for both the A.Ys. The appellant explained the reasons for delay in filing of the appeal and according to the assessee, because of Covid period, the order passed u/s 143(1) of the Act, was not brought to notice of the management and it missed the attention of the management. However, once the covid pandemic is subsided, the appellant took steps to file the appeal and in the process, there is a delay. However, the said delay is neither intentional nor wanton of any undue benefit. In our considered view, during the Covid period, the normal life of a person be it an individual or a company was badly affected due to various reasons including lock down imposed by the government from time to time. Further, the covid pandemic is also disturbed the normal life of many people and because of these reasons, many people could not attend their day to day business activities including pending litigation, if any, before various authorities. Therefore, while condoning the delay in filing of the appeal or any application, the authorities must be borne in mind the serious disturbances caused by the covid pandemic and there should not be any casual approach while dealing with the condonation petition etc., Therefore, to this extent, we are not in agreement with the reasons given by the learned CIT (A) for dismissing the appeals filed by the assessee for both the A.Ys in limini. Further, if we exclude the period covered by the covid, then the delay in filing of the appeal is very minimal i.e. 189 days. Therefore, considering the facts and circumstances of the case and also the reasons given by the assessee before the learned CIT (A), in our considered view, the delay in filing of the appeal before the first appellate authority needs to be condoned. Thus, we condone the delay in filing of the appeal before the first appellate authority for A.Ys.2019-20 and 2020-21.

10. *Having said so, let's come back to the issue on merits. The appellant is a charitable institution registered u/s 12AA of the I.T. Act, 1961 for both the A.Ys. The appellant is also carrying out charitable activities in accordance with its objectives and the Assessing Officer and the learned CIT (A) has not pointed out any deviation or discrepancies in the activities carried by the assessee and the objects pursued for both the A.Ys. The only reason for the Assessing Officer to deny exemption u/s 11 of the Act, for both the A.Ys is non-filing of Form 10BB on or before the due date prescribed under the Act. There is no dispute with regard to the fact that the assessee has not filed the relevant form 10BB for A.Ys 2019-20 and 2020-21 on or before the due date prescribed under I.T. Act, 1961. Further, the appellant has filed said form 10BB on 17/09/2022 with a delay of 610 days for A.Y 2020-21 and with a delay of 1036 days for A.Y 2019-20. Once again the delay in filing of Form 10BB is covered by Covid period and non-covid period. If we exclude covid period, then the delay in filing Form 10BB is only 110 days for A.Y 2019-20 and 231 days for A.Y 2019-20. The assessee once again explained the reasons for not filing Form 10BB and submitted before the learned CIT (A) that due to seizure of books of account during the search, the appellant could not complete books of account for the relevant A.Ys and because of this reason, the Auditor could not complete the audit and issued report in Form 10BB before the assessee filed its return of income. However, the appellant has obtained relevant audit report in Form 10BB for both the A.Ys and filed before the learned CIT (A) during the appellate proceedings and argued that delay in filing Form 10BB may be condoned.*

11. *We find that in order to claim deduction u/s 11 of the I.T. Act, 1961, any Trust or Institution claiming exemption should obtain audit report and filed one month before the due date for furnishing return of income u/s 139(1) of the I.T. Act, 1961. In case, there is a delay in filing of audit report in Form 10BB, the Board has issued a Circular No.15 of 2022, dated 19/07/2022 and authorized its Officers to condone the delay up to a period of 3 years. In case of delay up to 365 days, the CIT is authorized to condone the delay and in case the delay is more than 365 days and*

up to 3 years, the CCIT/DGIT is authorized to condone the delay. In the present case, the appellant filed application for condonation of delay in filing Form 10BB before the DGIT and application filed by the assessee has been rejected vide order u/s 119(2)(b) of the I.T. Act, 1961 dated 18/11/2024. The learned CIT (A) based on the order passed by the DGIT upheld the denial of exemption. The argument of the assessee is that although the delay in the present case is more than 365 days, in general, but if we exclude the delay covered by the Covid period, then the delay is less than 365 days and accordingly, the appellant ought to have filed petition before the CIT (Exemption) but not before the DGI(Inv.). Further, in the circular issued by the CBDT, there is no clarification as to who will condone the delay, if delay is beyond 3 years. Since there is an ambiguity in the process of condonation of delay in filing of audit report, the assessee has filed further application before the CBDT seeking clarification and also condonation of delay in filing Form 10BB for both the A.Ys. We find that in the Board's Circular No.15 of 2022, dated 19/07/2022, there is a provision for the authorities to condone the delay up to 3 years and there is no provision for condonation of delay or there is no clarification as to who will condone the delay, if delay is beyond 3 years. Since there is an ambiguity in the Circular issued by the CBDT on the issue of condonation of filing of Form 10BB and further the appellant submitted that it has filed a further application before the CBDT for condonation of delay, in our considered view, there is a merit in the argument of the assessee that the learned CIT (A) should have waited till the CBDT finally decides application filed for condonation of delay. Further, in our considered view, when the appellant is otherwise entitled for exemption under the Act, having satisfied all the conditions, the authorities should have taken a lenient view on belated filing or late filing of Form 10BB of the Act,. Since the appellant claims that it has filed further application before the CBDT for considering the condonation of delay in Form 10BB for both the A.Ys, in our considered view, the matter needs to be kept alive till such time, the CBDT takes a final decision on the delay in filing Form 10BB. Therefore, we are of the considered view,

that the issue needs to go back to the file of the Assessing Officer for fresh consideration. Thus, we set aside the order passed by the learned CIT (A) for both the A.Ys and set aside the issue to the file of the Assessing Officer and also direct the Assessing Officer to decide the issue of exemption u/s 11 of the Act, for both the A.Ys after the outcome of the application, if any, filed by the assessee, before the CBDT for condonation of delay in filing Form 10BB for both the A.Ys.

12. *In so far as various case laws relied upon by the learned Counsel for the assessee including the decision of the Hon'ble Bombay High Court in the case of CIT vs. Xavier Kalavani Mandal (P) Ltd, we find that in all those cases, the issue before the Hon'ble High Court was whether belated filing of Form 10BB can be considered, if such Form 10BB has been filed on or before the Assessing Officer passed the assessment order u/s 143(1) or 143(3) of the I.T. Act, 1961. Further, in all those cases, the audit report in Form 10BB has been filed on or before the Assessing Officer passed the assessment order. In the present case, the appellant has filed Audit Report in Form 10BB after the Assessing Officer passed the assessment order u/s 143(1) of the I.T. Act, 1961. Therefore, in our considered view, the case laws referred to by the assessee in support of its argument is not applicable to the facts of the present and thus, rejected.*

13. *In so far as appeal filed by the assessee for the A.Y 2020-21 is concerned, the learned CIT (A) in Para 6.2.8 has observed that in view of the order passed by the DGIT (Inv) u/s 119(2)(b) of the Act, dated 18/01/2024, the rectification order passed by the ACIT/CPC u/s 154 dated 27/09/2022 becomes infructuous. In our considered view, the observation of the learned CIT (A) in para 6.2.8 of his order is beyond the scope of powers of the CIT (A) because, the CIT (A) does not have any power to give any direction or finding in respect of issues which is not before the first appellate authority. In the present case, the appellant has filed appeal before the learned CIT (A) against the order passed by the Assessing Officer u/s 143(1) of the Act. Further, while adjudicating the appeal filed by the assessee, the learned CIT (A) discussed the order*

passed by the Assessing Officer u/s 154 of the Act, dated 27/09/2022. In our considered view, the proceedings u/s 143(1) of the Act, and proceedings u/s154 of the Act, are separate proceedings and further there is a provision for filing appeal against both the orders. Therefore, in our considered view, the learned CIT (A) does not have any power to adjudicate the issue considered by the Assessing Officer in the order passed u/s 154 of the Act, while deciding the appeal filed by the assessee against the order passed by the Assessing Officer u/s 143(1)/143(3) of the Act. Therefore, in our considered view, the findings or directions given by the learned CIT (A) in Para 6.2.8 for the A.Y 2020-21 is beyond the scope of the powers of the learned CIT (A) and thus, not in accordance with law. Hence, we delete the findings of the learned CIT (A) in Para 6.2.8 of his order for the A.Y 2020-21.

14. *In so far as the assessment of gross receipts as income of the appellant derived from property held under the Trust, in our considered view, once any Trust/Institution loses its of exemption u/s 11 for any reason, including withdrawal of exemption granted u/s 12AA of the Act, the income of the Trust should be assessed as an AOP and only surplus/profits needs to be taxed. In the present case, it was the contention of the assessee before us that, the Assessing Officer has taxed gross receipts for both the A.Ys without allowing deduction towards various expenditure/application of income towards charitable purposes. If at all, the claim of the assessee is correct, then, in our considered view, the Assessing Officer is grossly erred in taxing gross receipts because in any case, the appellant needs to be assessed as an AOP on surplus/profit only. Therefore, we direct the Assessing Officer to verify the claim of the assessee and in case as claimed by the assessee, if the gross receipts are brought to tax, then the Assessing Officer is directed to assess only income/profit to tax for both the A.Ys, in case finally the Assessing Officer holds that the assessee is not entitled for exemption u/s 11 of the I.T. Act, 1961.”*

7. On identical facts, the Tribunal has remanded the matter to the record of the Assessing Officer for reconsideration of the claim of the assessee of benefit u/secs.11 and 12 of the Act as per the outcome of the application filed by the assessee for condonation of delay before the Pr. CIT. Further, it is also held as a settled proposition of law that even if the benefit of secs.11 and 12 of the Act is denied, the gross receipt of the assessee cannot be assessed to tax without allowing the expenditure incurred by the assessee towards charitable purpose. In other words, in case of the assessment as AOP after denial of benefit u/secs.11 and 12 the income of the assessee is required to be assessed on commercial manner u/sec.56 of the Act and therefore, the expenditure allowable as per the provisions of sec.57 of the act are required to be considered against the gross receipts. Following the earlier Orders of the Tribunal the matter is remanded to the record of the Assessing Officer for fresh adjudication in terms as directed by this Tribunal (supra).

8. For the assessment year 2020-2021 the issue is identical including the rejection of the application of the assessee u/sec.154 and therefore, both the appeals i.e., ITA.No.973/ Hyd./2024 and ITA.No.1301/Hyd./2025 of the assessee for the assessment year 2020-2021 are also decided in terms of our Order for the assessment year 2019-2020 (supra) and consequently, the matter is remanded to the record of the Assessing Officer on the same terms.

ITA.No.1300/Hyd./2025 – A.Y. 2017-2018:

9. The appeal ITA.No.1300/Hyd./2025 of the assessee for the assessment year 2017-2018 is arising from penalty levied u/sec.271D of the Act. The assessee has raised the following grounds of appeal:

1. *“The order of the Ld. CIT(A) dt. 07.07.2025 for the AY 2020-21 is erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.*
2. *The Ld. CIT(A) ought to have appreciated that the Assessing Officer erred in levying penalty of Rs.84,37,500/-u/s 271D of the Act without appreciating the facts of the case.*
3. *The Ld. CIT(A) has grossly erred in upholding the imposition of penalty u/s 271D for a sum of Rs. 84,37,500/-*

4. *The learned CIT(A) failed to consider that the penalty order passed u/s 271D of the Act is beyond the time as laid down u/s 275(1)(c) and therefore, is deserved to be quashed.*
5. *The Ld. CIT(A) failed to consider that the initiation and levy of penalty u/s 271D of the Act is not sustainable as the AO has not recorded his satisfaction for initiation of penalty proceedings u/s 271D of the Act in contravention to the provisions of section 269SS of the Act, in the assessment order passed u/s 143(3) rws 153A of the Act dated 30.12.2019.*
6. *The Ld. CIT(A) failed to consider that the AO has not recorded satisfaction for involving penal provisions u/s 271D of the Act and thus, the penalty order passed u/s 271D on 23.06.2021 is invalid and bad in law.*
7. *The Ld. CIT(A) failed to consider that the observations of the AO in the assessment order that "the society violated provisions of section 26955 of the Act..." cannot be considered as satisfaction for invoking penal provisions u/s 271D of the Act and thus penalty order u/s 271D deserves to be quashed.*
8. *The Ld. CIT(A) ought to have considered that no penalty u/s 271D of the Act is leviable as the entire additions made in the assessment order u/s 68 & 69 of the Act were deleted by the Ld. CIT(A) and the Hon'ble ITAT, Hyderabad Vide its orders in Appeal no.10421/2019-20 dt. 21.04.2022 and ITA No. 146/Hyd/2022 dt. 19.07.2022.*
9. *The learned CIT(A) ought to have considered that several Judicial rulings and Circulars of the CBDT state that minor filing delays should not deny tax exemptions.*
10. *The Ld. CIT(A) ought to have appreciated that the assessee trust has satisfied conditions for claiming exemption for past many years and also explained the reasons for delay in filing Form 108*

for this year and would have remanded to the AO to condone delay in filing Form 10B.

11. *Without prejudice to other grounds, the Ld. CIT(A) erred in not appreciating that the entire amount of Rs 20,97,19,672/-has been duly expended towards the objects of the trust on Revenue account which is clearly evident from the Return of Income filed.*
- 12.1. *Without prejudice to other grounds, the Ld. CIT(A) ought to have fairly appreciated the factual position that the assessee's gross receipts are Rs.20,97,19,672/-which were spent for the aims and the said expenditure has to be considered as deduction in arriving the income.*
- 12.2. *Without prejudice to other grounds, The Ld. CIT(A) ought to have appreciated that the assessee has duly complied with the provisions of Sec 11 of the Act in all the previous years and that not allowing the claim on the reason of delay in filing the audit report during this year is against principles of natural justice.*
12. *Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”*

10. During the assessment proceedings for the year under consideration, the Assessing Officer noted that the assessee has received a sum of Rs.84,37,500/- in cash against the sale of land at Raigir Village to M/s. Incredible India Projects Private Limited vide sale deed dated 03.08.2016. The Assessing Officer noted that there was a violation of provisions of sec.269SS of the Act and also

declined to accept the claim of the assessee that the land in question is a rural agricultural land and not assessable to tax and therefore, the provisions of sec.269SS would not be applicable in the case of the assessee. Thereafter, the JCIT levied the penalty u/sec.271D of the Act vide order dated 23.06.2021 which was challenged by the assessee before the learned CIT(A) but could not succeed.

11. Before the Tribunal, the learned Authorised Representative of the Assessee has submitted that there was a search and seizure operation u/sec.132 of the Act in the case of M/s. Aurora Educational Society and other group concerns on 23.03.2018 in which the assessee was part of the group concerns and therefore, the assessee was also covered by the search and seizure operation. Pursuant to the search and seizure action, the Assessing Officer issued notice u/sec.153A of the Act on 24.12.2018. In response to the said notice, the assessee filed its return of income declaring Rs.NIL income as admitted in the original return of income. The assessment was completed u/sec.143(3) r.w.s.153A of the Act on 30.12.2019. Thereafter, penalty was levied

u/sec.271D of the Act. The learned Authorised Representative of the Assessee has submitted that the penalty levied by the JCIT is not valid in the absence of satisfaction recorded by the Assessing Officer in the assessment order. The assessee raised this issue before the learned CIT(A). However, the learned CIT(A) has dismissed the appeal of the assessee without considering this plea of the assessee. The learned Authorised Representative of the Assessee has thus, submitted that the penalty order passed u/sec.271D of the Act is invalid and deserves to be quashed in the absence of satisfaction recorded by the Assessing Officer in the assessment order for initiation of penalty. He has contended that recording of satisfaction for initiating the penalty u/sec.271D is a 'mandatory' condition as held by the Hon'ble Supreme Court in the case of **CIT, Panchkula vs. Jai Laxmi Rice Mills, Ambala City [2015] 379 ITR 521 (SC)**. He has also relied upon the Order of Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of **Srinivasa Reddy Reddappagari, Kadapa, Andhra Pradesh vs. JCIT, Hyderabad & Another in WP.No.44285 of 2022**

dated 26.12.2022 and submitted that following the Judgment of Hon'ble Supreme Court in the case of **CIT, Panchkula vs. Jai Laxmi Rice Mills, Ambala City** (supra), the Hon'ble Andhra Pradesh High Court has held that the penalty levied u/sec.271D of the Act in the absence of satisfaction recorded by the Assessing Officer is not valid and liable to be quashed. The learned Authorised Representative of the Assessee has also relied upon the Judgment of Hon'ble Andhra Pradesh High Court in the case of **Grandhi Sri Venkata Amarendra vs. JCIT [2024] 167 taxmann.com 352 (A.P.)** as well as the decision of this Tribunal in the case of **Sri Raja Reddy Nalla, Warangal and Another vs. Addl. CIT, Central Circle-1(3), Hyderabad and Another in ITA.Nos.520 and 522/Hyd./2022 Order dated 31.05.2023** as well as other decisions of this Tribunal i.e., in the case of **Late Nimmatoori Rajababu and Nimmatoori Ramesh Babu in ITA.Nos.594, 596 & 597/Hyd./2025 Order dated 12.09.2025**; in the case of **Nimmatoori Yashoda and Nimmatoori Sulochana in ITA.Nos.602 & 603/Hyd./2025 Order dated 10.09.2025** and in the case of **Nimmatoori**

Ramesh Babu and Others vs. ACIT, Central Circle-2(4), Hyderabad in ITA.No.591/Hyd./2022 etc., batch Order dated 14.08.2024, taking a consistent view that the sale consideration received in cash for transfer of agricultural land does not fall in the ambit of provisions of sec.269SS of the Act and consequently, the provisions of sec.271D of the Act are not attracted. The learned Authorised Representative of the Assessee has contended that the impugned order passed under sec.271D of the Act is not sustainable in law and liable to be quashed.

12. On the other hand, the learned DR has submitted that the Assessing Officer has given the details of the cash received by the assessee which is in violation of the provisions of sec.269SS of the Act which amounts to satisfaction of the Assessing Officer recorded in the assessment order. Thus, the learned DR has submitted that once the Assessing Officer has recorded the fact that the cash received by the assessee is in violation of provisions of sec.269SS of the Act, then the same amounts to recording of satisfaction for initiation of penalty u/sec.271D of the Act. He has further submitted that since

the jurisdiction for levy of penalty u/sec.271D lies with the JCIT therefore, the Assessing Officer is not required to record the satisfaction for initiation of penalty u/sec.271D of the Act. In support of his contention, he has relied upon the **Judgment of Hon'ble Kerala High Court dated 31.01.2025 in WP (C) No.37927 of 2024 in the case of M/s. Vee Ess Hardwares, Ambalapuzha vs. ACIT, Alappuzha & Another.**

The learned DR has also relied upon the **Judgment of Hon'ble Rajasthan High Court in the case of CIT vs. Hissaria Bros. [2007] 291 ITR 244 (Raj.)** on the point that the penalty proceedings can be initiated independently of any proceedings but obviously the penalty proceedings can be initiated when the default is brought to the notice of the concerned authority. He has relied upon the Orders of the authorities below.

13. We have considered the rival submissions as well as the relevant material on record. The Assessing Officer has passed the assessment order u/sec.143(3) r.w.s.153A of the Act on 30.12.2019 for the assessment year under consideration. The Assessing Officer has made various

additions including the addition on account of income arising from sale of agricultural land. Though the Assessing Officer has discussed the fact of receiving the consideration in cash by the assessee in violation of the provisions of sec.269SS however, the Assessing Officer has nowhere recorded his satisfaction for initiation of the proceedings u/sec.271D or 271E of the Act. This is a matter of record that the Assessing Officer in Paras-6.1.1 and 7.2 has only referred to the amounts which were received by the assessee as sale consideration for transfer of agricultural land in cash but no satisfaction was recorded by the Assessing Officer for initiation of the penalty u/sec.271D of the Act. Therefore, it is a case of non-recording of the satisfaction by the Assessing Officer in the assessment order or otherwise prior to the initiation of the penalty proceedings u/sec.271D of the Act. Further, we find force in the contention of the learned Authorised Representative of the Assessee that the consideration received against sale of immovable property at the time of registration before Sub-Registrar does not fall in the ambit of provisions of sec.269SS of the Act. At the outset,

we note that an identical issue has been considered by this Tribunal in the case of **Kesireddy Ravinder Reddy, Uppal, Hyderabad & Another vs. ITO, Ward-11(1), Hyderabad in ITA.Nos.1617 & 1722/Hyd./2025 dated 11.02.2026** held in Paras-6 to 10 as under:

“6. We have considered the rival submissions as well as the relevant material on record. There is no dispute that the alleged cash of Rs.7,82,500/- was received by the assessee as part of the sale consideration on transfer of the immovable property along with the co-owner. The JCIT has levied the penalty u/sec.271D of the Act vide Order dated 25.02.2020 due to violation of the provisions of sec.269SS of the Act. The assessee has challenged the levy of penalty inter alia, on the ground that the cash received as part of the sale consideration for transfer of the immovable property and duly mentioned in the registered sale deed as acknowledgement of the receipt of the cash before the Sub-Registrar does not fall in the ambit of sec.269SS of the Act. The learned Authorised Representative of the Assessee has relied upon the decision of Chennai Benches of the Tribunal in the case of **ITO, Ward-2, Kanchipuram vs. Shri R. Dhinagharan (HUF), Kanchipuram** (supra), wherein the Tribunal has held in Para-12 as under:

“12. We have heard the rival contentions, and gone through the facts and circumstances of the case. We find that the Revenue has challenged the correctness of the decision rendered by the CIT(A) vide order dated 30.09.2019 in deleting the penalty levied u/s

271D of the Act vide penalty order dated 12.06.2019. The CIT(A) had deleted the penalty on two counts namely on the non-applicability of the provisions of Section 269SS of the Act to the facts of the present case and on the ground of reasonable cause within the scope of Section 273B of the Act. We noted that the provisions of Section 269SS of the Act was amended w.e.f. 01.06.2015 to include the 'specified sum' within its ambit and the said term was defined in Explanation to the said Section which is reproduced as under:

- "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

The Budget Speech of the Hon'ble Finance Minister while placing the Finance Bill, 2015 highlighting the intention of the amendment relevant for decision making in the present appeal is captured below:

3. A. Measures to curb black money.

3.1. With a view to curbing the generation of black money in real estate, it is proposed to amend the provisions of section 269SS and 269T of the Income-tax Act so as to prohibit acceptance or repayment of advance in cash of Rs. 20,000 or more for any transaction in immovable property. It is also proposed to provide a penalty of an equal amount in case of contravention of such provisions.

The Memorandum forming part of Finance Bill, 2015 highlighting the intention of the amendment is captured below:

B. MEASURES TO CURB BLACK MONEY

Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances

The existing provisions contained in section 269SS of the Income-tax Act provide that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is twenty thousand rupees or more. However, certain exceptions have been provided in the section. Similarly, the existing provisions contained in section 269T of the Income-tax Act provide that any loan or deposit shall not be repaid, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the persons specified in the section if the amount of loan or deposit is twenty thousand rupees or more.

In order to curb generation of black money by way of dealings in cash in immovable property transactions it is proposed to amend section 269SS. of the Income-tax Act so as to provide that no person shall accept from any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

It is also proposed to amend section 269T of the Income-tax Act so as to provide that no person shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more. The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

It is further proposed to make consequential amendments in section 271D and section 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively. These amendments will take effect from 1st day of June, 2015.

The Notes on Clauses forming part of Finance Bill, 2015 highlighting the intention of the amendment is captured below:

Clause 66 of the Bill seeks to substitute section 269SS of the Income-tax Act relating to mode of taking or accepting certain loans and deposits. The existing provision contained in section 269SS provides that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account if the amount of such loan or deposit is twenty thousand rupees or more.

It is proposed to substitute the said section so as to provide that no person shall take from any person, any loan or deposit or specified

sum, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account if the amount of such loan or deposit or specified sum is twenty thousand rupees or more.

It is also proposed to define "specified sum" as any sum of money receivable, whether as advance or otherwise in relation to transfer of an immovable property whether or not the transfer materialises.

These amendments will take effect from 1st June, 2015.

12.1 *In the present case, the sale consideration was received in cash at the time of execution of multiple sale deeds from different persons for the sale of plots and accepted as genuine in the assessment order completed on 23.05.2018 and admittedly there was no advance received by the seller. The amended provisions of Section 269SS of the Act was applied by the A.O to the facts of the present case only to the sale consideration received as 'specified sum' and on such presumption the JCIT levied penalty u/s 271D of the Act. The intention of the amendment is very clear right from the Budget speech of the Finance Minister that the said amendment is brought into the statute in Section 269SS of the Act would get attracted to sum received in cash as an advance in an immovable property transaction and not to the completed transaction namely cash received as a sale consideration at the time of execution of the registered sale deed. In fact, the statute brought in another amendment in Section 269ST of the Act from the assessment year 2017-18 with a view to cover all situations of cash transaction Rs. 2 Lakhs or over other than the situation captured in Section 269SS of the Act. This provision has*

been explained with more clarity by the CBDT Circular No.19 of 2015, dated 27.11.2015 and the relevant circular reads as under:-

Departmental Circular No. 19 of 2015, dated 27/11/2015:-

54. *Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances.*

54.1. *Provisions contained in section 269SS of the Income-tax Act, before amendment by the Act, provided that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is twenty thousand rupees or more. However, certain exceptions were provided in the section.*

54.2. *Similarly, the provisions contained in section 269T of the Income-tax Act, before amendment by the Act, provided that any loan or deposit shall not be repaid, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the persons specified in the section if the amount of loan or deposit is twenty thousand rupees or more.*

54.3. *In order to curb generation of black money by way of dealings in cash in immovable property transactions, section 269SS of the Income-tax Act has been amended to provide that no person shall accept from any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer*

of an immovable property(specified sum) otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

54.4. *Section 269T of the Income-tax Act has also been amended to provide that no person shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more. The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.*

54.5. *Consequential amendments in section 271D and section 271E, to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively, have also been made.*

54.6. *Applicability: These amendments have taken effect from 1st day of June, 2015.*

From the above provisions, Memorandum explaining the intention of amendment by Finance Bill, 2015 including the definition of 'sum specified brought in the Explanation to Section 269SS of the Act, it is clear that the intention for bringing this provision was to curb the generation of black money in real estate prohibiting acceptance or

repayment of advance in cash of Rs.20,000/- or more for any transaction in immovable property. This was explained by Hon'ble Finance Minister while placing the Finance Bill, 2015 in her budget speech highlighting the intention of the amendment that the amendment in Explanation to Section 269SS i.e., 'sum specified' means only applicable for advance receivable, whether as advance or otherwise means advance can be in any manner. Hence, this provision will not apply to the transaction that happens at the time of final payment at the time of registration of sale deed and payment is made before sub-registrar at the time of registration of property. In the present case before us, it is an admitted fact that all sale deeds were registered and cash payment was made at one go before the sub-registrar at the time of registration of sale deeds of plots. Hence, in our view, there is no violation of provisions of section 269SS of the Act in the present case in the given facts and circumstances of the case and hence, penalty is not exigible in this case. Hence, we confirm the order of CIT(A) deleting the penalty but on entirely different ground i.e.. on jurisdictional issue only. Accordingly, the appeal of the Revenue is dismissed."

7. *Thus, the Tribunal has taken a view that the cash received as part of the sale consideration of immovable property duly mentioned in the registered sale deed is a transaction undertaken before the Sub-Registrar is not in violation of the provisions of sec.269SS of the Act.*

8. *The second objection of the assessee against the levy of the penalty is regarding non-recording of satisfaction by the Assessing Officer as there was no assessment proceedings nor any other proceedings arising from the assessment order wherein such satisfaction could have been recorded. The learned Authorised Representative of the Assessee has also challenged the*

order on the ground of limitation. In support of his contention, he has relied upon the Order of this Tribunal in the case of **Somireddy Sudhakar Reddy, Ibrahimpatnam, RR Dist. Vs. ITO, Ward-9(1), Hyderabad (supra)**, wherein the Tribunal has held in Paras-5 to 8 as under:

“5. We have considered the rival submissions as well as relevant material on record. The JCIT, Range Head-9, Hyderabad has levied the penalty u/sec.271D vide order dated 10.12.2019 as under:

“GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE JOINT COMMISSIONER OF INCOME TAX
RANGE-9, HYDERABAD

To Shri SAMREDDY SUDHAKAR REDDY, 4-34, Karnamguda, IBRAHIMPATNAM, Hyderabad. Telangana. India.	
Dated 10/12/2019	Letter No. ITBA/COM/F/17/2019-20/1022037588(1)

Sir/Madam/M/satisfaction

Subject : Penalty Order u/satisfaction271D of the Income Tax Act, 1961 – in the case of Shri SAMREDDY SUDHAKAR REDDY, 4-34, Karnamguda, IBRAHIMPATNAM, HYDERABAD – Asst. Year 2017-2018 – Passing of – Reg.

ORDER U/S 271D OF THE INCOME TAX ACT, 1961

From the facts on records, it is noticed that Shri SAMREDDY SUDHAKAR REDDY, during the financial year 2016-17 relevant to Asst. Year 2017-18 has sold house bearing Municipal No.17-1-336/1/29, Plot No.29, situated at S.N. Reddy Nagar, Saidabad, Hyderabad for a total sole consideration of Rs.43,50,000/- vide Sale deed No 4535/2016, dated 12.09.2016. During this transaction, the vendor accepted Rs.43,50,000/- in cash in contravention to the provision of Section 269SS of the Income-tax Act, 1961 which attracts penalty u/s.271D.

Section 269SS prohibits taking or accepting loan or deposit or any specified sum in excess of Rs.20,000/- otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

In the above section, the words "Specified sum" was introduced w.e.f., 1-6-2015 by the Finance Act of 2015. "Specified sum" has been defined in explanation (iv) under section 26955 as under:

"Specified sum" means any sum of money receivable, whether as advance or otherwise in relation to transfer of an immovable property, whether or not the transfer takes place.

Section 271D prescribes penalty for taking or accepting any loan or deposit or specified sum. The penalty shall be equal to the amount so taken.

In this matter, as acceptance of cash during the above transaction fits into the definition of "Specified sum", a show cause letter was issued to the assessee vide letter in F. No. Addl. CIT/R-9/Penalty/89/2018-19 dated 13-06-2019. As there was no response, another notice was issued to the assessee vide notice dated 09-11-2019 granting time till 26-11-2019. There has been no compliance for the said notices till date.

In this case, the assessee sold the immovable property for a total consideration of Rs 43,50,000/-. The assessee accepted the entire amount of Rs.43,50,000/- in cash in contravention to the provision of Section 269SS of the Income tax Act, 1961 which attracts penalty u/s 271D.

Despite being given sufficient opportunity, there was no response from the assessee to justify receipt of cash.

Keeping in view the totality of the facts and circumstances of the case, I hereby levy a penalty of Rs.43,50,000/- u/s 271D of the I.T. Act for the A. Yr.2017-18 for violating the provisions of section 269SS of the I.T. Act i.e., accepting cash of Rs.43,50,000/- for sale of immovable property.

This should be paid as per demand notice u/s. 156 enclosed

*Sd/-MOHAN KUMAR R
RANGE-9, HYDERABAD
Addl. Commr. of Income Tax,
Range-9, Hyderabad."*

6. Thus, it is clear from the impugned order u/sec.271D that there was no Reference by the Assessing Officer and also there were no assessment proceedings or any other proceedings in the case of the assessee prior to issuing the show cause notice u/sec.271D r.w.s.274 of the Act. An identical issue has been considered by the Indore Bench of the Tribunal and one of us is the Judicial Member/Vice President is party to the Order in the case of *Shri Umakant Sharma vs. JCIT, Ratlam* in ITA.No.364 to 366/Ind./2022 dated 19.07.2023 wherein the Tribunal has held in Para Nos.8 to 11 as under:

“8. We have considered rival submissions and carefully perused the relevant material on record. There is no dispute that the assessee has not filed any return of income for the assessment year under consideration. The penalty u/s 271D of the Act has been levied on 23.01.2017 which is after 8 years from the end of the assessment year under consideration. The limitation for the penalty levied under chapter XXI has been provided in section 275 of the Act which reads as under:

“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 Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 246 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 ⁴ the Deputy Commissioner (Appeals) or] the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief 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 Commissioner (Appeals) under section 246 or section 246A, and 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 Commissioner (Appeals) is received by the "[Principal Chief Commissioner or] Chief Commissioner or "[Principal Commissioner or] Commissioner, whichever is later.

- (b) n 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.]*

(IA) 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 section 246A or an appeal to the Appellate Tribunal under section 253 or an appeal to the High Court under section 260A or an appeal to the Supreme Court under section 261 or revision under section 263 or section 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the

imposition of penalty is passed before the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the "Principal Chief Commissioner or] Chief Commissioner or the "[Principal Commissioner or] Commissioner or the order of revision under section 263 or section 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order of the Commissioner (Appeals) or, the Appellate Tribunal or the High Court, or the Supreme Court or order of revision under section 263 or section 264: Provided that no order of imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty shall be passed-

(a) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(b) after the expiry of six months from the end of the month in which the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the "[Principal Chief Commissioner or] Chief Commissioner or the "[Principal Commissioner or] Commissioner or the order of revision under section 263 or section 264 is passed; Provided further that the provisions of sub-section (2) of section 274 shall apply in respect of the order imposing or enhancing or reducing penalty under this sub-section]

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, shall be excluded.

9. The limitation for passing the order imposing penalty under chapter-XXI has been provided by considering all possible situation where the assessment order or other order is subject matter of appeal of the order is revised under section 263 or assessment order or other orders are subject matter of appeal before the Hon'ble High Court or Hon'ble Supreme Court. Thus, it is clear that section 275, presupposes the existence of assessment proceedings/revision proceedings or appeal proceedings arising from the assessment order or revision order and the limitation is provided as per outcome of these proceedings. In absence of assessment in the case of the assessee the initiation of penalty is not valid and further when the satisfaction for initiation of the penalty on the part of the AO is absent in the case of the assessee then the penalty levied u/s 271D is not valid. The Hon'ble Supreme Court in case of CIT vs. Jain Laxmi Rice Mills (supra) has held as under:

“The Tribunal as well as the High Court has held that it could not be so for the simple reason that when the original assessment order itself was set aside, the satisfaction recorded therein for the purpose of initiation of the penalty proceeding Under Sec. 271E would also not survive. This, according to us, is the correct proposition of law stated by the High Court in the impugned order. As pointed out above, insofar as fresh assessment order is concerned there was no satisfaction recorded regarding penalty proceeding under Section 271E of the Act, though in that order the Assessing

Officer wanted penalty proceeding to be initiated under Section 271(1)(c) of the Act. Thus, In so far as penalty under Section 271E is concerned, it was without any satisfaction and, therefore, no such penalty could be levied."

10. *Thus, the Hon'ble Supreme Court has affirmed the view of the Hon'ble High Court that in absence of satisfaction recorded regarding the penalty proceedings u/s 271E of the Act the order of levy of penalty is not valid. The Ahmedabad Bench of the Tribunal in case of Vijayaben G. Zalavadia vs. JCIT (supra) has considered an identical issue as under:*

"6. We have heard the respective parties and also perused the relevant materials available on record.

7. We find that on the identical set of facts the Punjab and Haryana High Court was pleased observe the following while upholding quashing of penalty by the Tribunal:

"3. We have heard learned counsel for the appellant.

4. The only point for consideration in this appeal is whether the assessee had contravened the provisions of Section 269T of the Act by making repayment of loan/deposits of Smt. Kusum Lata Thakral, through account payee cheque or account payee drafts to M/s. Babyloan Builders Pvt. Ltd., Gurgaon and, therefore, penalty under Section 271E was leviable.

5. The Assessing Officer had levied the penalty amounting to Rs. 11,02,6107- which has been deleted by the Tribunal. The Tribunal while deleting the penalty recorded that the return of the assessee was processed as on 31.12.2003 and the notice u/s. 274 read with section 271E of the Act was issued on 12.06.2007. Such notice was issued when there was no proceedings pending before the Assessing Officer. Relying upon Delhi High Court

judgment in CIT v. Standard Brands Ltd. [20061 285 ITR 295/155 Taxman 383, the Tribunal further observed that action for penalty may be permissible only after regular assessment has been framed and since no regular assessment order had been passed in this case, the recourse to penalty proceedings under Section 271E were not justified. The findings recorded by the Tribunal read thus:-

"Having heard the parties and having perused the material on record, we find the grievance of the assessee to be correct. In this case, the return of the assessee was processed u/s. 143(l)(a) of the Income-tax Act, on 31.12.2003. Notice u/s. 274 read with 271E of the Act was issued to the assessee on 12.06,2007. It being a case of processing the return of income, there is no finding in the AO's order with regard to the applicability or otherwise of section 269T of the IT Act to the assessee's case. It was within the purview of the AO to bring the assessee's case to scrutiny and to make regular assessment u/s. 143(3) of the Act. It was also within the power of the AO at the appropriate stage to initiate proceedings u/s. 147 of the Act against the assessee. No such action was taken. Rather, the penalty was imposed on the basis of the finding in the case of assessee's wife."

6. *No error or perversity could be shown in the aforesaid findings recorded by the Tribunal. Moreover, the assessee had taken a plea before the Assessing Officer that there was a reasonable cause for the assessee to have made direct payment of Rs. 14,02,600/- to M/s. Babyloan Builders Private Ltd., Gurgaon. It was pleaded that some of the repayments made by the assessee*

were intercompany transfer for group housing and purchase of flat and at times payments were made after closure of banking hours. It was further submitted that the payments made were genuine and no tax evasion was involved and the default, if any, was of technical nature. The explanation being plausible one, it cannot be said that there was no reasonable cause within the meaning of Section 273B of the Act. No substantial question of law arises in this appeal.

8. *We find substances in the submissions made by the Ld. A.R. particularly after considering the order passed by the Hon'ble Punjab and Haryana High Court as cited hereinabove. In fact, on the identical set of facts the penalty under Section 271E was deleted by the Tribunal and further upheld by the Hon'ble High Court. 9. Having regard to the facts and circumstances of the case and the ratio laid down in the order passed by the Punjab and Haryana High Court, we do not hesitate to hold that the impugned penalty under Section 271E is not permissible in the absence of regular assessment framed against the assessee by the Revenue. Hence, the same is not found to be sustainable in the eye of law and, thus, quashed. The appeal preferred by the assessee is, therefore, allowed."*

11. *Therefore, it is pre-requisite condition that the initiation of penalty 271D/271E of the Act, there must be assessment proceedings or proceeding arising from assessment order are pending in the case of the assessee. Accordingly in the facts and circumstances of the case and following the judgment of Hon'ble Supreme Court as well as Coordinate Bench of the Tribunal in case of Vijayaben G. Zalavadia vs. JCIT (supra), we hold that the penalty levied u/s 271D of the Act without any assessment proceedings in the case of the assessee is not valid and liable to be quashed. We order accordingly."*

7. Thus, it is a pre-requisite condition for initiation of the penalty u/sec.271D/271E of the Act that there must be an assessment proceeding or proceedings arising from assessment order or any other proceedings under the Act. This aspect is also clarified by the CBDT vide Circular No.9/2016 dated 26.04.2016. We further note that recording of satisfaction by the Assessing Officer in the original assessment order for the purpose of initiation of proceedings u/sec.271D/271E is a mandatory condition as held by the Hon'ble Jurisdictional High Court in the case of *Srinivas Reddy Reddappagari vs. JCIT (supra)* in Para Nos.21 to 28 as under:

“21. Thus, sub-section (1) of Section 271E of the Act provides that if a person repays any loan or deposit or specified advance referred to in Section 269T of the Act 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. Sub-section (2) clarifies that any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner.

22. From an analysis of Sections 271D and 271E of the Act, it is seen that both the provisions are *pari materia* to each other. While Section 271D of the Act would be attracted on a person accepting loan or deposit or specified sum in contravention of Section 269SS of the Act, penalty under Section 271E of the Act would be imposable on a person who makes or repays the loan or deposit or specified advance in contravention of Section 269T. Therefore, in a way, the two provisions are complimentary to each other.

23. In *Jai Laxmi Rice Mills Ambala City (supra)*, Supreme Court considered the question as to whether penalty proceedings under Section 271D of the Act is independent of the assessment proceeding? In the facts of that case, it was found that the penalty order was issued following the assessment order. However, in appeal, Commissioner of Income Tax (Appeals) had set aside the original assessment order with a direction to frame assessment *de novo*. In the fresh assessment order, no satisfaction

was recorded by the assessing officer regarding initiation of penalty proceedings under Section 271E of the Act. It was noticed that the penalty order was passed before the appeal of the assessee was allowed by the Commissioner of Income Tax (Appeals). It was in that context that Supreme Court held as follows:

The Tribunal as well as the High Court has held that it could not be so for the simple reason that when the original assessment order itself was set aside, the satisfaction recorded therein for the purpose of initiation of the penalty proceeding under Section 271E would also not survive. This according to us is the correct proposition of law stated by the High Court in the impugned order.

As pointed out above, insofar as, fresh assessment order is concerned, there was no satisfaction recorded regarding penalty proceeding under Section 271E of the Act, though in that order the Assessing Officer wanted penalty proceeding to be initiated under Section 271(1)(c) of the Act. Thus, insofar as penalty under Section 271E is concerned, it was without any satisfaction and, therefore, no such penalty could be levied. These appeals are, accordingly, dismissed.

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

record his satisfaction in a particular manner or reduce it into writing. Therefore, respondent No.1 imposed the penalty under Section 271D of the Act.

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

26. Article 141 of the Constitution of India is clear that law declared by the Supreme Court shall be binding on all courts within the territory of India. This is further clarified in Article 144, which says that all authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court. We are therefore, of the unhesitant view that respondent No.1 overlooked the relevant considerations while passing the impugned order dated.29.11.2022.

27. Further, issue in the present writ petition is not the competence of the Joint Commissioner in issuing the order of penalty. Therefore, reference to *Grihalaxmi Vision (supra)* was wholly unnecessary.

28. Consequently, we set aside the impugned order dated 29.11.2022 and remand the matter back to the file of respondent No.1 to pass a fresh order in accordance with law after giving a reasonable opportunity of hearing to the petitioner."

8. We have specifically given an opportunity to the learned DR to produce relevant record if any, to show that some proceedings were initiated in the case of assessee and satisfaction was recorded by the Assessing Officer. However, the learned DR has submitted that no record was made available by the Assessing Officer. Accordingly, in the facts and

circumstances of the case and in the interest of justice and by following the decision of Hon'ble Jurisdictional High Court as well as the decisions of various Coordinate Benches of the Tribunal including the decision of ITAT, Indore Bench in the case of Shri Umakant Sharma vs., JCIT, Ratlam (supra), we hold that the penalty levied by JCIT u/sec.271D without recording the satisfaction in assessment proceedings or any other proceedings under the Act, is not valid and liable to be quashed. We Order accordingly."

9. Thus, the Tribunal by following the Judgment of Hon'ble Jurisdictional High Court in the case of **Srinivas Reddy Reddappagari vs. JCIT (supra)** has deleted the penalty levied u/sec.271D of the Act for want of satisfaction in the assessment proceedings by the Assessing Officer whereas the learned DR has relied upon the Judgment of Hon'ble Kerala High Court in the case of **M/s. Vee Ess Hardwares, Ambalapuzha vs. ACIT, Alappuzha (supra)**, wherein the Hon'ble High Court has observed in Paras-13 to 18 as under:

"13. However, it is significant to note that even within the two timelines given, the proceeding for imposition of penalty ought to be completed within a reasonable time. The latter part of section 275(1)(c) of the Act, providing for a period of six months, is clearly indicative that the Income Tax Officers cannot be given a long handle to initiate proceedings at any point of time, according to their caprice. The possibility of initiating proceedings against an assessee cannot be kept pending over his head like a Damocle's sword, indefinitely. Indisputably, the return filed by an assessee is verified at the time of assessment. Though penalty proceeding

under section 271B of the Act is independent of the assessment, as far as the time limit is concerned, it cannot be wholly extricated from the assessment order. Once an assessment is completed, it will act as a leash, compelling the Officers to act within a reasonable time from its completion, for the purpose of imposing a penalty.

14. *It needs no elaborate discussion that if no period of time is prescribed by a statute, it must be exercised within a reasonable period which would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors. The reasonable period, must, no doubt, be found out from the scheme of the statute and in particular the tenor of the provision under consideration. Reference to the decision in State of Punjab and Others v. Bhatinda District Cooperative Milk Producers Union Ltd [(2007) 11 SCC 363] is relevant in this context.*

15. *The penalty under section 271B is imposed for failure to attach an audit report. The absence of an audit report along with the return will become evident during the assessment proceedings. Bearing in mind the nature of violation for which penalty is imposed under section 271B of the Act, proceedings for imposing penalty cannot be too distant from the assessment order. Thus, if the case falls under the latter part of section 275(1)(c) of the Act, in respect of penalty proceedings under section 271B of the Act, the show cause notice must be issued within a reasonable time of the completion of the assessment proceedings and be completed within six months thereafter. What is a reasonable period will depend upon the facts of each case.*

16. *Viewed in the above perspective, this Court holds that if a case falls under the latter part of section 275(1)(c) of the Act, proceedings for imposition of penalty under section 271B of the Act must be initiated and completed within a reasonable time of the assessment order.*

17. *Since the assessment order in the instant case does not refer to any proceeding for imposition of penalty under section 271B, the time limit cannot be said to have emanated from the assessment order. However, as the assessment proceedings itself would have revealed the absence of an audit report, as contemplated under sections 44A and 44B, the show cause notice should have been issued within a reasonable time of the assessment order. By applying the provisions of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the end date for passing orders was extended till 31.03.2022, and the respondents were entitled to issue a notice within a reasonable time of the expiry of the said period. Taking into reckoning the aforesaid statute, the respondents ought to have issued a show cause notice at least in the year 2022. Instead of initiating any proceedings either in 2022 or 2023, they have proceeded to issue the show cause notice only on 21.03.2024. Such a period is beyond the statutory contemplation. The show cause notice in the instant case is hence time-barred under section 275(1)(c) of the Act.*

18. *Accordingly, I find that the impugned order imposing penalty under section 271B of the Act is invalid. Hence, Exhibit P2 order is set aside."*

10. Thus, it is clear that the Hon'ble Kerala High Court has dealt with the issue of limitation of initiation of proceedings u/sec.271B and held that there should be a reasonable time within which the Officer must act for levy of the penalty. The Hon'ble High Court has specifically mentioned that the initiation of penalty must be within six months from the end of the assessment proceedings or proceedings under the Act. In the said case, the Hon'ble Kerala High Court has taken note of the fact that the time period even extended by Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act [in short 'TOLA'], 2020 up-to 31.03.2022 is taken into consideration the reasonable time period for issuing the show cause notice must be in the year 2022 and therefore, the show cause notice issued on 21.03.2024 was held to be barred by limitation. In the case in hand, the return of income was filed by the assessee on 27.07.2017 and there is no scrutiny assessment and therefore, even if the processing u/sec.143(1) is taken as the proceedings under the Act, the initiation of penalty proceedings u/sec.271D should have been before the end of 2018 whereas, the Assessing Officer-JCIT has stated in the impugned order that show cause notice was issued on 27.08.2019 which is also beyond the period of limitation as held by the Hon'ble Kerala High Court (supra). Thus, the Judgment of Hon'ble Kerala High Court does not support the case of the Revenue rather it favours the assessee. Accordingly, in the facts and circumstances as discussed above and following the decisions cited (supra), we hold that the penalty levied by the Assessing Officer-JCIT u/sec.271D of the Act is not sustainable and the same is deleted.”

14. Accordingly, following the decision of Hon'ble Supreme Court as well as binding judicial precedents of Hon'ble Jurisdictional High Court, we maintain the rule of consistency as held by this Tribunal in the case of **Kesireddy Ravinder Reddy, Uppal, Hyderabad and Another vs. ITO, Ward-11(1), Hyderabad (supra)**, and consequently, the penalty levied passed u/sec.271D of the Act by the JCIT is not sustainable in law and liable to be deleted. We Order accordingly.

15. In the result, three appeals i.e., ITA.Nos.972 and 973/Hyd/2024 and ITA.Nos.1300/Hyd./2025 of the Assessee are allowed for statistical purposes and ITA.No.1301/Hyd./2025 of the Assessee is allowed. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 18.02.2026.

Sd/-
[MANJUNATHA G.]
ACCOUNTANT MEMBER
Hyderabad, Dated 18th February, 2026.
VBP

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Copy to :

1.	Ravi Rishi Educational Society, Hyderabad. C/o. P. Murali & Co. Chartered Accountants, 6-3-655/1/3, Somajiguda, Hyderabad - 500 082.
2.	The DCIT, Central Circle-2(4), Hyderabad.
3.	The Commissioner of Income Tax (Appeals)-12, 6 th Floor, Aayakar Bhawan, Basheerbagh, Hyderabad - 500 004.
4.	The Pr. CIT-(Central), Hyderabad.
5.	The DR, ITAT, "B" Bench, Hyderabad.
6.	Guard file.

BY ORDER