

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (DB) BENCH, AGRA**

**BEFORE: SHRI M BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 167/Agr/2025
Assessment Year: 2017-18**

ACIT, Aayakar Bhawan, Sanjay Place, Agra- 282002	Vs.	Saurabh Gupta, A-185/4, Kamla Nagar, Agra-282005
PAN : AEBPG3309K		
(Appellant)		(Respondent)

Assessee by	Shri Anurag Sinha, Adv.
Department by	Shri Anil Kumar, Sr DR

Date of hearing	22.01.2026
Date of pronouncement	17.04.2026

ORDER

PER: SUNIL KUMAR SINGH, JM.

The appellant revenue has preferred this appeal against the impugned order dated 24.01.2025 passed in Appeal No CIT(A)-IV/KNP/12141/2016-17 by the Id Commissioner of Income Tax, Appeals (hereinafter referred to as the "CIT(A) for A.Y. 2017-18, wherein Id CIT(A) has allowed assessee's first appeal annulling penalty imposed u/s. 271E of the Income Tax Act, 1961 vide penalty order dated 29.05.2023.

2. The brief facts relating to the appeal state that assessee e-filed original return of income for the A.Y. 2017-18 on 14.12.2017, declaring total income at Rs. 23,99,800/-. The return was processed u/s. 143(1) of the Act.

Further a search and seizure action u/s. 132 of the Act was carried out on 26.09.2017 in BNR Group of cases. The assessment proceedings were completed u/s. 143(3) r.w. section 153 C of the Act on 31.12.2022. The addition of Rs. 91,10,400/- was made u/s 69A r.w. section 115 BBE of the Act on account of unexplained money on the basis of documents seized from the premise of one Shri Amit Shukla. The penalty proceedings u/s 271E was separately initiated and the penalty of Rs. 91,10,400/- was imposed u/s. 271E of the Act vide penalty dated 29.05.2023 for the contravention of section 269T of the Act.

3. Aggrieved assessee preferred an appeal before Id CIT(A), who has deleted the aforesaid penalty on the ground that the said addition of Rs. 91,10,400/- made vide assessment order dated 31.12.2022 was deleted vide order dated 30.11.2023 passed by Id CIT (A) in appeal No CIT(A)/KNP/12059/2016-17.

4. Aggrieved, revenue preferred this appeal on the following grounds:

“1. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-IV, Kanpur has erred in deleting the penalty of Rs. 91,10,400/- imposed u/s 271E of the Income Tax Act, 1961 solely on the ground that quantum addition has been deleted by the Ld. CIT (A) vide appellate order dated 30.11.2023 in appeal No. CIT(A)-IV/KNP/12059/2016-17, without appreciating the fact that quantum addition was deleted on erroneous finding on identity differentiation of the person whereas seized documents inventorized as page no. 142 to 145 of LP-3 undoubtedly speak that the person whose name appears as "Saurabh" in the incriminating documents seized from the residence of Shri Amit Shukla, Agra, is the same person assessed by the AO.

2. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-IV, Kanpur has erred in deleting the penalty of Rs. 91,10,400/- imposed u/s 271E of the Act, ignoring the fact that provisions of section 292C of the Act are applicable in assessee's case and the seized documents clearly prove that

the assessee has repaid loan of Rs. 91,10,400/- in cash in contravention to the provisions of section 269T rendering him liable for imposition of penalty u/s 271E of the Act.

3. Whether on facts and circumstances of the case and in law, the Ld. CIT(A)-IV, Kanpur while deleting the penalty has overlooked the facts that penalty proceeding on violation of provisions of section 269T of the Act is independent and distinct proceeding which has no correlation with the quantum addition. Hence, Ld. CIT (A) is not justified in deleting the penalty on the basis of deletion of quantum addition despite the fact that order of Ld. CIT (A) deleting the quantum addition has not attained finality as appeal filed by the department against the impugned order of Ld. CIT (A) is pending for adjudication before the Hon'ble Income Tax Appellate Tribunal.

4. That the above grounds are without prejudice to each other and appellant craves leave to add or amend any other more ground of appeal as stated above as and when needs for doing so may arise.”

5. We have perused the records and heard Id Sr. DR for the appellant revenue and Id representative for the respondent assessee.

6. Ld Sr DR for the appellant revenue has submitted that the quantum addition was deleted by Id CIT(A) on erroneous finding, ignoring the provisions of section 292C of the Act and overlooking the fact that section 269T of the Act is independent and has no correlation with the quantum addition. Ld Sr DR has supported the penalty order and prayed to allow revenue's appeal.

7. Ld AR for the respondent assessee has submitted that the matter is covered by the order dated 15.01.2026 passed in ITA No. 165/166/Agr/2025 for A.Y. 2015-16 in assessee's own case, submitting that the impugned order has rightly been passed by the Id CIT(A) and prayed to dismiss revenue's appeal.

8. The main point for consideration under appeal is as to whether Id CIT(A) has erred in deleting the penalty of Rs. 91,10,400/- imposed u/s. 271E of the Act for the contravention of the provisions of section 269T of the Act.

9. It is not disputed that in the instant case this tribunal, vide order dated 13.02.2025 passed in ITAs 36&37/Agr/2024 (A.Y.s 2015-16 & 2017-18) has confirmed the order dated 30.05.2022 passed by the Id CIT(A), deleting the impugned addition.

10. The relevant Paras 5 & 6 of the order dated 15.01.2026 passed by this tribunal in ITA No 165&166/Agr/2025 (A.Y. 205-16) in assessee's own case, read as under:

“5. The principal issue for adjudication under appeal is as to whether the learned CIT(Appeals) erred in deleting the penalties when the quantum additions had already been deleted?

6. It is undisputed fact that the additions made by the Assessing Officer have been deleted by the first appellate authority, vide order dated 30.11.2023 passed in Appeal No. CIT (A)-IV/KNP/10331/2014-15, which has been confirmed by ITAT vide order dated 13.02.2025 passed in ITA No. 36 & 37/Agr/2024 for A.Yrs. 2015-16 & 2017-18. The impugned penalties were levied solely on the basis of those additions and were thus consequential in nature. Ld. CIT(Appeals) relied K.C. Builders vs. ACIT, 135 Taxman 461(SC), wherein Hon'ble Apex Court held that where the additions in the assessment order, on the basis of which penalty was levied, are deleted, there remains no basis at all for levying the penalty. Since the additions forming the very basis of the penalty proceedings are deleted, the very foundation of the penalties collapse. The penalties cannot thus be sustained independently. The law mandates that the Assessing Officer must record satisfaction regarding the alleged violation of sections 269SS and 269T of the Act in the assessment order itself for valid initiation of penalty proceedings under sections 271D and 271E of the Act. When such an assessment order is annulled or set aside by a higher authority, the satisfaction recorded therein also ceases to exist, rendering the penalty proceedings invalid. In view of the above, we find no infirmity in the orders passed by the learned CIT(Appeals) deleting the impugned penalties. Accordingly, both the appeals filed by the Revenue are dismissed.”

11. Respectfully following the aforesaid order of this tribunal, we hold that Id CIT(A) has rightly deleted the impugned penalty. The aforesaid point is accordingly determined in negative against the appellant revenue. The appeal is liable to be dismissed.

12. In the result, the revenue's appeal is dismissed.

Order pronounced on - 17.04.2026

**Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 17.04.2026

*Aamir Siddiqui, PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra