आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad "A" Bench, Hyderabad

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकरअपीलसं./**I.T.A.Nos.1255 to 1257/Hyd/2025**
(निर्धारण वर्ष/ **Assessment Years: 2016-17 to 2018-19)**

Aurora Educational Society, Hyderabad. PAN : AAATA8751C	*Vs.*	The Assistant Commissioner of Income-tax, Central Circle – 2(4), Hyderabad.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri P. Murali Mohan Rao, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Ms. U. Mini Chandran, CIT-DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	28.01.2026
घोषणा की तारीख/ Date of Pronouncement	:	27.03.2026

O R D E R

PER MANJUNATHA G., A.M :

The appeals filed by the assessee are directed against the separate, but identical orders of the learned Commissioner of Income Tax (Appeals) – 12, Hyderabad (for short "Ld. CIT(A)") all dated 01.07.2025, pertaining to the assessment years 2016-17 to

2018-19, respectively. Since common issues are involved in these appeals, the same were heard together and are being disposed off, by this single consolidated order for the sake of convenience and brevity.

2. First, we take up appeal in ITA No. 1255/Hyd/2025 for A.Y. 2016-17. The grounds raised by the assessee in this appeal are re-produced as under:

> *"1.The order of the Ld. CIT(A) 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. 26,19,39,954/- 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. 26,19,39,954/-.*
>
> *4. The Ld. CIT(A) ought to have considered that the time limit for passing the order u/s 271D of the Act is to be taken from the date of the proposal for levying penalty u/s 271D submitted by the AO to the JCIT to the date of passing order u/s 271D, which time period is barred by limitation and to quash the penalty order u/s 271D dt. 29.06.2024.*
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> *5. The Ld. CIT(A) ought to have considered that the assessment order I passed on 30.12.2019 u/s 143(3) rws 153A of the Act was set aside by the Hon'ble ITAT Vide order in ITA Nos. 266/Hyd/2021 dt. 10.01.2022, the satisfaction note u/s 271D recorded was not cancelled by the Hon'ble ITAT, and therefore, it cannot be carried to record in the order u/s 254, which thus the order passed u/s 271D on 29.06.2024 is without recording satisfaction.*
>
> *6. The Ld. CIT(A) ought to have considered that no penalty is levied u/s 271D of the Act as the exceptional conditions u/s 2695S are applicable.*
>
> *7. The Ld. CIT(A) ought to have appreciated that the land being agricultural land, the sale proceeds from that land do not represent income so as to attract the provisions of section 271D rws 269SS of the Act*
>
> *8. The Ld. CIT(A) ought to have appreciated that the sale consideration of Rs. 26,19,39,954/- is in the nature of sale and not in the nature of loans or*

advances or deposits and thus there is no violation of provisions of section 271D rws 269SS of the Act.

9. The Ld. CIT(A) ought to have considered that the sale proceeds in respect of the land were directly deposited to the bank account of the assessee by the vendee, and that the provisions of section 269SS are not applicable in the hands of the appellant and thus, the levy of penalty u/s 271D is bad in law.

10. The Ld. CIT(A) ought to have considered that the journal entries were passed only for the sake of matching the books of accounts and the assessee has never received any amount in the form of cash from incredible India Projects Private Limited and thus levy of penalty u/s 271D of the Act is not correct.

11. The Ld. CIT(A) ought to have considered that, when the transaction between the trust and IIPL is genuine, and the same was due to discharging the loan taken from the bank on pledge of the said property in question, then no penal proceedings u/s 271D of the Act are to be initiated in case of the assessee.

12. The 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 brief facts of the case are that, the assessee is a Trust (Society) engaged in providing educational facilities by running various educational institutions. The assessee society has filed its return of income for AY 2016-17 on 21.02.2017 declaring the total income at Rs. Nil, after claiming the exemption under Section 11 of the Income Tax Act, 1961. A search and seizure operation under Section 132 of the Income Tax Act, 1961 was conducted in the case of M/s. Aurora Educational Society and other group concerns on 23.03.2018. Consequent to search, notice under Section 153A of the Income Tax Act, dated 24.12.2018 was issued and served on the assessee. In response to the said notice, the

assessee trust has filed a return of income declaring a nil income as admitted in the original return of income filed under Section 139 of the Income Tax Act, 1961. The assessment has been completed under Section 143(3) r.w.s. 153A of the Act, on 30.12.2019, by assessing the total income of the assessee at Rs. 92,35,26,774/-. Further, during the course of assessment proceedings, proposal for penalty proceedings under Section 271D of the Income Tax Act, 1961 was sent to the learned JCIT, Central Range-2, Hyderabad on 05.09.2019 for violation of provisions of Section 269SS of the Income Tax Act, 1961. The learned JCIT, Central Range – 2, Hyderabad has passed penalty order under Section 271D of the Act, on 23.03.2020 and levied penalty of Rs. 18,73,04,350/- under Section 271D of the Income Tax Act, 1961.

4. Aggrieved by the assessment order passed by the A.O. under Section 143(3) r.w.s. 153A of the Act, dated 30.12.2019, the assessee society filed an appeal before the Ld. CIT(A). The assessee had also filed a simultaneous appeal against the order passed by the learned Addl. CIT, Central Range - 2, Hyderabad under Section 271D of the Act, dated 23.03.2020. The Ld. CIT(A), vide his order dated 28.04.2021 dismissed the appeal of the assessee.

Thereafter, the assessee had filed further appeal before the Tribunal and the ITAT, Hyderabad Benches vide its order in ITA No. 266/Hyd/2021 dated 10.01.2022 remitted the matter back to the A.O. for fresh adjudication as per the law, because the separate appeal filed by the assessee against the order of PCIT (Central), Hyderabad cancelling the registration under Section 10(23C) of the Act, was restored by the Tribunal vide its order in ITA No.318/Hyd/2020 dated 20.04.2021. In so far as the appeal filed against the order passed under Section 271D of the Act, dated 23.03.2020, Ld. CIT(A) allowed the appeal for statistical purposes on the ground that, once the assessment order has been set aside, the penalty proceedings were also need to be set aside. However, the Ld. CIT(A) did not adjudicate the matter on merits.

5. Consequent to the directions of the Tribunal, in its order dated 10.01.2022, the A.O. has completed the assessment under Section 153A r.w.s. 254 of the Act, on 30.03.2023 and assessed the total income at Rs. Nil. During the course of 'de-novo' assessment proceedings, the A.O. observed that, the assessee society has received Rs. 26,19,39,954/- (Rs. 18,73,04,350/- + Rs. 7,46,35,604/-) in cash from Incredible India Projects Private Ltd.

in connection with the sale of land situated at Raigir, Bhongir Village, thereby violating the provisions of Section 269SS of the Income Tax Act, 1961. The A.O. further noted in the assessment order that this information will be forwarded to the JCIT, Central Range – 2, Hyderabad, for taking necessary action in connection with the above sale of land for violating the provisions of Section 269SS of the Income Tax Act, 1961.

6. In view of the above facts and on perusal of the information received from the A.O., i.e., ACIT, Central Circle 2(4), Hyderabad, the Addl. CIT, Central Range -2, Hyderabad issued a show-cause notice under Section 274 r.w.s. 271D of the Income Tax Act, 1961 on 09.12.2023 and called upon the assessee to explain as to why penalty under Section 271D of the Act, shall not be levied for violation of provisions of Section 269SS of the Income Tax Act, 1961. In response to the show-cause notice, the assessee vide letter dated 14.06.2024 and 24.06.2024 raised objections on limitation in light of provisions of Section 275(1)(c) of the Act, and claimed that, the penalty proceedings initiated under Section 271D of the Act, is time-barred. The assessee has also challenged the notice issued by the Addl. CIT under Section 271D for levying

penalty for violation of provisions of Section 269SS of the Act, and claimed that, the impugned land sold by the assessee is an agricultural land and the entire sale proceedings of the land has been deposited by the buyers into bank account of the assessee as per the instructions of the banker, because the property was mortgaged to the bank and unless the bank loan is cleared, the property cannot be sold.

7. The learned Addl. CIT, after considering the submissions of the assessee with regard to the limitation for imposing the penalty under Section 271D of the Act, and also after considering the relevant provisions of Section 275(1)(c) and the CBDT Circular No. 10/2016 dated 26.04.2016, observed that, the period of limitation of penalty proceedings under Section 271D and 271E of the Act, is governed by the provisions of Section 275(1)(c) of the Act. The limitation period is not dependent on the pendency of appeal against the assessment or other order referred to in section 275(1)(a) of the Act. Further, as per the Circular No. 10/2016 dated 26.04.2016, the competent authority to initiate and levy penalty under Section 271D of the Act, is the Joint Commissioner and therefore, only the Joint Commissioner can initiate

proceedings and such initiation of proceedings could not have been done by the A.O. In the present case, the JCIT, Central Range-2, Hyderabad initiated penalty proceedings by issuing notice under Section 274 r.w.s. 271D on 09.12.2023, and the time limit for completion of proceedings as per Section 275(1)(c) is six months from the end of the month in which action for imposition of penalty initiated, and therefore, the time limit available for completion of penalty proceedings is up to 30.06.2024. Therefore, the contention of the assessee has been rejected. The A.O. had also rejected the explanation of the assessee with regard to receipt of sale consideration for sale of land in cash on the ground that, the assessee has violated the provisions of Section 269SS of the Act, by accepting the consideration for sale of property in cash for sale of land situated at Bhongir Village. Since there is a violation of provisions of Section 269SS of the Act, it is a fit case to levy penalty under Section 271D of the Act. Therefore, the JCIT levied penalty of Rs. 26,19,39,954/- under Section 271D of the Income Tax Act, 1961. The relevant portion of penalty order reads as under :

*"**10.** Later, the assessee filed submission on 14.06.2024 & 24.06.2024. The para wise submission is discussed as under:*

1. *Brief facts of the case and issue is pending for adjudication before Higher forum:*

   The Assessing Officer in the original assessment order passed u/s 153A on 30.12.2019 has recorded the satisfaction for initiating the penalty proceedings for an amount of Rs.13,43,37,075/-.

• Appeal is pending before ITAT: Later, the department passed the order u/s 271D of the Act on 23.06.2021 by levying penalty of Rs.13,43,37,075/-

• Aggrieved to the penalty order, assessee went to appeal before CIT(A). The Honourable CIT(A) has passed order by giving relief for penalty order stating that as original proceedings have been set aside, the penalty proceedings also as set aside.

• Aggrieved to the above, assessee went to appeal before Honourable ITAT with ITA No. ITA 192/H/2023 and the same is pending for disposal as on date.

• When the case is pending before tribunal and adjudication is not yet completed, recording of satisfaction for the same issue again and levying of penalty by the assessing officer is incorrect.

• It amounts to re-examining of the same issue earlier which itself has not attained finality. But however, causing prejudice to the assessee by levying penalty on same issue twice.

• Set aside proceedings pending before CIT(A):

Further, this is with reference to above cited subject, firstly we would like to submit that against the order passed u/s 143(3) r.w.s. 254, assessee has filed an appeal before Hon'ble CIT(A) objecting the invocation of penalty and is pending as on date on same issue. When an appeal is pending before Higher forum, new penalty proceedings cannot be invoked. Form 35 is enclosed for your reference.

***10.1** The reply of the assessee is perused and found to be not tenable due to the following reasons:*

***10.1.1** Vide CBDT Circular No.10/2016 [F.NO.279/MISC./M-140/2015-ITJ] dated 26.04.2016, it is clarified that period of limitation of penalty proceedings under sections 271D and 271E of the Act is governed by the provisions of section 275(1)(c) of the Act. The limitation period is not*

dependent on the pendency of appeal against the assessment or other order referred to in section 275(1)(a) of the Act. The said circular is reproduced as under:

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

2. *The Hon'ble Delhi High Court in the case of Commissioner of Income Tax v. Worldwide Township Projects Ltd., vide its order dated 21-05-2014 in ITA No.232/2014, considered the issue and observed that, 'It is well settled that a penalty under this provision is independent of the assessment. The action inviting imposition of penalty is granting of loans above the prescribed limit otherwise than through banking channels and as such infringement of section 269SS of the Act is not related to the income that may be assessed or finally adjudicated. In this view section 275(1)(a) of the Act would not be applicable and the provisions of section 275(1)(c) would be attracted.' The judgment has been accepted by the Central Board of Direct Taxes.*
3. *In view of the above, it is a settled position that the period of limitation of penalty proceedings under sections 271D and 271E of the Act is governed by the provisions of section 275(1)(c) of the Act. Therefore, the limitation period for the imposition of penalty under these provisions would be the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later. The limitation period is not dependent on the pendency of appeal against the assessment or other order referred to in section 275(1)(a) of the Act.*
4. *Accordingly, no appeals may henceforth be filed on this ground by the officers of the Department and appeals already filed, if any, on this issue before various Courts/Tribunals may not be pressed upon.*
5. *The above may be brought to the notice of all concerned."*

10.1.2 *In view of the above, it is clear that period of limitation of penalty proceedings under sections 271D and 271E of the Act is governed by the provisions of section 275(1)(c) of the Act. The limitation period is not dependent on the pendency of appeal against the assessment or other order referred to in section 275(1)(a) of the Act. Therefore, the contention of the assessee that an appeal is pending before Higher forum, new penalty proceedings cannot be invoked is not tenable."*

8. Aggrieved by the penalty order, the assessee has filed an appeal before the Ld. CIT(A) and challenged the order passed by the JCIT imposing penalty under Section 271D of the Act, in light of provisions of Section 275(1)(c) of the Act, and claimed that, the order passed by the Addl. CIT, Central Range -2, Hyderabad is barred by limitation. The assessee has also challenged the penalty levied by the JCIT under Section 271D of the Act, in respect of consideration received for sale of land in cash and also receipt of loans from various persons in cash and claimed that, the land sold by the assessee society is an agricultural land and the same cannot be considered within the meaning of specified sum, as defined under Section 269SS of the Income Tax Act, 1961.

9. The Ld. CIT(A), after considering relevant submissions of the assessee, rejected the grounds taken by the assessee challenging the validity of the order passed by the A.O. under Section 271D of the Income Tax Act, 1961, in light of the provisions of Section 275(1)(c) of the Act, and held that, in this case, show-cause notice under Section 274 r.w.s. 271D of the Act, has been issued on 09.12.2023 and the penalty order was passed on 29.06.2024.

Since the show-cause notice was issued on 09.12.2023, six months from the end of the month in which the show-cause notice was issued would expire on 30.06.2024, whereas the A.O. had passed the penalty order under Section 271D of the Act, on 29.06.2024, which is well within the time period provided under the Act. Therefore, the Ld. CIT(A) rejected the grounds taken by the assessee.

10. The Ld. CIT(A) also rejected the arguments of the assessee on merits and observed that, the assessee had violated the provisions of Section 269SS of the Act, by accepting the sale consideration of land and also acceptance of loan in cash. The arguments of the learned counsel for the assessee that, the impugned land sold by the assessee is agricultural land and which is outside the scope of Section 269SS of the Act, is devoid of merit and cannot be accepted. Therefore, by taking note of relevant facts and also by following certain judicial precedents, including the decision of the Hon'ble Supreme Court in the case of Assistant Director of Inspection (Investigation) Vs. Kum. A.B. Shanthi (2022) 122 taxmann.com 574 (SC), upheld the levy of penalty under Section 271D of the Act.

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

12. The learned counsel for the assessee, Shri P. Murali Mohan Rao, C.A. submitted that, the order passed by the A.O. under Section 271D of the Act, dated 29.06.2024 is barred by limitation in view of the provisions under Section 275(1)(c) of the Act, and the order passed by the A.O. on 29.06.2024 is clearly beyond six months from the end of the month in which penalty proceedings has been initiated under Section 271D of the Act. The learned counsel for the assessee further referring to the assessment order passed under Section 153A r.w.s. 254, dated 30.03.2023 submitted that, in the assessment order in para 7, the A.O. clearly discussed the issue in light of the provisions of Section 269SS of the Act, and held that, there is a violation of provisions of Section 269SS of the Act, and the information will be forwarded to the JCIT, Central Range-2, Hyderabad for taking necessary action in connection with the above cash receipts against the sale of land violating the provisions of Section 269SS of the Act. A similar observation has been made with regard to details of loans received by the assessee in cash and details of repayment of loans in cash.

Since the A.O. has forwarded the information to the Range Head during the course of assessment proceedings and the assessment proceedings have been completed on 30.03.2023, the time limit for completion of penalty proceedings should be considered from the end of the month in which proceedings have been initiated and if we consider the said date, the A.O. ought to have completed the penalty proceedings on 30.09.2023. However, the penalty order was passed on 29.06.2024, which is clearly beyond the time limit prescribed under Section 275(1)(c) of the Act, and liable to be quashed. In this regard, he relied upon the decision of the Hon'ble Karnataka High Court in the case of PCIT Vs. K. Umesh Shetty (2015) 170 taxmann.com 748 and the decision of the Hon'ble High Court of Delhi in the case of PCIT Vs. Mahesh Wood Products (P) Ltd., (2017) 82 taxmann.com 39. The assessee has also relied upon the decision of ITAT, Hyderabad Bench, in the case of Shri Balreddy Gade Vs ACIT in ITA No.575 to 578/Hyd/2025 dated 28.08.2025.

13. The ld. Counsel for the assessee, further submitted that the ld. CIT(A) erred in upholding penalty under Section 271D for violation of provisions of Section 269SS of the Act, and claimed

that, the impugned land sold by the assessee is an agricultural land and the entire sale proceeds of the land has been deposited by the buyers into bank account of the assessee as per the instructions of the banker, because the property was mortgaged to the bank and unless the bank loan is cleared, the property cannot be sold. Therefore, he submitted that since the appellant sold agricultural land and received consideration in cash as per the direction of the bankers, there is reasonable cause for accepting cash and thus, the case of the assessee squarely fall under the provisions of section 273B of the Act, and hence, penalty u/s 271D cannot be levied. In this regard, the ld. Counsel for the assessee relied upon the decision of ITAT, Hyderabad Benches, in appellant Society, members cases in the case of Shri. Ramesh Babu Nimmatoori and others Vs. ACIT, Central Circle 2(4), Hyderabad in ITA. Nos.591/Hyd/2022 and others.

14. The Ld. CIT-DR, Ms. U. Mini Chandran, 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 271D 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 JCIT, Range-2 initiated penalty proceedings under section 271D of the Act, by issuing show cause notice under section 274 r.w.s. 271D of the Act on 09.12.2023 and if we consider six months from the end of the month in which show cause notice was issued i.e. on 31.12.2023, the JCIT shall get time up to 30.06.2024 for passing the order, therefore, the order passed by the JCIT under section 271D of the I.T. Act on 29.06.2024 is well within the limitation provided under the Act. The Ld. CIT-DR 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 271D of the Act for violation of section 269SS 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. 271D of the Act, is relevant for the purpose of computing the limitation for imposing penalty under section 271D of the Act. Therefore, she 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.

15. The learned CIT-DR for the Revenue further submitted that, the Ld. CIT(A) has rightly sustained the penalty levied under Section 271D of the Act, because there is a clear violation of Section 269SS of the Act, by the assessee society, which is evident from the assessment order, where the A.O. has recorded clear finding with regard to the receipt of cash consideration for sale of land in violation of Section 269SS of the Act. Further, the A.O. had also recorded clear finding in respect of acceptance and repayment of loans in cash, in excess of specified limit as per Section 269T of the Act. Although the assessee claims that, the impugned land sold for the year under consideration is agricultural land and the specified sum referred to under Section 269SS of the Act, cannot be stretched to consideration received for sale of land, but as per the provisions of Section 269SS of the Act,

it is very clear that, a specified sum, includes 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. Therefore, the argument of the learned counsel for the assessee that, there is no violation of provisions of Section 269SS of the Act, is devoid of merit and cannot be accepted.

16. We have heard both parties, perused the material available on record and had gone through the orders of the authorities below. We have also carefully considered the relevant provisions of Section 271D, coupled with the provisions of Section 275(1)(c) of the Act. We have also carefully considered the relevant circular issued by the CBDT and also the case laws referred to by the learned counsel for the assessee and the learned CIT-DR for the Revenue. Admittedly, the A.O., in the assessment order dated 30/03/2023 recorded satisfaction and forwarded information, by stating that information of violation of Section 269SS of the Act, will be forwarded to the JCIT, Central Range-2, Hyderabad, for taking necessary action for imposition of penalty under Section 271D of the Act. It is also an admitted fact that there is no reference of the date on which the A.O. had forwarded the

information to the JCIT, either in the assessment order or in the penalty order, because in both the orders, there is no mention of the date of receipt of information from the A.O. Therefore, it is presumed that, the A.O. has passed the information of violation of Section 269SS of the Act, during the course of assessment proceedings under Section 153A r.w.s. 254 of the Act, and because, the A.O. has passed the assessment order on 30.03.2023, it is construed that, the A.O. has forwarded the information to the JCIT, Central Range-2, Hyderabad on 30.03.2023. Further, based on information received from the A.O., the Addl. CIT, Central Range-2, Hyderabad issued notice under Section 274 r.w.s. 271D on 09.12.2023 and passed the order under Section 271D of the Act, on 29.06.2024. Therefore, in light of the above facts, it is necessary for us to adjudicate the grounds taken by the assessee, challenging the validity of penalty order passed by the Addl. CIT on 29.06.2024 under Section 271D of the Act, in light of Section 275(1)(c) and the limitation provided thereon.

17**.** 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 r.w.s 254 of the Act was completed on 30.03.2023 and the action for imposition of penalty under section 271D of the Act has been initiated in the course of assessment proceedings. Therefore, clause (c) of section 275(1)(c) of the Act is applicable, which 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 for imposition of penalty u/s 271D for violation of section 269SS of the Act, on 30.03.2023. Therefore, as per the provisions of section 275(1)(c) of the Act, the limitation for passing order u/s 271D triggers from the date the AO sent proposal to the Range head for taking action, as held by the Hon'ble Karnataka High Court, in the case of Pr. CIT vs. K. Umesh Shetty (Supra), where it has been held that the date of a reference

made by the AO to the Add. CIT for imposition of penalty under section 271D of the Act, was to be treated as triggering point for initiation of penalty proceedings under section 271D 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 271D for violating the provisions of section 269SS of the Act was also initiated in Dec. 2008, and thus, six 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. 271D of the Act. In the present case, the A.O sent reference to the Jt. CIT on 30.03.2023 for taking action for imposition of penalty under section 271D 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 30.03.2023 and for the purpose of determining the limitation period for passing the penalty order u/s 271D, six months from the end of March, 2023 should be considered, but not from 09.12.2023 i.e. date on which the authority issued show cause notice under section 274 r.w.s. 271D of the Act. Since the A.O sent reference to Jt. CIT on 30-03-2023, in our considered view, six months period should be considered from 31.03.2023 and if, we consider the starting point from 1/04/2023, then the Addl. CIT ought to have passed the order under section 271D of the Act on 30.09.2023, whereas in the present case, since the A.O has passed the order under section 271D of the Act on 29.06.2024, in our considered view, it is barred by limitation and the same is non-est in the eyes of law.

18**.** Coming back to the argument of the Ld. CIT-DR 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 271D of the Act, it

is the date on which the JCIT issued a show cause notice under section 274 r.w.s. 271D 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 271D 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, but 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 is 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. CIT-DR in light of the decision 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. CIT-DR for the revenue is also not considered, because facts of the above cases are entirely different from the facts of the assessee case.

19**.** 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.*

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 the 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."

20**.** 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 A.O."

21. 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 12/09/2025. 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."

22. The learned counsel for the assessee has relied upon the decision in the case of Balreddy Gade Vs. ACIT in ITA No.575 to 578/Hyd/2025 dt.28.08.2025. The Co-ordinate Bench, under identical set of facts held as under:

11. We have heard the rival contentions and gone through the material available on record. As far as the alternate submission of the Revenue under Explanation (i) to section 275 of the Act is concerned, it is crucial to go through the same along with section 129 of the Act, which is reproduced as under :

" Bar of limitation for imposing penalties.

275 (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 the58-59[Joint Commissioner (Appeals) or to the] Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the58-59[Joint Commissioner (Appeals) or the] Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, whichever period expires later :

……..

……..

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) ……

(iii) ……. shall be excluded."

(iv) "Change of incumbent of an office.

129. Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard."

12. On perusal of above, it is abundantly clear that, where there is a change of incumbent, the succeeding officer shall give the assessee an opportunity of being reheard, and if such an opportunity is demanded by the assessee, the time so taken shall be excluded in computing the limitation. In the present case, the Revenue has not been able to produce any evidence to demonstrate that the assessee had specifically requested for rehearing under section 129 of the Act. The exclusion contemplated in the Explanation (i) to section 275 of the Act applies only when there is such a request. In this regard, we have gone through the decision of the Hon'ble Patna High Court in CIT vs. S.P. viz Construction Co. (supra), wherein at para no.10 of its order, the Hon'ble High Court has stated as under :

> *"10. No one appeared on behalf of the assessee.*
>
> *The first point to be considered is as to whether by reason of the proviso to section 129, the ITO was entitled to the benefit of the exclusion of any time which may have been taken by him to give an opportunity to the assessee of being heard in consonance with the principles of natural justice. No doubt, under section 129 noted hereinbefore, an assessee has a right to demand that before the successor-ITO continues any proceeding initiated by his predecessor or any part thereof, he should reopen any part of the proceeding or rehear the assessee before any final order of assessment was passed. In the instant case, there was no such demand from the assessee under section 129. The successor-ITO was entitled under the said section to continue the proceeding from the stage at which the same had been left by his predecessor. At the highest, it can be contended that the successor-ITO, who continues the proceeding from the stage at which the same had been left should have issued a further notice to the assessee stating that he intended to continue the proceeding. The successor-ITO did not do so in the instant case."*

13. On perusal of above, we found that, there should be a specific demand for rehearing from the assessee under section 129 of the Act. However, in the present case before us, we do not find any specific demand for rehearing from the assessee. Therefore, considering the observation of the Hon'ble Patna High Court, we hold that, in the absence of such a request, the question of exclusion does not arise. Accordingly, the alternate plea of the Revenue is rejected.

14. The other core issue before us is whether the limitation is to be reckoned from the date of reference by the Ld. AO to the Ld. Addl. CIT (18.01.2017) or from the date of notice issued by the Ld. Addl. CIT (14.02.2017). We have considered the decisions cited by both the parties. The Hon'ble Kerala High Court in Grihalakshmi Vision (supra) held that the initiation date is the date of notice issued by the Joint Commissioner. We have also gone through the decision of the Hon'ble Karnataka High Court in PCIT vs. K. Umesh Shetty (supra), wherein from para nos.6.7 to 6.9 of the order, the Hon'ble High Court has dealt with the issue, which is to the following effect :

> *" 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.*
>
> *6.8. The reliance of Panel Counsel for the Revenue on the Coordinate Bench decision in Commissioner of Income-tax v. Tam Tam Pedda Guruva Reddy (2006) 287 ITR 72 (Kar) does not come to his aid since the same has been rendered largely fact-specific. The other decision namely Grihalakshmi Vision v. Additional Commissioner of Income-tax (2015) 63 taxmann.com 196 (Kerala) observed as under:*
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> *"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 v. 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 the 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." ”

15. On perusal of above we found that, the Hon’ble Karnataka High Court in PCIT vs. K. Umesh Shetty (supra), after considering the decision of Hon’ble Kerala High Court as well as the CBDT Circular No.09/DV/2016, has held that the reference made by the Ld. AO to the Ld. Addl. CIT is the date of initiation of penalty proceedings for the purpose of section 275(1)(c) of the Act. This decision of the Hon’ble Karnataka High Court, being later in time ITA Nos.575 to 578/Hyd/2025 18 (17.01.2025) and after the CBDT circular (supra), deserves to be followed.

16. Further, even assuming there are two possible interpretations, one favouring the Revenue (Hon’ble Kerala High Court) and the other favouring the assessee (Hon’ble Karnataka High Court), the settled law laid down by the Hon’ble Supreme Court in CIT vs. Vegetable Products Ltd. [88 ITR 192] is that where two views are reasonably possible, the one favourable to the assessee must be adopted. Therefore, applying the ratio of the Hon’ble Karnataka High Court to the present case, we hold that the penalty proceedings are deemed to have been initiated on 18.01.2017, when the Ld. AO made a reference to the Addl. CIT. Consequently, the last date for passing the penalty order would be 31.07.2017. Since the order was passed on 31.08.2017, it is barred by limitation.

17. In view of the above discussion, we hold that the Revenue’s alternate plea for exclusion of time under Explanation (i) to section 275 of the Act fails, as there is no evidence of any request by the assessee for rehearing. Further, following the binding decision of the Hon’ble Karnataka High Court in PCIT vs. K. Umesh Shetty (supra) and in light of the principle laid down by the Hon’ble Supreme Court in CIT vs. Vegetable Products Ltd. (supra), we hold that, the penalty order dated 31.08.2017 is barred by limitation under section 275(1)(c) of the Act. Accordingly, we quash the penalty order passed by the Ld. Addl. CIT.”

23. In the present case, there is no dispute with regard to the fact that, the penalty proceedings have been initiated by the A.O. by sending the information of violation of provisions of section 269SS of the Act, during the assessment proceedings and therefore, in our considered view, the period of limitation as per

section 275(1)(c) commences from the end of the month in which the action for imposition of penalty has been initiated on 31.03.2023 and if we consider the above date, the A.O. ought to have completed the penalty proceedings on or before 30.09.2023. Since the order passed by the A.O., imposing penalty under section 271D of the Act, dated 29.06.2024 is beyond six months from the end of the month in which the action for imposition of penalty has been initiated, in our considered view, the order passed by the A.O. under Section 271D of the Act, dated 29.06.2024 is beyond the limitation provided under Section 275(1)(c) of the Act, and is liable to be quashed. Thus, we quash the order passed by the A.O. under Section 271D of the Act dated 29-06-2024 for Asst. Year 2016-17.

24. Coming back to the penalty levied by the A.O. under Section 271D of the Act, for violation of provisions of Section 269SS of the Act, for accepting sale consideration, in cash towards the sale of immovable property. The provisions of sec.271D of the Act, deals with penalty for failure to comply with the provisions of sec.269SS of the Act. As per the provisions of sec.271D of the Act, “if a person takes or accepts any loan or deposit or specified sum in

contravention of sec.269SS of the Act, he shall be liable to pay by way of penalty a sum equal to the amount of the loan or deposit or specified sum so taken or accepted". The term "specified sum" has been defined in sec.269SS of the Act, which means, "any sum of money receivable whether as advance or otherwise in relation to transfer of any immovable property whether or not, the transfer takes place". In the present case, the Assessing Officer has levied the penalty u/sec.271D of the Act for accepting cash for sale of immovable property within the meaning of the "specified sum" as defined u/sec.269SS of the Act. It was the argument of the Counsel for the Assessee that, the property sold by the assessee is an agriculture land, situated beyond the limit specified under section 2(14) of the Act and it is not a capital asset and, therefore, it was under the bonafide belief that, accepting cash for sale of agriculture land, does not attract provisions of sec.269SS of the Act and consequently, provisions of sec.271D of the Act, is not attracted. Learned Counsel for the Assessee took us to the Order passed by the Tribunal in the case of Shri. Ramesh Babu Nimmatoori and others Vs. ACIT, Central Circle 2(4), Hyderabad in ITA. Nos.591/Hyd/2022 and others dated 14.08.2024 and

submitted that, the Tribunal has considered the land sold by the assessee and held that, "it is an agriculture land situated beyond the specified limit and consequently is not liable to tax". We find that, the Tribunal has considered the very same land sold by the assessee to M/s. Incredible India projects Private Limited and M/s. Aishwarya Infra Developers and upon consideration of relevant facts, came to the conclusion that, impugned land sold by the assessee is an agriculture land and outside scope of the income tax. Therefore, it is necessary for us to examine the arguments of the Counsel for Assessee in light of provisions of secs.269SS of the Act and 271D of the Act and 273B of the Act.

25. First of all, we have to understand, whether the transaction of sale of agricultural land in cash attracts the provisions of sec.269SS of the Act and if so, whether the assessee has demonstrated 'reasonable cause' envisaged under section 273B of the Act so as to levy penalty u/sec.271D of the Act. It is not disputed that, the transactions in the present case are genuine and duly recorded in the Registered Sale Deed. The land sold by the appellant is agricultural land and is not a capital asset within the meaning of section 2(14) of the Act. The assessee has

explained that, cash was received at the time of sale of agriculture land on the bonafide belief that, agriculture land is exempt from tax and consequent receiving cash for sale of said agriculture land, will not attract provisions of sec.269SS of the Act and sec.271D of the Act. In our considered view, provisions of sec.271D of the Act, is not automatic and the exceptions of 'reasonable cause' exonerates an assessee to exempt from penalty. The Hon'ble Supreme Court in the case of CIT vs., M/s. Eli Lilly and Company (India) Private Limited, [2009] 312 ITR 225 (SC) held that, penalty provision, such as sec.271C r.w.s.273B of the Act are not automatic and the exceptions of 'reasonable cause' exonerates an assessee from penalty. The Hon'ble Supreme Court observed that, "where a tax payer acts under a bonafide belief or in a situation where the legal position is un-settled and there is no intention to evade tax, penalty is not warranted". The sum and substance of ratio laid down by the Hon'ble Supreme Court was that, levy of penalty is not automatic and it depends upon the explanation of assessee in light of provisions of section 273B of the Act and if explanation of assessee comes under 'reasonable cause', then, the penalty u/sec.271D of the Act, cannot be levied.

In the present case, going by the facts available on record, the assessee has satisfactorily demonstrated a 'reasonable cause' for the acceptance of cash consideration for sale of agriculture land. There is no material brought on record by the Revenue to establish any malafide intention or tax evasion. The transaction was part of bonafide sale of agriculture land and squarely falls within the protective ambit of section 273B of the Act. Therefore, in our considered view, once the assessee has explained the reasons for accepting cash consideration for sale of agriculture land and the said explanation is bonafide and reasonable, merely for accepting cash for sale of land, the transaction cannot be brought under sec.269SS of the Act, and thus, the rigor of provisions of sec.271D of the Act, cannot be invoked.

26. Coming back to another argument of Counsel for the Assessee. The term "specified sum" has been inserted in section 269SS of the Act w.e.f. 01.06.2015 by the Finance Act 2015. The memorandum explaining the Finance Bill 2015, narrates the purpose of insertion of the term "specified sum" u/sec.269SS of the Act and as per the memorandum explaining the Finance Bill, the "specified sum" would mean any "sum of money in the nature

of advance by whatever name called in relation to transfer of an immovable property whether or not the transfer takes place or not". If we go by the purpose of insertion of term "specified sum" u/sec.269SS of the Act and explanation to the Finance Bill 2015, in our considered view, the legislature has intended to curb the black-money in immovable property transactions. If we go by the said amendment, in our considered view, stretching the genuine consideration received for sale of an immovable property including agriculture land before the witnesses at the time of registration, cannot be brought within the ambit of the term "specified sum" merely because, the same has been received in cash. In our considered view, if we really understand the purpose of insertion of said term in sec.269SS of the Act, it is only to check the abuse of law by the tax-payers by entering into various kinds of agreements for transfer of immovable property showing consideration paid or received in cash and finally the registration has not taken place. In a situation, where the consideration paid for transfer of any immovable property at the time of registration before the witnesses and further, the said transaction is a genuine transaction and also part of regular books of accounts of the

assessee or disclosed in the return of income filed for the relevant assessment year, then, in our considered view, the said transaction cannot be brought within the ambit of "specified sum" merely because the 'consideration' has been received in cash. Therefore, we are of the considered view that, imposition of penalty u/sec.271D of the Act for violation of provisions of sec.269SS of the Act towards consideration received in cash for sale of agriculture land by bringing the said consideration within the ambit of "specified sum" as defined u/sec.269SS of the Act is totally incorrect and defeats the very purpose of law. Since, the assessee has accepted the cash consideration for sale of agriculture land, which is outside the scope of capital asset as defined under section 2(14) of the Act and further, it is exempt from tax, in our considered view, the said transaction cannot be brought within the ambit of provisions of sec.269SS of the Act, for the purpose of sec.271D of the Act.

27**.** Coming back to case law relied upon by the Learned Counsel for the Assessee. The Counsel for the Assessee relied upon decision of ITAT, Bangalore Bench in the case of Rakesh Ganapathy vs., JCIT [2025] 170 taxman.com 239. We have

considered the relevant case law relied upon by the Counsel for the Assessee and the facts of the present case and we find that, the case of the assessee squarely covered by the decision of ITAT Bangalore Bench in the case of Rakesh Ganapathy vs., JCIT (supra). The Coordinate Bench of ITAT, Bangalore on identical set of facts in light of penalty levied u/sec.271D of the Act, has held as under:

8. We have heard the rival submissions and perused the materials available on record. On going through the assessment order passed u/s 143(3) of the Act dated 30.4.2019, we take a note of the fact that there is no finding of AO regarding any violation of provision of section 269SS of the Act. The order of the assessment is very cryptic and only states that after carefully examining the details furnished by the assessee, the assessment is completed accepting the returned income. We also take a note of the fact that penalty proceedings u/s 271D of the Act were not initiated by AO on or before the completion of assessment proceedings. Thereafter to the surprise of the assessee, a notice u/s 274 r.w.s. 271D of the Act was issued to the assessee on 30.6.2022 by the ld. JCIT Range-4(3), Bangalore after a gap of more than 3 years. On going through the submissions made before the authorities below, we find that the assessee along with others has sold an ancestral property (agricultural property) situated at Plot No.135/5, Kodagu district, Virajpet Taluk, Balele Hobli, Kottagri village measuring 3.30 acres for a total sale consideration of Rs.29,28,000/- to agriculturists who are relatives (blood related) of the assessee. During the course of proceedings, the assessee explained his shares out of total sale consideration of Rs.29,28,000/- is Rs.14,64,000/- and his share of total sale consideration were received in cash. The assessee was under the honest and Bonafide belief that the agricultural property sold to his relatives who are agriculturists is not covered u/s 269SS of the Act. Further, the assessee was also under the honest and Bonafide belief that as the agricultural land is exempt u/s 2(14) of the Act, the sale proceeds received from the agricultural land is exempt and therefore, sale proceeds received from sale of such agricultural lands is also not covered u/s 269SS of the Act. We are of the considered opinion that assessee has received cash amounting to Rs.14,64,000/- towards the sale consideration for transfer of his agricultural land. In the instant case, the sale of property and consequent receipt of sale consideration in cash are not disputed by the either side. The assessee had only sold an ancestral property on a honest and Bonafide belief that same are not covered under the provisions of the section 269SS of the Act accepted the sale consideration in cash. On identical set of facts, the coordinate bench of ITAT, Bangalore in the case of *Smt. Pushpalatha* v. *ITO* [2024] 165 taxmann.com 767 (Bangalore - Trib.) has held that where the assessee sold a property and received cash exceeding Rs.20,000/- as part of sale consideration having no knowledge of tax law there was reasonable cause as mandated u/s 273B of the Act for failure to comply with section 269SS of the Act. Hon'ble ITAT therefore, held that the penalty u/s 271D of the Act was not warranted and hence deleted. The relevant paragraph of the Hon'ble ITAT is reproduced below for ease of reference and record:

> 9. We have heard the rival submissions and perused the material on record. Admittedly, assessee had received cash amounting to Rs.49,10,000/- towards sale consideration for transfer of her immovable property. It is the contention of the learned AR that receipt of such sale consideration is not covered under the provisions of section 269SS of the Act as the scope of said section is limited to receipt of money in the nature of advance. To adjudicate the issue, we need to examine the relevant provision of section 269SS of the Act, which reads as follows:
>
> *"269SS. Mode of taking or accepting certain loans, deposits and specified sum.*
>
> No persons hall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque.....
>
> Explanation. — For the purposes of this section, —
>
> .....
>
> (*iv*) "specified sum" means any sum of money receivable, whether as advance or otherwise, in relation to transfers of an immovable property, whether or not the transfer takes place.
>
> (Emphasis supplied)"
>
> 10. The doctrine of Ejusdem Generis is a latin maxim meaning "of the same kind and nature". According to the Black's Law Dictionary, "the principle of Ejusdem Generis is where general words follow an enumeration of persons or things by particular and specific words. Not only these general words are construed but also held as applying only to persons or things of the same general kind as those specifically enumerated.". We are of the view that the word "otherwise" used under section 269SS of the Act cannot include "sale consideration" as the word "otherwise" should be read in accordance with the principle of Ejusdem Generis. The word "otherwise" should draw its colour from other words used in the provisions contained in section 269SS of the Act *i.e.*, "money receivable as an advance". Invoking the doctrine of Ejusdem Generis, we are of the view that the term "otherwise" should be interpreted in a narrow sense and it must include the words similar to "money receivable, as advance". In other words, the term "otherwise" cannot be given a wider interpretation. The Hon'ble Supreme Court in the case of

Kamlesh Kumar Sharma v. *Yogesh Kumar Gupta* reported in (1998) 3 SCC 45 held that wherever there is term "otherwise" the word is to be given a restricted meaning. The relevant finding of the Hon'ble Apex Court reads as follows:

> "13. We find, after giving our careful consideration that in case the appellant's' argument is accepted by giving wider interpretation to the word "otherwise", it would thwart the very object of the Act.... The word "otherwise" has to be read as ejusdem generis, that is to say, in group similar to death, resignation, long leave vacancy, invalidation, person not joining after being duly selected.... Hence the word "otherwise" cannot be given the wide and liberal interpretation which would exclude a large number of expected applicants who could be waiting to apply for the vacancies occurring in the succeeding year in question."

11. Further, the Hyderabad Bench of the Tribunal in the case of Suman Savings and Investments Pvt. Ltd., reported in [1987] 23 ITD 345 (Hyderabad), had accepted the Department's contention that the principle of Ejusdem Generis should be applied to the term "otherwise" in section 40A(8)(*c*)(*iv*) of the Act and that it should be interpreted within the context in which it is used. The relevant finding of the Hyderabad Bench of the Tribunal reads as follows:

> "9. We are not persuaded by the contention of Sri Parthasarathy that the term 'otherwise' occurring in sub-cl. (*iv*) of cl. (*c*) of Explanation to sub-s. (8) of s. 40A would cover the chit fund business. The Legislature in its superior wisdom has used the term 'otherwise' in juxtaposition with 'loans' and 'advances'. There is force in the contention of the learned departmental representative that the principle of ejusdem generis should be applied and the term should be interpreted in the context in which it is used. There are several methods of financing in addition to making loans or advances, as for instance, by making deposits for a fixed term, by underwriting or standing as surety or guaranteeing the loan for a fee or a commission. In our view, in the context in which the term 'otherwise' occurs in the said subcl. (*iv*), it is only such other modes of financing which are envisaged but not the chit transactions which are totally alien in this context."

12. Further, we find that the AO could have initiated penalty proceedings only under section 269ST of the Act instead of section 269SS of the Act. Section 269ST of the Act places restriction on the assessee who receives an amount of Rs.2,00,000/-or more. In the instant case, the amount received as consideration for the transfer of immovable property would be covered under the rigor of section 269ST of the Act and not under section 269SS of the Act. On identical facts, the Chennai Bench of the Tribunal in the case of ITO v. Shri. R. Dhinagharan (HUF) (*supra*) had held that the consideration received on execution of the sale deed would not be covered under section 269SS of the Act but only an advance in relation to sale of property. The Chennai Bench of the Tribunal, after considering the relevant provisions of the Act and the Circular issued by the Board, had held 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:
>
> > A "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, 201.5 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 Incometax 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 Incometax 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 withmore 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 anadvance, 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 brining 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 subregistrar 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."

13. Similar view has been held by the Hyderabad Bench of the Tribunal in the case of Ramkumar Reddy Satty v. ACIT (*supra*). The Hyderabad Bench of the Tribunal followed the Order of the Chennai Bench of the Tribunal in the case of ITO v. Shri. R. Dhinagharan (HUF) (*supra*).

14. Further, on the facts of the present case, we find there is "reasonable cause" as mandated under section 273B of the Act, for the failure to comply with section 269SS of the Act. Section 269SS of the Act was amended by the Finance Act, 2015, wherein the term "specified sum" was introduced to include amount received for transfer of immovable property as a measure to curb generation of black money. The relevant extract of the memorandum of Finance Bill, 2015, reads as follows:

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.

[Clauses 66, 67, 69 & 70]

15. In the present case, there was no intention, whatsoever, to generate unaccounted money/black money as the assessee had recorded the receipt of entire cash in the registered sale deed and duly disclosed the same in the return of income filed. Assessee had also claimed exemption under section 54 of the Act towards construction of residential house. In this context, it is pertinent to note that the claim made by the assessee under section 54 of the Act has been allowed by the AO in the assessment completed. Copy of the bank statement and the Assessment Order dated 09.12.2019 is placed on record. Therefore, it is clear that there is no unaccounted money / black money in the transaction. Moreover, we find that in this case

there was no agreement to sell executed between the parties as is evident from the sale deed. Therefore, the assessee had no legal right to enforce the sale. All the payments were made through DD and cheques and cash was paid to the assessee only on the date of sale deed being executed. Hence, denial by the assessee to receive the consideration in cash would have resulted in failure of sale of the said property. Moreover, the amendment effected by Finance Act, 2015, to section 269SS of the Act, which had laid a restriction for receiving cash for transfer of immovable property would not have come to the knowledge of the assessee who is a woman having elementary education and no knowledge of tax laws. She would have not been under a belief that there was contravention of any provision of the Act. On identical facts, the following judicial pronouncements had held that there is "reasonable cause" as mandated under section 273B of the Act :

a. Smt. Vijapurapu Sudha Rao reported in [2023] 157 taxmann.com 669 (Visakhapatnam - Trib.)

b. Smt. Anuradha Chivukula Challa in IT(IT)A No.585/Bang/ 2022 :

Asst.Year 2017-2018 dt. 14.09.2022

c. Sri Padmanabha Mangalore Chowta in ITA No.1147/Bang/2022 dt. 07.03.2023

d. Narendrakumar Chunilal Soni ITA No. 195/A11d/2022 dt. 17.05.2023

e. Kanchumarthi Venkata Sita Ramachandra Rao, Rajahmundry reported in 2022 (9) TMI 53 - ITAT VISAKHAPATNAM

16. In view of the aforesaid reasoning and judicial pronouncements cited, we hold that on the facts of the instant case, penalty under section 271D of the Act, is not warranted and we delete the same. It is ordered accordingly."

8.1 Respectfully following the above decision of this coordinate bench in the present case also, there was no intention whatsoever to generate unaccounted money/black money as the assessee had recorded the entire receipt of cash in the registered sale deed and duly disclosed the same not only in the return of income but also during the course of assessment proceedings. The ld. AO has also accepted the returned income while passing order u/s 143(3) of the Act. In view of the aforesaid reasoning and judicial pronouncements cited, we hold that the fact of the instant case penalty u/s 271D of the Act is not warranted and accordingly, we delete the same. It is ordered accordingly.

28**.** Coming back to the case laws relied upon by the learned CIT-DR for the Revenue. The learned CIT-DR for the Revenue has relied upon decision of Hon'ble High Court of Madras in the case of P. Bhaskar vs., CIT 340 ITR 560 (Mad.). We have gone through the relevant case law relied upon by the learned CIT-DR for the Revenue and we find that, in the above case, it was the finding of

the Hon'ble High Court of Madras that, "where there was no material to show that in fact there was a real exigency that compelled assessee to go for cash loan, penalty u/sec.271D of the Act rightly levied." In the present case, going by the facts available on record, there is a 'reasonable cause' for the assessee for accepting cash for sale of agricultural land on the bonafide belief that, said transaction is outside the scope of sec.269SS of the Income Tax Act, 1961. Therefore, in our considered view, the case law relied upon by the Revenue is not applicable and thus, rejected. Further, the learned CIT-DR for the Revenue relied upon Judgment of Hon'ble Supreme Court in the case of Assistant Director of Inspection vs., Kum. A.B. Shanti (supra). We once again do not appreciate the arguments of Revenue in light of above Judgment going by the facts on record because, the issue before the Hon'ble Supreme Court in the above case is constitutional validity of sec.269SS of the Act and penalty u/sec.271D of the Act, but, it does not deal with facts related to 'reasonable cause' provided u/sec.273B of the Act. Therefore, the case law relied upon by the learned CIT-DR for the Revenue does not come to the rescue of the Revenue and thus, rejected.

29**.** In this view of the matter and considering the facts and circumstances of the case, we are of the considered view that, the Addl. CIT, Central Range-2, Hyderabad is erred in levying penalty u/sec.271D of the Act, for contravention of sec.269SS of the Act towards consideration received in cash for sale of agricultural land. The learned CIT(A) without considering the relevant facts, has simply sustained the penalty levied by the Assessing Officer. Thus, we set aside the order of the learned CIT(A) and direct the Assessing Officer to delete the penalty levied u/sec.271D of the Income Tax Act, 1961

30. In the result, the appeal filed by the assessee in ITA No.1255/Hyd/2025 for A.Y. 2016-17 is allowed.

31. The facts and issues involved in appeals for AY 2017-18 and 2018-19 are identical to the facts and issues which we had considered in assessee's own case for AY 2016-17 in ITA No. 1255/Hyd/2025. But for the figures, the issue on limitation and on merits is identical to the AY 2016-17. The reasons given by us in preceding **paragraph nos.16 to 29**, shall mutatis and mutatis apply to these appeals, as well. Therefore, for similar reasons, we quash the assessment order passed by the A.O. under section

271D of the Act, being barred by limitation in terms of section 271(1)(c) of the Act. Further, we delete the penalty levied by the A.O. under section 271D of the Act, for violation of section 269SS of the Act, in respect of cash received for sale of agricultural land in the appeals filed by the assessee for the assessment years 2017-18 and 2018-19.

32. In the result, the appeals of assessee in ITA Nos.1256 and 1257/Hyd/2025 for A.Y. 2017-18 and 2018-19 are allowed.

33. To sum up, all the appeals of assessee are allowed.

Order pronounced in the Open Court on 27th March, 2026.

Sd/- (श्री रवीश सूद) **(RAVISH SOOD)** **न्यायिक सदस्य/JUDICIAL MEMBER**	**Sd/-** (मंजूनाथ जी) **(MANJUNATHA G.)** **लेखा सदस्य/ACCOUNTANT MEMBER**

Hyderabad, dated 27.03.2026.
TYNM/sps

आदेशकी प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Aurora Educational Society, C/o. P. C/o. P. Murali and Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad – 500082.
2.	राजस्व/ The Revenue	:	The Assistant Commissioner of Income Tax, Central Circle 2(4), Hyderabad.
3.	The Principal Commissioner of Income Tax, Central, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

TIRUPATI YAMINI NAGA MALLESWARI

Digitally signed by TIRUPATI YAMINI NAGA MALLESWARI
Date: 2026.03.27 17:07:56 +05'30'

Sr. Private Secretary
ITAT, Hyderabad