आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मंजुनाथ जी, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Manjunatha G. Accountant Member

आ.अपी.सं /**ITA Nos. 2164, 2165, 2171 & 2172/Hyd/2025**
(निर्धारण वर्ष/Assessment Years: 2018-19 to 2021-22)

M/s. MSN Laboratories (P) Ltd HYDERABAD PAN:AADCM6283F	Vs.	Additional CIT Central Range-2 Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri M.V. Prasad, CA	
राजस्व द्वारा/Revenue by:	Dr. Sachin Kumar, Sr. AR	
सुनवाई की तारीख/Date of hearing:	21/01/2026	
घोषणा की तारीख/Pronouncement:	25/02/2026	

आदेश/ORDER

Per. MANJUNATHA, G. A.M.

These four appeals filed by the assessee are directed against the separate, but identical orders passed by the Learned Commissioner of Income Tax (Appeals)-12, Hyderabad, all dated 08/10/2025 for the A.Ys 2018-19 to 2021-22 respectively. Since, identical issues have been raised by the assessee in all these four appeals, for the sake of convenience, these appeals were heard together and are being disposed off, by this common consolidated order.

2. The assessee has, more or less raised common grounds of appeal for all four Asst. years, therefore, for the sake of brevity, grounds of appeal filed for Asst. Year 2018-19 in ITA. No. 2164/Hyd/2025 are reproduced as under:

1) The order of the Learned Commissioner of Income-tax (
erroneous on the facts of the case and contrary to provisions of

2) The Ld.CIT(A) erred on facts and in law in confirming the
Rs.1,07,66,430/- levied u/s 271DA of the Income Tax Act, 1961

3) On the facts and circumstances of the case and in law, the
erred in rejecting the contention of the appellant that the pena
bad in law and void on account of being barred by limitation of

4) On the facts and circumstances of the case and in law, theLd.C
in rejecting the contention of the appellant that the notice
271DA of the Act for initiating the penalty proceedings
jurisdiction in the absence of recording of a valid satisfacti
Assessing Officer in the assessment order regarding the viola
provisions of section 269ST of the Act and the penalty orc
pursuant to the said notice is void ab initio.

5) On the facts and circumstances of the case and in law, the L
not justified in rejecting the contention of the appellant that
attracted in the facts of the caseand the penalty order passed
the said notice is void ab initio.

6) On the facts and circumstances of the case and in law, the L
not justified in rejecting the contention of the appellant that
evidence to substantiate that the appellant received two lakh
more in respect of a single transaction to attract levy of
271DA since the day wise amounts of sale of spent solvents
the seized material are pertaining to transactions with multipl
different units of the appellant company.

7) On the facts and circumstances of the case and in law, the
erred in rejecting the contention of the appellant that the burd
to establish the contravention of the provisions of section 269
is on the revenue and the onus is not on the appellant
verifiable evidence in support of its claim of non-violation of the
of section 269ST

3. The brief facts of the case are that, a search & seizure action under section 132 of the Income Tax Act, 1961 was carried out in MSN Group of cases on 24/02/2021. The assessee is one of the companies covered under section 132 of the Act. During the course of search proceedings, at the registered office of the assessee on 24/02/2021, it was found that the used solvents in the form of effluents/recovered waste/spent solvents were sold to vendors in unorganized sector, mostly in cash. The details of unaccounted cash received from the sale of spent solvents and scrap were recorded in excel work sheet and stored in a Pen Drive which was found in the possession of Shri B. Buchi Reddy, Cashier and seized as Annexure A/MSN/OFF/HD1. Based on the evidence found during the course of search, the assessee company had admitted additional income towards sale of spent solvents and scraps for an amount of Rs.6,77,03,448/- for the year under consideration and also filed return of income in response to notice u/s 153A and declared additional income offered towards sale of spent solvents and scrap. During the course of assessment proceedings, the A.O on the basis of the evidences found during the course of search coupled with the admission of the assessee towards unaccounted cash received from sale of spent solvents and scraps has arrived at a satisfaction that the assessee company has received cash of Rs. two lakhs or more for a single transaction, in violation of provisions of section 269 ST of the I.T. Act, 1961. Accordingly, the details have been forwarded to the Additional CIT, Central Range-2, Hyderabad vide letter dated 25/05/2023 for necessary action. The Jt. CIT/ Addl. CIT, Central Range-2 Hyderabad issued a show cause notice under section 274

r.w.s. 271DA of the Act on 7/3/2024 and called upon the assessee to explain as to why the penalty under section 271DA of the Act shall not to be levied for violation of provisions of section 269 ST of the I. T. Act, since the amount of Rs.6,77,03,448/- was received by the assessee for sale of spent solvents and scraps in the mode otherwise than an account payee cheque or account payee bank draft or use of electronic clearance system through a bank account.

4. In response to the show cause notice, the assessee submitted that mere admission of additional income towards unaccounted receipts from sale of spent solvents and scraps does not lead to a conclusion that there is a violation of provisions of section 269 ST of the I.T. Act, 1961, so as to initiate penalty under section 271DA of the Act. The assessee further submitted that the A.O had considered entries recorded in an excel sheet found in Pen Drive which contains the details of unaccounted sales of spent solvent and scraps by different units of the assessee company or group and also receipt of cash from buyers. However, there is no details as to violation of provisions of 269 ST of the Act, because the excel sheets does not show any details as to receipt of amount of Rs.2 lakhs or more in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or an occasion from a person otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearance system through a Bank account. Therefore, merely on the basis of admission of additional income and filing of return disclosing the said additional income in

response to notice under section 153A of the Act, does not lead to a conclusion that the assessee had violated the provisions of section 269 ST of the Act, which warrants notice under section 271DA of the Act.

5. The Ld. JCIT/Addl. CIT, after considering the submissions of the assessee and also taking note of provisions of section 269 ST of the Act, which deals with acceptance of amount for any transaction from a person from a single day in excess of Rs. 2 lakhs observed that, there is no dispute on the fact that the seized material clearly shows recording date-wise sale of spent solvents and scraps by the assessee group companies which were reflected in segment in one of excel sheet. These date-wise transactions of sale of spent solvent by each company of the assessee group fit into clause (b) of section 269 ST of the Act i.e. receipt of Rs.2 lakhs or more in respect of a single transaction. Though the assessee claimed that date wise amount shown in the segment I relates to sale of spent solvent and pertains to transaction with numerous persons at different units of the company, but the assessee failed to submit any supporting evidence in respect of the same. Since the assessee claims that the cash received towards sale of spent solvents and scraps in respect of a single transaction is not in excess of the specified amount, it is on the assessee to discharge the burden with relevant evidences. The assessee should have produced verifiable evidence in support of its claim of acceptance of cash within the specified limit as per the provisions of section 269 ST of the Act. Since the assessee had failed to prove, the Ld. JCIT/Addl. CIT on the basis

of seized documents found during the course of search has quantified the amount received in excess of Rs. 2 lakhs in respect of single transaction, which worked out to Rs.1,07,66,430/- for the financial year 1/4/2017 to 31/3/2018 and levied penalty of Rs.1,07,66,430/- under section 271DA of the Act, for violation of provisions of section 269 ST of the I.T. Act.

6. Aggrieved by the order passed by the JCIT/Addl. CIT, the assessee preferred an appeal before the Ld. CIT (A). Before the Ld. CIT (A), the assessee challenged the order passed by the A.O under section 271DA of the Act and claimed that the penalty order passed by the A.O is barred by limitation in view of specific provisions of section 275(1)(c) of the Act. The assessee had also challenged the penalty levied under section 271DA of the Act in light of the reasons given by the Addl. CIT in the order passed under section 271DA and claimed that the A.O failed to prove the violation of section 269ST of the Act, so as to invoke the provisions of section 271DA of the Act.

7. The Ld. CIT(A), after considering the relevant submissions and also taking note of provisions of section 271DA of the Act, rejected the legal ground taken by the assessee on limitation and observed that, the authority imposing penalty under section 271DA of the Act for violation of the provisions of section 269ST of the Act is the Jt. CIT and therefore, for the purpose of limitation provided under section 275(1)(c) of the Act, the date on which the AO/JCIT issued show cause notice under section 274 r.w.s. 271DA of the Act should be considered and not from the date on which the A.O sent a proposal to the Addl. CIT.

for taking necessary action for imposition of penalty. Further, there is no merit in the ground taken by the assessee on the issue of satisfaction, because the statute does not require that the A.O must frame a detailed reasoning on limb wise violation within the assessment order itself. A brief recording that the case involves cash receipts violating section 269ST of the Act and that the information is being forwarded to the Jt. CIT is adequate for administrative satisfaction triggering independent penalty proceedings by the authority. Since the penalty under section 271DA of the Act is not dependent on the assessment findings, it rests on an independent fact of receipt in modes barred by section 269ST; it is enough for the JCIT to arrive at the satisfaction and issue show cause notice for imposing the penalty. Therefore, held that there is no merit in the legal ground taken by the assessee on the issue of limitation and thus, rejected the ground taken by the assessee.

8. In so far as the penalty levied under section 271DA of the Act for violation of section 269ST of the Act is concerned, the Ld. CIT (A) observed that, the seized excel sheets clearly shows date-wise and company/unit-wise cash sales of spent solvents and cash received against the same in many cases in excess of Rs.2 lakhs contrary to section 269ST of the Act. Further, the JCIT had also independently verified the record and ascertained that in many cases the assessee had received cash in excess of Rs.2 lakhs for a single transaction for sale of spent solvent and scrape and the same has been confirmed by Shri B Buchi Reddy, the author of the excel sheets. The assessee had also claimed additional

income of Rs.6,77,04,448/- towards unaccounted sale of spent solvents and scraps on the basis of evidence found during the course of search. Since there is a clear evidence for violation of provisions of section 269ST of the Act by accepting cash in excess of Rs. 2 lakhs in respect of a single transaction, the A.O has rightly levied penalty under section 271DA of the Act and therefore, rejected the explanation and upheld the penalty levied under section 271DA of the Act.

9. Aggrieved by the order of the Ld. CIT (A), the assessee is in appeal before the Tribunal.

10. The learned Counsel for the assessee Shri M.V. Prasad, C.A, referring to Ground No.3 of the assessee's appeal submitted that the penalty order passed by the A.O under section 271DA of the Act dated 27/09/2024 is invalid as the same is time barred. The learned Counsel for the assessee further submitted that the provisions of section 275(1)(c) of the Act deals with time limit for passing penalty orders and as per section 275(1)(c), no penalty order shall be passed after the expiry of (a) the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated are completed (b) Six months from the end of the month in which the action for imposition of penalty is initiated whichever period is expired later. In the present case, the assessment order has been passed under section 153A of the Act on 31/03/2023. The action for imposition of penalty under section 271DA has not been initiated in the course of assessment proceedings, therefore, clause (a) of section 275(1)(c) is not applicable. The A.O initiated penalty proceedings

separately on the basis of reference received from the A.O on 25/05/2023 and issued notice under section 274 r.w.s. 271DA of the Act on 07/03/2024, therefore, clause (b) of section 275(1)(c) of the Act is applicable and as per clause (b), the limitation for passing the penalty order is six months from the end of the month in which action for imposition of penalty is initiated. Since the A.O has sent reference to the JCIT for taking necessary action for imposition of penalty under section 271DA of the Act on 25/05/2023, the time limit for imposition of penalty and passing the order should be considered from end of May, 2023 and if we consider six months from 1/06/2023, the A.O ought to have passed the order imposing the penalty under section 271DA of the Act on 30/11/2023, whereas the present penalty order under section 271DA of the Act has been passed on 27/09/2024 which is beyond the statutory limitation. In this regard, he relied upon the decision of the Hon'ble Karnataka High Court in the case of Pr. CIT vs. K. Umesh Shetty (2025) 170 Taxmann.com 748 (Kar.) and also the decision of the Hon'ble Delhi High Court in the case of Pr. CIT vs. Rishikesh Buildcon (P) Ltd (2023) 147 Taxmann.com 220 (Del.). The assessee had also relied upon the decision of the ITAT Hyderabad Benches in the case of M/s. Sireesha Pochareddy in ITA No.1270/Hyd/2024, dated 12/093/2025.

11. The learned Counsel for the assessee, referring to ground nos. 6, 7 and 8 of the assessee's appeal submitted that the penalty levied under section 271DA of the Act is not sustainable on merits, because the burden to establish the default under section 269ST not discharged by the Revenue. The learned

Counsel for the assessee submitted that the A.O levied penalty under section 271DA of the Act on the basis of excel sheets found during the course of search in the hands of Shri B. Buchi Reddy, Cashier which contains the details of unaccounted cash receipts from sale of spent solvent and scrape for the entire group as a whole. Shri B. Buchi Reddy, Casher has recorded date-wise sales of spent solvent and scraps for the group as a whole which consists of five companies and multiple units of each company at different locations on a consolidated manner which includes cash receipts from the buyer and also cash paid to management on different dates and cash paid to employees of the company for the purpose of handling and disposal of spent solvent and scraps. The learned Counsel for the assessee further referring to the excel sheets which are available in paper book filed by the assessee submitted that, segment (1) of excel sheet contain sales of spent solvent and it contains details of date of sale, amount and the name of the company/plant of the company which made the sales. Segment (2), which appears to the immediate right of segment (1) of each day contains the details of opening balance of receivables/payables, details of sale of spent solvent for the period, aggregate cash receipts from the buyers for the period and closing balance of net receivable/payable for the day. Segment 3, which appears to the immediate right of segment 2 contain buyer-wise break-up of closing balance of net receivable/payable for the end of the period. Segment 4 appears to the immediate right of segment 3 for each period contains sale of scraps made in cash and it also contain the name of the company and plant or division of the company and the amount of cash sales during the period.

The details of such cash sales of scrap for the concerned period of one week are drawn at the bottom of the segment 4 for each period. As mentioned earlier, the details of spent solvent are recorded in segment (1) of excel sheets for each period (one week) and the said details is nothing but the aggregate amount of sales made for the period for all the companies and for all the plants and divisions of 5 companies of the assessee's groups. The details of each unit-wise or company-wise sales made to each buyer are not recorded in the said data segment or nowhere else in the excel sheet. However, the ld. Add. CIT, Range-2 assumed that the date-wise sales recorded in segment 1 of excel sheet is cash receipts of Rs.2 lakhs or more in respect of a single transaction and claimed that the case of the assessee fit into clause (b) of section 269ST of the Act while initiating penalty proceedings under section 271DA of the Act, however, the fact remains that neither the A.O nor the Add. CIT has made out a case of violation of section 269ST of the I.T. Act from the seized material so as to allege that the assessee had received Rs. 2 lakhs or more in respect of a single transaction which attracts provisions of section 271DA of the Act. In absence of any evidences in the excel sheets, the quantum of cash in respect of single transaction of unaccounted sale of spent solvent is not ascertainable in order to arrive at a conclusion so as to allege that the assessee had violated the provisions of section 269 ST of the Act. Therefore, he submitted that the Add. CIT is erred in levying penalty under section 271DA of the I.T. Act, 1961

12. The learned Counsel for the assessee further submitted that the Ld. JCIT although observed that the date-wise

transaction of sale of spent solvent by each company of the assessee group fit into clause (b) of section 269ST of the Act, but there is no such violation or details in excel sheet. Although the Add. CIT picked up the amount in excess of Rs. 2 lakhs in excel sheet, but as mentioned earlier in para above, the amount pertains to aggregate amount of sales made by all the 5 companies from different plants to different buyers. Further, the Jt. CIT shifts the burden of proof to the assessee to prove its claim with sufficient documentary evidence, however, the fact remains that once it is the allegation of the A.O that the assessee had received cash in excess of specified limit as per section 269 ST of the Act, it is for the Revenue to prove the burden with relevant evidences. In absence of any tangible evidence on record, the allegation of violation of section 269ST of the Act is only on the basis of entries contain in the excel sheet without any further supporting evidences. He, therefore, submitted that there is no case for penalty under section 271DA of the Act and the same should be deleted. The learned Counsel for the assessee further submitted that mere admission of the assessee does not ipso facto warrants levy of penalty under section 271DA of the Act, even though the assessee has made a statement regarding receipt of amount from the sale of spent solvent and scraps. Further, the assessment proceedings and penalty proceedings are independent and for the purposes of penalty proceedings, the A.O is required to bring further evidences on record so as to prove his allegation that there is a violation of section 269ST of the Act which warrants penalty under section 271DA of the Act. Therefore, he submitted that the

penalty levied on this count is also unwarranted and the same should be deleted.

13. The Ld. Sr. AR, Dr. Sachin Kumar, on the other hand, supporting the order of the Ld. CIT (A) submitted that there is no merit in the legal ground taken by the assessee challenging the limitation in passing the penalty order under section 271DA of the Act, because as per the provisions of section 275(1)(c) of the Act, there is a time limit of Six months from the end of the month in which action for imposition of penalty is initiated. In the present case, the Addl. CIT, Range-2 initiated penalty proceedings under section 271DA of the Act, by issuing show cause notice under section 274 r.w.s. 271DA of the Act on 07/03/2024 and if we consider Six months from the end of the month in which show cause notice was issued i.e. on 31/03/2024, the A.O shall get time up to 27/09/2024 for passing the order, therefore, the order passed by the A.O under section 271DA of the I.T. Act on 27/09/2024 is well within the limitation provided under the Act. The Ld. Sr. AR further submitted that although the learned Counsel for the assessee claimed that it is the date on which the A.O sent a proposal to the Range Head should be considered for the purpose of reckoning the limitation, but the fact remains that as per the circular No.9 of 2016, dated 26/04/2016, the Board has clarified in the light of the decision of the Hon'ble Kerala High Court in the case of Grihalakshmi Vision vs. Assistant Commissioner of Income Tax (2015) 379 ITR 100 (Kerala) that the competent authority for imposition of penalty under section 271DA of the Act for violation of section 269ST is the Jt.

Commissioner of Income Tax and therefore, it is the date on which the authority imposing penalty issued a show cause notice under section 274 r.w.s. 271DA of the Act is relevant for the purpose of computing the limitation for imposing penalty under section 271DA of the Act. Therefore, he submitted that there is no merit in the argument of the learned Counsel for the assessee and thus, the ground taken by the assessee should be rejected.

14. The Ld. Sr. AR for the Revenue further submitted that the Ld. CIT (A) has sustained the penalty levied under section 271DA of the Act, because there is a clear violation of section 269ST by the assessee company which is evident from the satisfaction arrived at by the A.O, where he had clearly stated that the assessee company had received Rs.2 lakhs or more in respect of a single transaction in violation of section 269ST of the Act towards unaccounted receipts from sale of spent solvent and scraps. Further, the evidences found during the course of search in the form of excel sheet stored in a pen drive clearly shows unaccounted receipts of cash from sale of spent solvent and scraps and the same has been accepted by the assessee company and also admitted additional income during the course of search. Therefore, the argument of the learned Counsel for the assessee that there is no evidence of violation of section 269ST of the Act is contrary to the material available on record and cannot be accepted. Since there is clear evidence for accepting cash in excess of Rs. 2 lakhs, the A.O has rightly levied penalty under section 271DA of the Act and thus, the order of the A.O should be upheld and penalty levied by the A.O should be sustained. In this regard,

he relied upon the decision of the ITAT Benches of Chennai in the case of Sri Sai Balaji Gas Cylinder (P) Ltd vs. Assistant Commissioner of Income Tax (2023) 155 Taxmann.com 319 (Chennai) and also the decision of the Hon'ble Madras High Court in the case of Tvi. Chandro Process vs. DCIT (2025) 173 Taxmann.com 976 (Madras).

15. We have heard both the parties, perused the material available on record and had gone through the orders of the authorities below. We have also carefully considered the relevant legal ground taken up by the assessee challenging the validity of the order passed by the A.O under section 271DA of the Act in light of provisions of section 275(1)(c) of the Act. We have also carefully considered the relevant circulars issued by the CBDT and also the case laws referred to by the learned Counsel for the assessee and the Ld. Sr. AR present for the Revenue. The assessee had taken a legal ground challenging the validity of penalty order passed by the A.O on limitation for the A.Ys 2018-19 and 2019-20. The assessee claims that the penalty order is invalid in law as the same is time barred. Admittedly, in the present case, the penalty proceedings were triggered from the A.O with a reference to the Jt. CIT for taking necessary action for imposition of penalty under section 271DA of the Act. The A.O had sent information regarding the violation of provisions of section 269ST of the Act for the A.Ys 2018-19 and 2019-20 on 25/05/2023. Based on the reference received from the A.O, the Addl. CIT, Central Range-2 issued a show cause notice under section 274 r.w.s. 271DA of the Act, on 7/3/2024 and passed the order under section 271DA of

the Act on 27/09/2024. Therefore, it is necessary for us to examine, whether the penalty order passed by the A.O under section 271DA of the Act dated 27/09/2024 is within the limitation provided under section 275(1)(c) of the Act or is barred by limitation.

16. The provisions of section 275(1)(c) of the Act, deals with time limit for passing the penalty orders. As per the provisions of section 275(1)(c) of the Act, no penalty order shall be passed after the expiry of (a) financial year in which the proceedings, in the course of which action for imposition of the penalty has been initiated are completed or (b) Six months from the end of the month in which the action for imposition of penalty is initiated, whichever is later. In the present case, the assessment under section 153A of the Act was concluded on 31/03/2023 and the action for imposition of penalty under section 271DA of the Act has not been initiated in the course of assessment proceedings. Therefore, clause (a) of section 275(1)(c) of the Act is not applicable. Further, clause (b) of section 275(1)(c) of the Act provides Six months from the end of the month in which the action for initiation of penalty is initiated and in the present case the A.O has sent a proposal or reference to the Jt.CIT for taking necessary action on 25/05/2023. As held by the Hon'ble Karnataka High Court, in the case of Pr. CIT vs. K. Umesh Shetty (Supra), the date of a reference made by the AO to the Add. CIT for imposition of penalty under section 271DA of the Act, was to be treated as triggering point for initiation of penalty proceedings under section 271DA of the Act. A similar view has been taken by

the Hon'ble Delhi High Court in the case of Pr. CIT vs. Rishikesh Buildcon (P) Ltd (Supra) where it has been held that pursuant to the completion of the quantum proceedings by the A.O, further penalty proceedings against the assessee under section 271DA for violating the provisions of section 269ST of the Act was also initiated in Dec. 2008, 6 months from the end of the month in which the penalty proceeding was initiated should be considered. The sum and substance of ratios laid down by various High Courts for determining the limitation for passing the penalty orders as referred to under section 275(1)(c) of the Act, is the date on which the A.O sent proposal to the Addl. CIT/ Jt. CIT should be considered but not from the date on which the Jt. CIT issued show cause notice us 274 r.w.s. 271DA of the Act. In the present case, the A.O sent reference to the Jt. CIT on 25/05/2023 for taking action for imposition of penalty under section 271DA of the Act. Therefore, in our considered view, the starting point for initiation of the action for imposition of penalty within the meaning of section 275(1)(c) of the Act is from 25/05/2025 and for the purpose of determining the limitation period for passing the penalty order, Six months from the end of May 2023 should be considered, but not from 7/3/2024, i.e. date on which the authority issued show cause notice under section 274 r.w.s. 271DA of the Act. Since the A.O sent reference to Jt. CIT on 25/05/2023, in our considered view, Six months period should be considered from the end of May 2023 i.e. 31/05/2023 and if, we consider the starting point from 1/06/2023, then the A.O ought to have passed the order under section 271DA of the Act on 30/11/2023. In the present case, since the A.O has passed the

order under section 271DA of the Act on 27/09/2024, in our considered view, it is barred by limitation and the same is non-est in the eyes of law.

17. Coming back to the argument of the Ld. Sr. AR for the Revenue in light of CBDT Circular No.9 of 2016 dated 26/04/2016 and also the decision of the Hon'ble Kerala High Court in the case of Grihalakshmi Vision vs. Assistant Commissioner of Income Tax (Supra) that for commencement of limitation for penalty proceedings under section 271DA of the Act, it is the date on which the JCIT issued a show cause notice under section 274 r.w.s. 271DA of the Act is to be considered, but not on the date on which the A.O sent a proposal to the JCIT for taking action for imposition of penalty under section 271DA of the Act. In our considered view, although the Hon'ble Kerala High Court in the above case has held that the competent authority to levy penalty being a Jt. Commissioner and for the purpose of limitation, the date on which the Jt. CIT issued show cause notice should be considered. However, the fact remains that the above decision of the Hon'ble Kerala High Court and the circular issued by the CBDT had been considered by the Hon'ble Karnataka High Court in the case of Pr. CIT vs. K. Umesh Shetty (Supra) and held that it in disagreement with the view taken by the Hon'ble Kerala High Court on the ground that a perusal of the said judgement does not show that there was any reference from the AO to “competent authority” unlike the case in hand. Since the decision of Hon’ble Karnataka High Court is on later date and also it had taken into account the decision of Hon’ble Kerala High Court and

distinguished the above judgment, in our considered view, the arguments of ld. Sr. AR in light of Hon'ble Kerala High Court and the CBDT Circular No.9 of 2016 does not hold good and cannot be accepted. Further, other case laws relied upon by the ld. Ar. AR for the revenue is also not considered, because facts of the above cases are entirely different from the facts of the assessee case.

18. The learned Counsel for the assessee had relied upon the decision of the Hon'ble Karnataka High Court in the case of Pr. CIT vs. K. Umesh Shetty (Supra). The Hon'ble Karnataka High Court had considered an identical issue of levy of penalty under section 271D of the Act, in light of limitation provided under section 275 (1)(c) of the Act and after considering the relevant facts has held as under:

> *"6.7 In the facts of this case, these twin purposes can be achieved by treating the reference by the ITO to the Additional Commissioner as the triggering point or initiation of penalty proceedings. The ITO vide letter dated 16.11.2016 had admittedly made the reference. The Additional Commissioner of Income Tax issued the Show Cause Notice only on 10.11.2017 (nearly a year later) proposing the levy of penalty u/s 271D of the Act. The Penalty Order was made on 22.02.2018. If the reckoning point is 16.11.2016, it is clear that the proceedings were completed beyond the period of limitation, as rightly contended by the learned counsel appearing for the Assessee. Even otherwise , the concept of delay & latches would crop in; no explanation whatsoever has been offered by the Revenue for the laxity shown in belatedly issuing the show cause notice/proposition notice which they claim, amounted to initiation of penalty proceedings. This view has animated the reasoning of the impugned order of the Tribunal, may be a bit inarticulately .*
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> *6.8. The reliance of Panel Counsel for the Revenue on the Coordinate Bench decision in COMMISSIONER OF INCOME TAX vs. TAM TAM PEDDA GURUVA REDDY does not come to his aid since the same has been rendered largely fact-specific. The other decision namely*

GRIHALAKSHMI VISION vs. ADDITIONAL COMMISSIONER OF INCOME TAX-7 at para 10 observed as under:

"Question to be considered is whether proceedings for levy of penalty, are initiated with the passing of the order of assessment by the Assessing Officer or whether such proceedings have commenced with the issuance of the notice issued by the Joint Commissioner. From statutory provision, it is clear that the competent authority to levy penalty being the Joint Commissioner. Therefore, only the Joint Commissioner can initiate proceedings for levy of penalty…"

These observations arguably support the view of Revenue, is true. However, we respectfully disagree with the said view. That apart, a perusal of the said judgment does not show that there was any reference made by the ITO to the competent authority, unlike in the case at hand. Further the following observations in para 10 in D M Manasvi vs Commissioner of Income Tax (1973) 3 SCC 207 would cast some doubt on the correctness of Grihalakshmi supra.

"We are also not impressed by the argument advanced on behalf of the appellant that the proceedings for the imposition of penalty were initiated not by the Income Tax Officer but by the Inspecting Assistant Commissioner when the matter had been referred to him under section 274(2) of the Act. The proceedings for the imposition of penalty in terms of sub- section (1) of section 271 have necessarily to be initiated either by the Income Tax Officer or by the Appellate Assistant Commissioner. The fact that the Income Tax Officer has to refer the case to the Inspecting Assistant Commissioner if the minimum imposable penalty exceeds the sum of rupees one thousand in a case falling under clause (c) of sub-section (1) of section 271 would not show that the proceedings in such a case cannot be initiated by the Income Tax Officer. The Income Tax Officer in such an event can refer the case to the Inspecting Assistant Commissioner after initiating the proceedings. It would, indeed, be the satisfaction of the Income Tax Officer in the course of the

assessment proceedings regarding the concealment of income which would constitute he basis and foundation of the proceedings for levy of penalty".

6.9 The reliance of the Panel Counsel on CBDT Circular No.9/DV/2016 dated 26.04.2016 has been issued in terms of GRIHALAKSHMI supra. Para 4 of the Circular states:

The above judgment reflects the "Departmental View". However, para 5 in a way suggests to follow the decision of a High Court, within whose territorial jurisdictional limits the penalty proceedings are taken up. The same reads as under:

"Where any High Court decides this issue contrary to the "Departmental View", the "Departmental View" thereon shall not be operative in the area falling in the jurisdiction of the relevant High Court. However, the CCIT concerned should immediately bring the judgment to the notice of the Central Technical Committee. The CTC shall examine the said judgment on priority to decide as to whether filing of SLP to the Supreme Court will be adequate response for the time being or some legislative amendment is called for."

Therefore, much reliance cannot be placed on this Circular.

In the above circumstances, the questions of law framed by us have to be answered in favour of the respondent assessee and as a consequence, appeal is liable to be and accordingly dismissed, costs having been made easy".

19. The assessee had also relied upon the decision of the Hon'ble Delhi High Court in the case of Pr. CIT vs. Rishikesh Buildcon (P) Ltd (Supra). The Hon'ble Delhi High Court, in light of penalty levied u/s 271D of the Act and the limitation provided u/s 275(1)(c) of the Act, held as under:

"12. The predecessor bench of this Court in the aforesaid judgments has held that where the AO has initiated the penalty proceedings in his/her assessment order, the said date is to be taken as the relevant date as far as the section 275(1)(c) of the Act is concerned. In these cases, the quantum proceedings were completed by the AO on 17th/18th December 2008, and the AO initiated the penalty proceedings in December, 2008, thus, the last date by which the penalty

> *order could have been passed is 30th June, 2009. The six months from the end of the month from which action of imposition of penalty was initiated would expire on 30th June, 2009. However, in this case, admittedly, the penalty order(s) were passed on 29th September, 2009, and therefore, the ITAT rightly concluded that the order(s) were barred by limitation.*
>
> *13. Consequently, we answer the question of law against the Revenue and in favour of the Assessee by holding that, in the facts and circumstances of the present appeals, the ITAT was correct in law in deleting the penalty imposed by the Additional Commissioner of Income Tax, under section 271D of the Act, on the ground that the penalty order(s) dated 29th September, 2009, was passed beyond the time period prescribed by Section 275(1)(c) of the Act, the same having been passed after the lapse of six months from the end of the month in which the penalty proceedings were initiated by the AO."*

20. A similar issue has been considered by the Coordinate Bench of ITAT, Hyderabad, in case of M/s. Sireesha Pochareddy in ITA No.1270/Hyd/2024, dated 12/093/2025. The ITAT, Hyderabad bench had considered an identical issue of limitation for passing penalty order u/s 271D of the Act, and after considering provisions of section 275(1)(c) of the Act, and by following the decision of Hon'ble Delhi High Court in the case of PCIT vs. Mahesh Wood products Pvt Ltd(Supra) had held as under.

> *"6. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. As per the provisions of sec.275(1)(c) of the Act, no order imposing penalty under this Chapter-XXI shall be passed 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 or completed or six months from the end of the month in which action for imposition of penalty is initiated whichever period expires later. In the present case, although, the date on which, the Assessing Officer has referred to range head is not clear, but, undoubtedly, if we go by the first show cause notice issued by the Assessing Officer, proposing penalty u/sec.271D of*

the Act, i.e., on 30.03.2021, the order imposing penalty u/sec.271D of the Act ought to have been passed on or before 30.09.2021, whereas, in the present case, the Assessing Officer passed the order imposing penalty u/sec.271D of the Act on 25.01.2022. Therefore, in our considered view, the order passed by the Assessing Officer is beyond the time limit provided under the provisions of sec.275(1)(c) of the Income Tax Act, 1961 and thus, it is invalid, void abinitio, barred by limitation and liable to be quashed. This legal principle is supported by the Judgment of Hon'ble Delhi High Court in the case of PCIT vs., Mahesh Wood Products Pvt. Ltd., (supra) and decision of ITAT, Chennai in the case of DCIT vs. Shri Subramaniam Thanu (supra), wherein it has been clearly held that in terms of sec.275(1)(c) of the Act, it would be the date on which the Assessing Officer wrote a letter to the PCIT recommending to issue show cause notice and if the Competent Authority decide to issue a show cause notice, the limitation would begin to run from the date of letter of the Assessing Officer recommending 'initiation' of the penalty proceedings. In the instant case, if we go by the said 'initiation' date i.e., 30.03.2021, any order passed beyond the six months from the end of the relevant month in which show cause notice issued u/sec.271D of the Act i.e., dated 25.01.2022 in the instant case, is barred by limitation.

7. Coming back to the arguments of the learned Sr. AR Dr. Sachin Kumar, present for the Revenue, in light of CBDT's Notification No.113/2021, dated 17.09.2021. The CBDT in exercise of the powers conferred by sub-sec.1 of sec.3 of Taxation and Other Laws Amendment Act, 2021 [in short "TOLA"], has extended the time limit up-to 31.03.2022 for the completion of any action referred to in clause(a) of sub-sec.(1) of sec.3 of the said Act relates to passing of any order for imposing of penalty under Chapter-XXI of the Income Tax Act, 1961 and, therefore, the order passed by the Assessing Officer dated 25.01.2022 is well within the extended period of limitation by virtue of the CBDT's Notification dated 17.09.2021 (supra) and that, the learned CIT(A) without appreciating the facts of the case, simply quashed the assessment order passed by the Assessing Officer. We find that the Hon'ble Supreme Court has examined the issue of Notification issued by the CBDT in exercise of the powers conferred u/sec.3(1) of TOLA in the case of Union of India vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC) and clearly held that in case the completion of any action relates to passing of any order falls between 20.03.2020 and 31.03.2021, then, the said "due dates" are extended by virtue of sec.3(1) of TOLA "up-to 30.06.2021". In the present case, going by the show cause notice issued by the

Assessing Officer, imposing penalty u/sec.271D of the Act, was dated 30.03.2021. Therefore, in our considered view, the completion of action relates to passing of any order for imposing of penalty under Chapter- XXI of the Act falls on or before 30.09.2021 and in our considered view, the said "due date" is beyond the period specified under the provisions of TOLA i.e., between 20.03.2020 and 31.03.2021 and, therefore, the Notification issued by the CBDT dated 17.09.2021 does not extend the due date for passing the order imposing penalty u/sec.271D of the Act in the present case up-to 30.09.2021. Therefore, we are of the considered view that the arguments advanced by the learned Sr. AR for the Revenue in light of CBDT's Notification dated 17.09.2021 (supra), does not hold good and, therefore, rejected.

8. In this view of the matter, considering the facts of the case and also by following the Judgment of Hon'ble Delhi High Court in the case of PCIT vs., Mahesh Wood Products Pvt. Ltd., (supra) and decision of ITAT, Chennai in the case of DCIT vs. Shri Subramaniam Thanu (supra), we are of the considered view that there is no error in the reasons given by the learned CIT(A) to quash the penalty order passed by the Assessing Officer u/sec.271D of the Act, dated 25.01.2022. We, accordingly, uphold the order of the learned CIT(A) and dismiss the appeal filed by the Revenue. Consequently, the cross objections raised by the assessee are allowed."

21. In this view of the matter and considering the facts and circumstances of the case and also by following the ratios of case laws discussed herein above, we are of the considered view that the order passed by the Ld. AO u/s 271DA of the Act dated 27/09/2024 is clearly barred by limitation in terms of sec 275(1)(c) of the Act. Therefore, we quash the order passed by the Ld. AO, u/s 271DA of the Act dated 27/09/2024 for AY. 2018-19.

22. A similar issue is involved in the appeal filed by the assessee the A.Y 2009-10 in ITA No. 2165/Hyd/2025, where the assessee has challenged the order passed by the Ld. AO u/s 271DA of the Act, dated 27/09/2024 in light of provisions of sec 275(1)(c) of the Act. The reason given by us in preceding paragraph Nos. 15 to 21 shall mutatis mutandis applies to this

appeal, as well. Therefore, for the detailed reasons given in preceding paras, we are of the considered view that the order passed by the Ld. AO u/s 271DA dated 27/09/2024 for A.Y 2019-20 is barred by limitation and thus, we quash the order passed by the Ld. AO u/s 271DA of the Act for AY 2019-20.

23. Coming back to Ground Nos. 6, 7 & 8 of assessee's appeal and by above grounds, the assessee challenged penalty levied by the A.O under section 271DA of the Act on merits for A.Ys 2018-19 to 2021-22. The A.O levied the penalty under section 271D of the Act for violation of section 269ST of the Act on the ground that the assessee has received cash in excess of Rs.2 lakhs or more in respect of a single transaction for sale of unaccounted scrap and spent solvents. The A.O levied penalty on the basis of excel work book found from the Pen Drive in the possession of Shri B Buchi Reddy, Cashier during the course of search where he had maintained the details of date-wise sales of spent solvents and scraps along with the details of opening cash in hand, amount received from the buyers/receivable and closing cash in hand. The above worksheet also contained the details of party-wise details of sales by each companies of MSN Group by different units/plants along with amounts paid to the M.D of the MSN Group and other family members including employees for various expenses. The A.O considered segment (1) of excel workbook which appears at extreme right of the excel sheets pertaining to sale of spent solvent and it contained the details of date of sale amount and the name of the company/plant of the company which made the sales and considered only the amounts

which exceeds Rs.2 lakhs or more in a particular date for the purpose of levying penalty under section 271DA of the Act for all the A.Ys.

24. We have gone through the relevant excel sheets found from the Pen Drive of Shri B. Buchi Reddy, Cashier of assessee's group which is available in the paper book filed by the assessee. We, find that the relevant excel sheets was maintained for common for all five companies of MSN Group, including the assessee in respect of unaccounted sales of spent solvent and scraps. As explained therein, the entries in the excel sheets are found to be made in five distinct data segments. The entries in all the five segments are usually bunched together for a period of one week. Segment-1, which appears at the extreme left of the excel sheet, pertains to sales of spent solvents and it contains the details of date of sale, amount and the name of the company/plant of the company which made the sales. This segment is found separately for each period and the total of such sales for the concerned period of one week is drawn at the bottom of the segment-1 for each period. Segment 2, which appears to the immediate right of segment (1) for each period, contains the details of the opening balance of net receivables/payables at the beginning of the period, sales made for the relevant period, aggregate cash received from the buyers during the period and closing balance of net receivables/payables at the end of the period. Segment (3) which appears to the immediate right of segment (2) for each period contains the buyer-wise break-up of the closing balance of net receivables/payables. Segment (4) which

appears to the immediate right of segment (3) for each period pertains to the sale of scraps made in cash and it contains the name of the company/plant or division of the company which made the sales. The total of such cash sales of scraps for the concerned period of one week is drawn at the bottom of the segment (4) for each period. Segment (5) which appears below segment (2) for each period contains the details of opening balance of cash, aggregate of the cash received for the relevant period out of the sales of spent solvent and scraps, cash handed over to Shri M.S.N. Reddy, his family members during the period, cash handed over to the employees named therein and closing balance at the end of the period. As mentioned earlier, the details of sales of spent solvent are recorded in the segment (1) of excel sheet and it contains the date-wise details of spent solvent made by each plant/division of 5 companies of the group recorded therein represents the aggregate sales made on a said date to a buyer/multiple buyers as the case may be. The above excel sheet does not show any details of each sale made to each buyer on the said date by the plant/division of the said company. Further, on perusal of the excel sheet, we find that the sale proceeds in cash in respect of sales of spent solvent recorded in segment (1) are not received immediately. This feature is evident from the fact that the amount of aggregate cash received from sale of spent solvents during a particular period, as recorded in the corresponding segment-2 and segment-5, does not match with the total amount of sales of spent solvents as recorded in the bottom segment-1 for the said period. It may also be seen that in some cases, the cash received is in advance from the buyers and the cash receivables

against the sales made on such buyer is adjusted against the said advance. It will be noticed that the details of receipt of cash from the buyers either towards the advance or towards sale proceeds and the amount of cash received on each date are not recorded either in segment (2) or segment (5) or anywhere else in the seized material. Though the sales of spent solvents were made by various plants of each of the 5 companies of the group at different locations to multiple buyers at each of such location, the cash receipts from such sales from all the buyers put together were recorded by the cashier as a single entry for the entire period of one week in segment (2) and segment (5) of excel sheet. The details of buyers from whom such cash was received during the relevant period of one week, the date of such receipts and the amount of such receipts from each buyers and the names of the companies/plant in respect of whose unaccounted sales of spent solvents, and such cash was received have not been recorded by the cashier in the excel sheet. As a result of the said manner of recording the unaccounted sale of spent solvents and cash receipts by the cashier in the excel sheet, it is abundantly clear that the date-wise information recorded in segment (1) only reveals the aggregate amount of cash sales of spent solvents on each particular date by different companies/divisions/plants of the group but not the amount of sales achieved by the assessee company alone on a particular date as claimed by the A.O. In the absence of recording such details in the excel sheets, the quantum of cash sales in respect of each single transaction of unaccounted sale of spent solvent is not ascertainable in order to arrive any conclusion as to whether the amount received in respect of a

single transaction is Rs.2 lakhs or more. We further note that except the entry appearing in a particular date in excess of Rs. 2 lakhs or more has been considered by the A.O, there is no tangible and cogent material on record to infer the violation of the provisions of clause (b) of section 269ST of the Act in the case of the assessee. The material available in the excel sheet does not contain any data that reveals unambiguously that the assessee was in receipt of cash of Rs.2 lakhs or more in respect of a single transaction. Therefore, in our considered view, there is no material on record for the A.O to allege that the assessee has committed violation of the provisions of section 269ST of the Act for the purpose of levy of penalty under section 271DA of the Act.

25. We further note that, it is a settled law that the burden of establishing the occurrence of default by the assessee under the relevant provision of the statute which makes the assessee liable for penalty under the Act with the aid of tangible and cogent evidence is on the revenue, since the allegation of such violation is made by the Revenue. In the present case, since the allegation of violation of section 269ST of the Act has been made by the A.O, the onus lies on the Revenue to establish the said alleged violation by the assessee However, as noted in earlier part of this order, from the material considered by the A.O for the purpose of levy of penalty under section 271DA of the Act, no such evidence is forthcoming from the seized material and no evidence to the said fact has been brought on record by the A.O. Although the Ld. Jt. CIT observed that it is for the assessee to discharge the burden by furnishing the relevant evidence and prove that the cash received

towards the sale of spent solvents and scraps is less than the amount specified under section 269ST of the Act and the assessee has not discharged the burden, but in our considered view, once the A.O makes the allegation that the assessee had violated the provision of section 269ST of the Act, then it is for the A.O to prove the allegation with relevant evidences. Once the A.O discharge the evidences, then the assessee has to disprove the claim of the A.O by explaining the details to the A.O for the purpose of levying penalty under section 271DA of the Act. In the present case, admittedly, there is no evidence of any kind of sales bills or cash receipts for sale of unaccounted spent solvents and scraps. The only evidence which was found during the course of search was one excel sheet maintained purpose by the Cashier for the entire group and as explained by the assessee, the above document contains details of sales made for a particular period by the group as a whole in respect of all the five companies and from different plants/units. Since the assessee group is consisting of five companies and further have multiple units/plants which generates spent solvents and scraps and also assessee discharges the spent solvents and scraps from different units/plants to different buyers, in our considered view, only on the basis of consolidated entries appearing in segment (1) of excel sheet, it cannot be alleged that the assessee violated clause (b) of section 269ST of the Act for imposing penalty under section 271DA of the Act. Therefore, in our considered view, the A.O has not conclusively prove for the violation of provisions of section 269ST of the Act so as to levy penalty under section 271DA of the Act,

and thus, in our considered view penalty levied by the AO is not sustainable on merits on the facts of the case and in law.

26. We further note that, the admission of the assessee does not Ipso Facto lead to levy of penalty, even though the assessee has made a statement regarding receipt of amount from the sale of spent solvents and scrap. Further, mere confessional statement without there being any documentary evidence in proof of such breakup of transactions cannot be solely relied upon while considering the penalty proceedings. Such evidence by way of statement might be considered for making the assessment but however for consideration of the penalty proceedings being independent in nature, further additional evidences are required to brought on to the file as corroborative in nature. More over the assessment proceedings and penalty proceedings are different all together and the evidences that were relied upon during the assessment proceedings may not be considered as sole factor and sufficient evidences for levy of penalty. This legal principle is supported by the decision of the Hon'ble Jurisdictional High court of Andhra Pradesh in the case of Sait Bansilal & Rangisetti Veeranna Vs. Commissioner of Income Tax - [1972] 83 ITR 750 (AP), wherein the Hon'ble High Court of Andhra Pradesh held that *"Tax and Penalty, like tax and penal interest, are distinct and different concepts under the Act. Penalty is in addition to the tax determined as payable by the assessee. Penalty cannot be taken as additional tax for all* purposes. *The penalty and assessment proceedings are not one and the same proceedings. The findings given in the assessment proceedings would only be relevant and*

admissible but not final and conclusive in penalty proceedings. In penalty proceedings, further evidence can be led to rebut the findings given in the assessment proceedings." According to the said case law, it can be understood that in order to levy of penalty, the Assessing Officer has to gather the evidence from the seized material. But in fact, the seized material is wholly non-speaking and dumb with regard to the transaction-wise and buyer-wise details of the sales of spent solvents embedded in the date-wise sales recorded in segment-1. There is no material whatsoever to reach any conclusion regarding contravention of the provisions of clause (b) of section 269ST. Consequently, the penalty U/s 271D cannot be levied. We, also refer to the decision of the Hon'ble Supreme court in the case of Commissioner of Income Tax Officer Vs Khoday Eswarsa and sons [1972] 83 ITR 369, where it was held that "Penalty proceedings being penal in character, the department must establish that the receipt of the amount in dispute constitutes income of the assessee. Apart from the falsity of the explanation given by the Assessee, the department must have before it before levying penalty cogent material or evidence from which it could be inferred that the assessee had consciously concealed the particulars of his income or had deliberately furnished inaccurate particulars in respect of the same and that the disputed amount is a revenue receipt. No doubt, the original assessment proceedings for computing the tax may be a good item of evidence in the penalty proceedings but the penalty cannot be levied solely on the basis of the reasons given in the original order of assessment". Therefore, in our considered view the materials considered by the AO for the purpose of levy of penalty u/s 271DA

for violation of section 269ST does not show any evidence of violation of clause (b) of section 269ST of the Act, and thus, penalty levied by the AO u/s 271DA is unsustainable under law.

27. In this view of the matter and considering the facts and circumstances of the case, we are of the considered view that the penalty levied by the A.O under section 271DA of the Act for alleged violation of section 269ST of the I.T. Act 1961 is unsustainable in law. Therefore, on this count also, penalty levied by the A.O should be deleted. The Ld. CIT (A) without appreciating the relevant facts simply sustained the penalty levied by the A.O. Thus, we set aside the order of the Ld. CIT (A) and direct the A.O to delete the penalty levied under section 271DA of the Act for the A.Y 2018-19 to 2021-22.

28. In the result, the appeals filed by the assessee for the A.Y 2018-19 to 2021-22 are allowed.

Order pronounced in the Open Court on 25th February 2026.

Sd/-	Sd/-
(VIJAY PAL RAO) **VICE PRESIDENT**	**(MANJUNATHA, G.)** **ACCOUNTANT MEMBER**

Hyderabad, dated 25th February 2026.

VBP Rao/sps

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2	Addl. Commissioner of Income Tax, Central Range-2, Aayakar Bhavan, Basheerbagh, Hyderabad 500004
3.	The CIT(A)-12, Hyderabad.
4.	Pr. CIT – Central, Hyderabad
5.	DR, ITAT Hyderabad Benches
6.	Guard File

By Order

VADREVU PRASADA RAO

Digitally signed by VADREVU PRASADA RAO
Date: 2026.02.25 15:14:29 +05'30'