



IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : A : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.2225 & 2226/Del/2025
Assessment Years : 2018-19 & 2019-20

ACIT,
Central Circle-30,
New Delhi

Vs. Seven Seas Hospitality Private Ltd.,
B-28, Lawrence Road Industrial Area,
Near Britania Chowk,
Keshav Puram,
North West Delhi
Delhi – 110 055.

PAN: AAKCS5183M

(Appellant)

(Respondent)

Assessee by : Shri Anil Jain, CA &
Shri Pritam Kumar, Advocate
Revenue by : Shri Amit Jain, CIT-DR
Date of Hearing : 10.09.2025
Date of Pronouncement : 14.11.2025

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by the Revenue against the orders dated 09.12.2024 of the Commissioner of Income-tax (Appeals)-30, New Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in appeals No.30/10331/2017-18 and No.NFAC/2018-19/10157929 arising out of the appeals before it against the orders dated 15.06.2022 and 14.06.2022,

respectively, passed u/s 271DA of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the Addl.CIT, Central Range-8, New Delhi (hereinafter referred to as the Ld. AO).

2. On hearing both the sides, we find that the ld. DR has primarily challenged the impugned order of the ld.CIT(A) on the basis that there is no requirement in the Act for recording satisfaction giving rise to limitation question. As the facts are common we will narrate and consider the facts and findings of AY 2018-19 to decide both the appeals.

3. The facts, in brief, are that a search was conducted on the various premises of M/s Seven Seas Hospitality Pvt. Ltd. and residence of the directors on 03.05.2018. During the course of search proceedings various documents pertaining to alleged unaccounted sales were found. On the basis of these documents, details of year wise alleged unaccounted sales was worked out by the Ld. AO. During the course of assessment proceeding, assessee duly submitted that there are various duplicate entries, transactions not materialized, transactions does not pertain to sales. Ld. AO did not agree with the contention of the assessee company and determined the unaccounted sales of Rs. 12,31,57,395/-. Admittedly in the assessment order no satisfaction was recorded for violation of provisions of section 269ST and proposal for initiation of penalty proceeding u/s 271DA.

4. Then in response to notice u/s 274 r.w.s. 27 IDA dated 05.05.2022 for imposition of penalty of Rs. 17,22,76,762 u/s 27IDA on the basis of the report forwarded by the Ld. DCIT Central Circle 30, New Delhi. Vide letter dated 11.05.2022 it was submitted that initiation of the penalty proceeding U/s 27IDA is illegal and bad in law as in the assessment order no satisfaction has been recorded for violation of provisions of section 269ST and initiation of penalty proceeding u/s 27IDA which is very much required as per the judgement of the Hon'ble Supreme Court in the case of *CIT vs Jai Laxmi Rice mills 379 ITR 521*.

5. Without prejudice to the above it was also submitted that in the working chart of alleged cash receipt provided by the Ld. JCIT vide letter dated 13.05.2022, there are various duplicate entries, transactions not materialized, transactions does not pertain to sales transaction are pertains to earlier period and it was also stated that this provision has come into effect w.e.f. 01.04.2017, so the advance received before 01.04.2017 with regard to functions materialized in the F.Y. 2017-18 should also not be considered.

6. Ld. JCIT did not agree with the contention of the assessee company and imposed a penalty of Rs.12,40,00,669 u/s 27IDA vide order dated 15.06.2022. The assessee company went in appeal against the above said penalty order. And the assessee through ground of appeal no. 1, 2, 3 & 6 had challenged the validity of the initiation of penalty proceeding and the penalty imposed u/s 27IDA of the act. The assessee contended that the Ld. JCIT has erred in not considering the

judgement of the Hon'ble Supreme court in case of CIT vs Jai Laxmi Rice Mills 379 ITR 521 which is in context of penalty u/s 271D which is parimateria to the penalty provisions u/s 271DA.

6.1 The assessee stated before ld. First appellate authority that in the assessment order passed u/s 153A no satisfaction has been recorded for initiation of penalty proceedings u/s 271DA for violation of provisions of section 269ST. But the ld. JCIT in his penalty order has held that as per CBDT circular no. 9/DV/2016 dated 26.04.2016 the range head will issue the penalty notice on the basis of reference made by ld. AO and shall complete the penalty proceeding within the limitation prescribed u/s 275(1)(c) of the IT act. Assessee contended that in the penalty order there is no rebuttal of the satisfaction required to be recorded in the assessment order for violation of the provision of section 269ST. It was also submitted by the appellant before the JCIT that as per judgement of Hon'ble Supreme court in the case of Jai Laxmi Rice Mill (supra) it has been held by the Hon'ble supreme court that for imposition of penalty u/s 271D there has to be a satisfaction in the Assessment order for initiation of penalty proceeding u/s 271D.

7. We find that these contention have been duly appreciated by the ld. CIT(A), and relevant observations are reproduced hereinbelow;

“6.2 The Penalty proceeding u/s 271D and u/s 271DA are pari materia as both are related to the mode of receipt of the money and purpose of the both the penalty is to reduce the generation of the cash

in the market as well as to avoid cash transactions. So the above said judgment of hon'ble Supreme Court squarely apply in the case of penalty u/s 271DA also. With regard to CBDT circular Dated 26.04.2016 it is submitted that, it is based on the judgment of the hon'ble Kerala high court in the case of Grihalaxmi Visions Vs ACIT Kozhikode dated 07-08-2015 in ITA No 83 and 86 of 2014. In this circular the judgment of Hon'ble Supreme Court which is dated 20.11.2015 and after the date of judgment of the Kerala High Court, has not been considered which is bad in law and thus the CBDT circular as per incuriam. Further it has been submitted by the appellant that the CBDT Circular cannot override the judgement of hon'ble supreme court The above said judgement of hon'ble supreme court has been regularly followed by various income tax appellate tribunals even after the CBDT circular. For this proposition the assessee has placed reliance on the following judgements;

- 1. CIT vs JAI LAXMI RICE MILLS 379 ITR 521 by Hon'ble Supreme court dated 20/11/2015*
- 2. JCIT vs Smt. S.B. Patil ITA no. 200004/2016 by Hon'ble High court of Karnataka dated 26/03/2018*
- 3. Grandhi Sri Venkata Amarendra ns JCIT 167 taxmann.com 352 by Hon'ble High court of Andhra Pradesh dated 03/10/2024*
- 4. ACIT center circle 5 New Delhi vs M/s Narsi Iron & Steel pvt.ltd. ITA no. 2866/DEL/2013 ITAT Delhi dated 29/06/2018*
- 5. ITO vs Smt. Lakshmi Vishwanath vs Additional CIT Range 64 New Delhi ITA no. 3115/DEL/2017 dated 06/11/2017*
- 6. Shri Lal Singh Chouhan vs JCIT ITA no. 104/IND/2020 dated 27/07/2021 ITAT Indore bench*
- 7. Pritvi Singh Poonia vs JCIT ITA no. 3109/AHD/2015 ITAT Ahmedabad dated 21/03/2017*

6.3 Legal position regarding the contentions raised by the assessee for the ground of appeal no. 1, 2, 3 & 6

6.4.1 The assessee submitted that the basic point is that the satisfaction has to be recorded for initiation of penalty proceeding u/s 271DA for violation of provision of section 269ST has to be recorded in the assessment order itself while analyzing the transactions during the course of the assessment proceeding and thereafter he refer the matter to the Joint/Additional Commissioner for the penalty proceedings. Appellant mainly relied on the judgement of the Hon'ble Supreme court in the case of CIT vs JAI LAXMI RICE MILLS 379 ITR 521 dated 20/11/2015. In this case the Hon'ble Supreme court has

held that even if the assessment order has been set aside with direction to frame the assessment de novo, in this situation even in the fresh assessment order passed, satisfaction with regard to penalty proceedings u/s 27IE should be recorded.

6.4.2 The purpose of section 269ST & 269SS/269T is to achieve the mission of the government towards cashless economy and to reduce the generation and circulation of black money, so both the penalties u/s 27ID & 27IDA are pari materia and the judgement of the Hon'ble Supreme court as cited supra will apply with equal force in the case of penalty proceedings u/s 27 IDA which is in violation of provisions of section 269ST.

6.4.3 Further in the circular there is reference of the judgement of the Hon'ble Kerala High court in the case of Grihalaxmi Visions vs ACIT Kozhikode dated 07/08/2015 ITA no. 83 8s 86 of 2014. In the circular the judgement of the Hon'ble Supreme court as cited Supra which is dated 20/09/2015 i.e. after the date of the judgement of the Hon'ble Kerala High court dated 07/08/2015, has not been considered.

6.4.4 The assessee also submitted that CBDT circular cannot override the judgement of the Hon'ble Supreme court.

6.5 I have considered the fact of the case, the legal contentions raised by the assessee through the above said ground, the written submissions made in this regard, and the order passed by the JCIT.

6.5.1 The assessment order in the present case has been passed on 15/07/2021 by the DCIT Central Circle 30, New Delhi.

6.5.2 From the review of the assessment order it is observed that in the assessment order no satisfaction order has been recorded with regard to initiation of penalty proceedings u/s 27IDA in violation of provisions of section 269ST.

6.5.3 I am also of the view that the purpose of section 269ST & 269SS/269T is to achieve the mission of the government towards cashless economy and to reduce the generation and circulation of black money, so both the penalties u/s 27ID & 27IDA are para materia and the judgement of the Honble Supreme court as cited supra will apply with equal force in the case of penalty proceedings u/s 27IDA which is in violation of provisions of section 269ST.

6.5.4 I also reviewed the CBDT circular no. 09/DV/2016 dated 26.04.2016 which only talks about the commencements of the limitation for imposition of penalty u/s 271D & 271E of the IT Act. In this circular there is no discussion about the recording of satisfaction in the assessment order for initiation of proceeding u/s 271D/271E.

6.5.5 I have also seen that in the above said circular there is reference of the judgement of the Hon'ble Kerala High court in the case of Grihalaxmi Visions vs ACIT Kozhikode dated 07/08/2015 ITA no. 83 & 86 of 2014. In this circular the judgement of the Hon'ble Supreme court as cited Supra which is dated 20/09/2015 i.e. after the date of the judgement of the Hon'ble Kerala High court dated 07/08/2015, has not been considered.

6.5.6 From the review of Para 5 of above said circular it is observed that where any High court decides this issue contrary to the "Departmental view" thereon shall not be operative in the area falling in the jurisdiction of the relevant High court. In this regard I have considered the judgement of the Hon'ble Delhi High court in the case of PCIT vs Rishikesh Buildcon Pvt. Ltd. 147 taxmann.com 220 dated 17/11/2022 wherein it has been held that "Quantum proceedings with respect to assessee was completed in December, 2008 - Further, penalty proceedings against assessee inter alia u/s 271D for violating provision of section 269 SS was also initiated by assessing officer at time of completion of said assessment - SCN under section 271D was issued by prescribed authority on 24-03- 2009 - Further, penalty order was passed on 29-09-2009 - Whether where assessing officer has initiated penalty proceedings in his/her assessment order, said date was to be taken as relevant date as far as section 275(l)(c) was concerned and not date on which SCN was issued - Held, yes- Whether, since Assessing officer initiated penalty proceedings in December, 2008 and six months from end of month in which action of imposition of penalty was initiated expired on 30-06- 2009, penalty order passed on 29-09-2009 was barred by limitation - Held, yes (Para 12) [In favour of assessee]"

6.5.7 In the case of CIT vs Jai Lakshmi Rice Mills the Hon'ble Supreme court has held that even if the assessment order has been set aside with direction to frame the assessment de novo, in this situation even in the fresh assessment order passed, satisfaction with regard to penalty proceedings u/s 271E should be recorded. The relevant extract of the judgement is reproduced herewith for reference.

“Para 4 The tribunal as assessee as the High court has held that it could not be so for the simple reason that when the original assessment order itself was set aside, the satisfaction recorded therein for the purpose of initiation of the penalty proceeding under section 271E would also not survive. This according to us is the correct proposition of law stated by the High court in the impugned order. ”

“Para 5 As pointed out above, insofar as, fresh assessment order is concerned, there was no satisfaction recorded regarding penalty proceeding under section 271E of the Act, though in that order the Assessing officer wanted penalty proceeding to be initiated u/s 271(1)(C) of the act. Thus, insofar as penalty under section 271E is concerned, it was without any satisfaction and, therefore, no such penalty could be levied. These appeals are, accordingly, dismissed.”

6.5.8 Further, the Hon’ble High Court of Andhra Pradesh in the case of Grandhi Sri Venkata Amarendra v. JCIT 167 Taxmann.com 352 dated 03.10.2024 has also followed the judgment of the Hon’ble Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills cited supra. The relevant para of the decision is reproduced as under:-

“8. Assessee have gone through the material placed on record. The Assessing Officer, except to base his addition on the letter of the assessee dated 02.06.2014, did not record any finding that there has been any violation of the provisions of Sec. 269SS of the Act by the assessee, nor was any satisfaction recorded to the effect that the alleged transaction of acceptance of loan would attract penal consequences. In the absence of any finding to the said effect, in our considered view, the penalty cannot be levied. A presumption can be drawn, in the absence of a finding by the Assessing Officer to the effect that the petitioner has violated the provisions of Sec. 269SS of the Act, that the department has accepted the explanation furnished by the petitioner denying allegation of loan in cash. Therefore, it can unhesitatingly be said that, having satisfied with the explanation of the assessee, the Assessing Officer did not record any satisfaction in the assessment order to the effect that the provisions of Section 269SS of the Act, are violated and did not contemplate levy of penalty under Sec. 271D of the Act.

9. In our view, the satisfaction of the Assessing Officer is required to be recorded because the officer, who passed the assessment order

would not be levying the penalty under Sec. 271D of the Act, unless it is recorded in the assessment order, he cannot refer the file to superior officer i.e. Joint Commissioner, for initiating levy of penalty. Unless the Assessing Officer, who is the primary authority, based on the material before it, during assessment proceedings, arrives at a finding that there has been a violation of the provisions, like in the present case, of Section 269SS, there will not be any occasion to the Joint Commissioner, who is not the Assessing Officer, to exercise his jurisdiction to levy Penalty under Section 271D. Following the decision of the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills referred supra, assessee set aside the order passed under Sec. 271D of the Act.”

6.5.9 Further, the Hon'ble High Court of Karnataka in the case of JCIT v. Smt. S.B. Patil ITA No.200004/2016 dated 26.03.2018 has also followed the judgment of the Hon'ble Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills cited supra. The relevant para of the decision is reproduced as under:-

“5. In the present case, the penalty under Section 271E of the Act was imposed on the respondent -Assessee Smt. S.B. Patil, Proprietor, Adarsha Dairy Farm, Ainapur, District Vijaypur, by the Income Tax Officer, Ward No. 1, Vijayapura. However, the said penalty of Rs. 57,77,213/- for allayed violation of Section 269T of the Act was reduced by the First date of order 26.03.2018 ITA No.200004/2016 The Joint Commissioner of Income Tax vs. Smt. S.B. Patil Prop.

6. The Income Tax Appellate Tribunal on the section appeal filed by the assessee set aside the said penalty completely following the decision of the Hon'ble Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills cited supra.

“Further the Hon'ble High Court held that as pointed above in so far as, the fresh assessment order is concerned, there was not satisfaction recorded regarding the penalty proceeding under section 271E of the Act through in that order the Assessing Officer wanted penalty proceeding to be initiated under Section 271(1)(C) of the Act. Thus, in so far as penalty under section 271E is concerned, it was without any satisfaction and, therefore, no such penalty could be levied.”

6.5.10 Further, the Hon'ble ITAT Delhi in the case of PCIT , CC-5, New Delhi v. M/s. Narsi Iron Steel Pvt. Ltd. ITA No.2866/DEL/2013 dated 29.06.2018 has also followed the judgment of the Hon'ble

Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills cited supra. The relevant para of the decision is reproduced as under:-

“4. Before us, Ld. Counsel for the assessee, at the outset, submitted that the penalty proceedings u/s. 271E assessee not initiated during the course of assessment proceedings nor there is any allegation in the assessment order passed u/s. 143(3) and therefore, in view of the judgment of Hon’ble Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills Ambala City, reported in (2015) 379ITR 521 (SC) such penalty cannot survive, because Assessing Officer has to record a satisfaction regarding the penalty proceedings u/s. 271E in the Assessment Order. Thus, on this ground alone penalty is not sustainable.

5. On the other hand, learned Dr submitted that these penalty proceedings are initiated separately and matter was referred to the Joint Commissioner / Additional Commissioner for initiating and levying the penalty which has been done by the Assessing Officer. He thus strongly relied upon the order of the Assessing Officer.

6. After considering the aforesaid submissions, assessee find from the perusal of the assessment order that the Assessing Officer has not recorded any kind of satisfaction nor has he pointed out as to whether there was any violation of Section 269T. It is only during the course of assessment proceedings while analyzing the transaction, AO has to record his satisfaction that there is a violation of Section 269T for which he has to give his satisfaction and initiate the proceedings, and thereafter, he can refer the matter to the Joint/ Additional Commissioner for the penalty proceedings. The Hon’ble Supreme Court in the case of the CIT vs. Jai Laxmi Rice Mills Ambala City (supra) has categorically held that, once there is not satisfaction recorded in the assessment order regarding the penalty proceedings u/s. 271E, then no such penalty could be levied. Thus, here in this case, on this ground alone the penalty levied by the AO does not stand. ”

6.5.11 Respectfully, following the decisions of the Hon’ble Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills, Hon’ble High Court of Andhra Pradesh in the case of Grandhi Sri Venkata Amarendra v. JCIT, Hon’ble High Court of Karnataka in the case of JCIT v. Smt. S.B. Patil and the Hon’ble ITAT Delhi in the case of PCIT , CC-5, New Delhi v. M/s. Narsi Iron Steel Pvt. Ltd.. I concur with the contention of the assessee that when no satisfaction has been recorded in the Assessment Order with regard to initiation of penalty

proceeding U/s, 27IDA in violation of the provisions of Sec.269ST, no such penalty can be levied. Accordingly, the ground of appeal Nos.1, 2, 3 & 6 raised by the assessee is allowed and the penalty Order passed is quashed.”

8. We are of considered view that well reasoned findings of Id. CIT(A) by following settled proposition of law, needs no interference in the absence of any law or proposition being cited to the contrary. The ground no. 5 of the Revenue challenges the impugned order on basis of failure of Id.CIT(A) to ignore decision of Hon’ble Delhi High Court in CIT Vs. Worldwide Township Projects Limited (2014) 367 ITR 433 (Del), but the question there was with regard to limitation period for initiation of penalty proceedings and not the need for recording reasons in the assessment order for initiation of penalty proceedings. Thus grounds have no substance. The discussion applies to **both the appeals in hand and same are dismissed.**

Order pronounced in the open court on 14.11.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 14th November, 2025.

dk

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi