

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER &  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**1. ITA No. 7902/Mum/2025  
(Assessment Year: 2013-14)**

**2. ITA No. 7903/Mum/2025  
(Assessment Year: 2017-18)**

<b>Premji Bhurlal Gala</b> B-301, Water Ford, CD Barfiwala Road, Juhu Fally Andheri West, Mumbai- 400 058	Vs.	<b>Addl. CIT Range 24(1), Mumbai</b> Room No. 104, 1 <sup>st</sup> Floor, Kautilya Bhavan, C-41 to C-43, G Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051
PAN/GIR No. AABPG9905D		
(Applicant)		(Respondent)

Assessee by	Shri Satish Kumar, Ld. AR
Revenue by	Shri R. A. Dhyani & Shri V. S. Mahajan, Ld. DRs

Date of Hearing	30.04.2026
Date of Pronouncement	22.05.2026

आदेश / ORDER

**PER MAKARAND VASANT MAHADEOKAR, AM:**

The captioned appeals filed by the assessee are directed against the separate orders passed by the learned Commissioner

of Income Tax (Appeals), NFAC/CIT(A)-51, Mumbai [hereinafter referred to as "CIT(A)"] under section 250 of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] for Assessment Years 2013-14 and 2017-18, arising from penalty orders passed under section 271D of the Act by the Joint Commissioner/Income Tax Officer. Since common facts, identical issues and interconnected grounds are involved in both the appeals, the same were heard together and are being disposed of by way of this consolidated order for the sake of convenience and brevity.

2. The relevant particulars of the appeals are tabulated herein below:

<b>Assessment Year</b>	<b>Penalty Order</b>	<b>Date of Penalty Order</b>	<b>Date of CIT(A) Order</b>	<b>Penalty Amount</b>
2013-14	u/s 271D	26.09.2022	20.11.2025	Rs.66,00,000/-
2017-18	u/s 271D	26.09.2022	20.11.2025	Rs.69,50,000/-

3. Briefly stated, the facts emerging from the record are that search and seizure action under section 132 of the Act was carried out in the case of M/s. Evergreen Enterprises and associated persons including Shri Nilesh Bharani. During the course of search proceedings, certain loose papers, coded diaries, telephone registers and digital data were allegedly found and seized. Statements under section 132(4) of the Act of Shri Nilesh Bharani and certain employees namely Shri Jagdish Ramani, Shri Ashwin Rathod, Ms. Vibha Sachin Rawate and Shri Shankar Jadhav were recorded by the Investigation Wing. According to the Revenue authorities, the seized materials and statements

allegedly revealed that M/s. Evergreen Enterprises was engaged in cash loan lending and borrowing activities through coded entries.

4. Based upon the information received from the Investigation Wing, reassessment proceedings under section 147 of the Act were initiated against the assessee. As recorded in the penalty orders, the Assessing Officer alleged that the assessee had accepted cash loans from M/s. Evergreen Enterprises in contravention of section 269SS of the Act. For A.Y. 2013-14, the alleged cash loan was quantified at Rs.66,00,000/- whereas for A.Y. 2017-18 the alleged cash loan was quantified at Rs.69,50,000/-.

5. In the penalty order for A.Y. 2017-18, the Assessing Officer recorded that during the reassessment proceedings it came to light that the assessee had received cash loan of Rs.69,50,000/- during Financial Year 2016-17 from M/s. Evergreen Enterprises, which according to the Assessing Officer stood confirmed by Shri Nilesh Bharani as well as two employees of the said concern. The Assessing Officer further observed that the assessee had not disclosed such alleged loan transaction in the return of income and had failed to furnish complete details called for during reassessment proceedings. The reassessment order under section 147 read with section 144B of the Act was passed on 23.03.2022 and thereafter notice under section 271D dated 23.03.2022 was issued requiring the assessee to explain as to why penalty under section 271D should not be imposed.

6. The Assessing Officer further recorded that subsequent show cause notices dated 21.07.2022 and 02.09.2022 were issued calling upon the assessee to furnish copy of Form No.35 and explain as to why penalty proceedings should be kept in abeyance. According to the Assessing Officer, the assessee merely furnished acknowledgement of Form No.35 and requested that the penalty proceedings be kept in abeyance till disposal of appeal against the reassessment order. The Assessing Officer rejected the said request by relying upon CBDT Circular No.10/2016 dated 26.04.2016 and observed that penalty proceedings under section 271D are governed by section 275(1)(c) of the Act and are not dependent upon pendency of appeal against the assessment order.

7. The Assessing Officer further observed that section 273B provides immunity from penalty only where reasonable cause is demonstrated by the assessee and according to the Assessing Officer, the assessee had failed to establish any reasonable cause for accepting cash loan in violation of section 269SS of the Act. The Assessing Officer reproduced the provisions of sections 269SS and 271D and held that the statements recorded during search proceedings of Shri Nilesh Bharani, Shri Ashwin Rathod and Ms. Vibha Sachin Rawate established that the assessee had accepted cash loan otherwise than by account payee cheque or bank draft.

8. The Assessing Officer also referred to the answers given during the statement of Shri Nilesh Bharani recorded under

section 132(4) wherein the modus operandi of coding entries in diaries and telephone registers was allegedly explained. The Assessing Officer reproduced certain questions and answers including explanation regarding coding methodology, nature of business of Evergreen Enterprises, persons handling cash transactions and alleged genuineness of cash loan entries. Relying upon the said statements and seized material, the Assessing Officer concluded that the assessee had violated section 269SS of the Act and accordingly levied penalty equal to the amount of alleged cash loan under section 271D of the Act.

9. Before the Assessing Officer, the assessee primarily submitted that the reassessment proceedings initiated under section 147 of the Act themselves were invalid in law and that proceedings, if any, could only have been initiated under section 153C of the Act because the entire material relied upon by the Revenue emanated from search conducted upon third parties namely M/s. Evergreen Enterprises and Shri Nilesh Bharani. The assessee further submitted that no incriminating material belonging to the assessee had been found during search proceedings and no corroborative evidence establishing actual receipt of any cash loan existed on record.

10. The assessee also disputed the evidentiary value of the statements recorded during search proceedings and contended that no opportunity of cross-examination of Shri Nilesh Bharani or other persons whose statements were relied upon had been granted, thereby violating principles of natural justice. The

assessee further submitted that no such amount of cash loan was ever recorded in the books of account of the assessee and no independent evidence linking the assessee with alleged coded diary entries had been brought on record.

11. Aggrieved by the levy of penalty under section 271D, the assessee preferred appeals before the learned CIT(A). Before the learned CIT(A), the assessee reiterated that the very reassessment proceedings initiated under section 147 of the Act had subsequently been quashed by the Co-ordinate Bench vide order dated 12.06.2024 (ITA No. 442/Mum/2024) and therefore the penalty initiated pursuant to such reassessment proceedings could not survive independently. The assessee further relied upon various judicial precedents including the decision of Co-ordinate Bench in the case of **Ravi Nirman Nigam Ltd. (ITA No.4140 & 4141/Mum/2023)** to contend that where the very assessment proceedings are annulled, consequential penalty proceedings also cannot survive.

12. The assessee further contended before the learned CIT(A) that the alleged findings regarding cash loan transactions were based merely upon uncorroborated third-party statements and loose papers recovered from third parties. It was submitted that the statements relied upon by the Revenue had subsequently been retracted and that no substantive corroborative evidence establishing actual receipt of cash loan by the assessee had been brought on record. The assessee also argued that there was complete absence of incriminating material directly linking the

assessee with the alleged transactions and that the alleged coded diary entries did not establish any actual receipt of cash loan by the assessee.

13. The learned CIT(A), however, rejected the contentions of the assessee. The learned CIT(A) distinguished penalty proceedings under section 271D from penalty proceedings under section 271(1)(c) of the Act and observed that penalty under section 271D is transaction based and independent of the survival of quantum assessment proceedings. According to the learned CIT(A), once factual acceptance of cash loan in violation of section 269SS stood established, penalty under section 271D would survive irrespective of fate of reassessment proceedings.

14. The learned CIT(A) observed that unlike penalty under section 271(1)(c), penalty under section 271D does not depend upon determination of taxable income and instead depends solely upon factual finding regarding acceptance of cash loan exceeding prescribed limit otherwise than through banking channels. The learned CIT(A) referred to the provisions of sections 269SS, 271D and 273B and held that the only statutory escape available to the assessee was proving reasonable cause under section 273B, which according to the learned CIT(A), the assessee had failed to establish.

15. The learned CIT(A) further analysed the decision of ITAT Mumbai in the case of **Ravi Nirman Nigam Ltd. (supra)** and distinguished the same on facts. The learned CIT(A) held that in

the said case no substantive addition or factual finding regarding cash loan transaction had survived, whereas in the assessee's case there existed categorical factual findings allegedly supported by seized material and statements recorded during search proceedings. The learned CIT(A) further observed that the reassessment proceedings in the assessee's case were quashed by the Tribunal only on jurisdictional grounds under section 147 of the Act without disturbing factual findings relating to alleged cash loan transactions.

16. The learned CIT(A) further observed that the seized coded ledger, telephone diary entries, decoding methodology explained by Shri Nilesh Bharani and statements of employees of Evergreen Enterprises constituted corroborative and interlocking evidence establishing existence of systematic cash loan activities. The learned CIT(A) therefore concluded that the factual finding that the assessee had accepted cash loans in violation of section 269SS remained undisturbed and accordingly confirmed the penalties levied under section 271D for both assessment years.

17. Aggrieved by the aforesaid orders of the learned CIT(A), the assessee is now in appeal before us. The grounds raised by the assessee in A.Y. 2013-14 read as under:

- 1. On the facts and circumstances of the case and in law, the impugned penalty order passed by CIT(Appeal), 51 Mumbai confirming levy of the penalty imposed u/s 271D of the Act by the AO is bad in law / void ab initio and against the facts of the case because the very penalty, initiated in Assessment Order dated 24.03.2022 passed*

*u/s 147 rws 144B of the Act had been quashed by Hon'ble ITAT, Mumbai vide order dated 12.06.2024 in ITA/442/M/2024.*

- 2. On the facts and circumstances of the case and in law, the impugned penalty order passed by CIT(Appeal), 51 Mumbai confirming levy of the penalty imposed u/s 271D of the Act by the AO is bad in law / void ab initio and against the facts of the case because the same was initiated without proper satisfaction merely relying upon the statement of third party whereas no incriminating material was brought on record under an illegal / void ab initio reassessment proceedings initiated u/s 148 of the Act whereas the lawful valid reassessment proceedings could only be initiated u/s 153C of the Act.*
  - 3. On the facts and circumstances of the case and in law, the CIT(A) erred in sustaining the penalty u/s 271D of the Act of Rs. 66,00,000/- dismissing the appeal in an illegal ab-initio proceedings where the assessee was not at all legally bound to appear. Thus, the illegal penalty must be quashed.*
  - 4. On the facts and circumstances of the case and in law, the CIT(A) erred in confirming the levy of penalty of Rs. 66,00,000/- u/s 271D of the Act, without properly appreciating no such amount of cash loan was ever admitted nor was ever found credited in the books of account of the appellant for the relevant period. Hence the illegal levy of penalty u/s 271D of the Act is absolutely erroneous and bad in law requiring outright annulment.*
  - 5. On the facts and circumstances of the case and in law, the CIT(A) erred both in law and on facts in confirming the impugned penalty imposed alleging violation of the provisions of the section 269SS of the Act ignoring that the authority levying penalty has failed to establish the violation of the aforesaid section 269SS of the Act.*
  - 6. The appellant craves leave to add, amend, alter, modify, delete and/or change all or any above grounds on or before the date of hearing.*
18. The grounds raised by the assessee in A.Y. 2017-18 are identical except variation in the quantum of penalty from Rs.66,00,000/- to Rs.69,50,000/-.

19. The learned Authorised Representative (“AR”) appearing on behalf of the assessee submitted that the very foundation upon which the impugned penalties were initiated no longer survives in view of the fact that the reassessment proceedings culminating into assessment orders passed under section 147 read with section 144B of the Act have already been quashed by the Coordinate Bench in assessee’s own case. The learned AR submitted that Coordinate Bench in assessee’s own case for A.Ys. 2013-14, 2016-17 and 2017-18 vide orders passed in **ITA Nos. 440/M/2024, 442/M/2024 and 443/M/2024 dated 12.06.2024** had categorically held that the reassessment proceedings initiated under section 148 of the Act were invalid in law and accordingly quashed the reassessment orders. It was submitted that the Co-ordinate Bench not only allowed the legal ground challenging jurisdiction under section 148 of the Act but also deleted additions made under sections 68/69A of the Act on merits. Reliance was also placed upon the decision of the Co-ordinate Bench in assessee’s own case for A.Y. 2012-13 in **ITA No.3081/Mum/2022** dated 28.02.2024 wherein the reassessment proceedings were quashed and consequential additions deleted.

20. The learned AR further submitted that subsequently in assessee’s own case for A.Y. 2016-17 in **ITA No.6596/M/2025** dated 28.01.2026, the Coordinate Bench has already deleted identical penalty levied under section 271D of the Act arising out of the same search action and same set of alleged transactions.

According to the learned AR, the present appeals are squarely covered by the aforesaid decision of the Coordinate Bench rendered in assessee's own case.

21. The learned AR submitted that once the reassessment proceedings themselves have been held to be void ab initio, all consequential proceedings emanating therefrom including penalty proceedings initiated under section 271D automatically collapse. It was contended that the satisfaction recorded in the reassessment order regarding alleged violation of section 269SS ceases to survive once the assessment order itself is annulled by a superior appellate authority. Therefore, according to the learned AR, the impugned penalty proceedings cannot independently survive.

22. In support of the aforesaid proposition, the learned AR placed heavy reliance upon the decision of the Coordinate Bench in the case of **Ravi Nirman Nigam Ltd. vs. ACIT in ITA Nos.6428 & 6429/M/2019 dated 27.04.2022** wherein the Coordinate Bench held that once proceedings initiated under section 147 of the Act are held to be void ab initio, all consequential proceedings relating thereto also become invalid. Reliance was further placed upon another decision in the case of **Ravi Nirman Nigam Ltd. vs. ACIT in ITA Nos.4140 & 4141/M/2023** dated 28.07.2024 wherein relying upon the decision of the Hon'ble Supreme Court in the case of **Jayalakshmi Rice Mills** and various Coordinate Bench decisions, it was held that with quashing/annulment of

reassessment proceedings, penalty proceedings initiated under sections 271D/271E do not survive.

23. The learned AR further submitted that even the Department itself has accepted the aforesaid legal position in assessee's own case. In this regard, attention was invited to orders passed by AU-ITD dated 26.02.2025 for A.Y. 2013-14 under section 271(1)(c) and dated 28.02.2025 for A.Y. 2017-18 under section 271AAC(1) of the Act wherein the Department itself dropped the penalty proceedings after observing that since the additions on the basis of which penalties were initiated had already been deleted by the Hon'ble ITAT, the consequential penalty proceedings stood dropped.

24. Without prejudice to the aforesaid legal submissions, the learned AR further submitted that no independent incriminating material whatsoever had been found from the possession of the assessee evidencing receipt of any cash loan. It was contended that the entire case of the Revenue rested merely upon uncorroborated statements of third parties recorded during search proceedings conducted upon M/s. Evergreen Enterprises and others. According to the learned AR, no such amount of cash loan was either admitted by the assessee or found credited in the books of account of the assessee for the relevant assessment years.

25. The learned AR accordingly submitted that the Revenue authorities had failed to establish actual violation of section

269SS of the Act by bringing cogent and legally admissible evidence on record. It was therefore contended that the penalties levied under section 271D of the Act amounting to Rs.66,00,000/- for A.Y. 2013-14 and Rs.69,50,000/- for A.Y. 2017-18 deserve to be deleted in entirety.

26. Per contra, the learned Departmental Representative (“DR”) strongly supported the orders passed by the Assessing Officer as well as the learned CIT(A) and submitted that the penalty proceedings initiated under section 271D of the Act are independent proceedings and are not dependent upon the ultimate fate of reassessment proceedings. Referring to the written submissions filed before the Bench, the learned DR submitted that though the reassessment orders for A.Ys. 2013-14 and 2017-18 were quashed by the Co-ordinate Bench vide order dated 12.06.2024 in ***ITA Nos. 440/Mum/2024, 442/Mum/2024 and 443/Mum/2024***, the same would not automatically invalidate the penalty proceedings initiated for violation of section 269SS of the Act.

27. The learned DR submitted that the levy of penalty under section 271D is attracted on account of acceptance of loan or deposit otherwise than through prescribed banking channels and such violation is independent of assessment proceedings. According to the learned DR, the contravention contemplated under section 269SS has no direct nexus with computation of taxable income or assessment of income and therefore penalty

proceedings under section 271D survive independently irrespective of the outcome of reassessment proceedings.

28. In support of the aforesaid proposition, the learned DR placed reliance upon the judgment of the Hon'ble Delhi High Court in the case of **CIT vs. Worldwide Township Projects Ltd. in ITA No.232 of 2014 dated 21.05.2014**. Particular reliance was placed upon the observations of the Hon'ble High Court wherein it was held that penalty under section 271D is independent of assessment proceedings and that infringement of section 269SS is not related to income which may ultimately be assessed or finally adjudicated. The learned DR also relied upon the judgment of the Hon'ble Rajasthan High Court in the case of **CIT vs. Hissaria Bros. reported in 291 ITR 244** wherein it was held that penalty proceedings for violation of sections 269SS and 269T are independent of assessment proceedings and completion of appellate proceedings arising from assessment proceedings has no bearing on sustaining or otherwise of penalty proceedings under sections 271D and 271E of the Act.

29. The learned DR further submitted that the Hon'ble Rajasthan High Court in the aforesaid judgment had specifically observed that defaults contemplated under sections 269SS and 269T do not affect computation of taxable income and therefore penalty proceedings relating thereto are independent proceedings falling under section 275(1)(c) of the Act and not under section 275(1)(a). According to the learned DR, once the violation of section 269SS is independently established on facts, penalty

proceedings can validly continue notwithstanding annulment of reassessment proceedings.

30. The learned DR also relied upon the judgment of the Hon'ble Bombay High Court in the case of **Sanjeev Amritlal Chheda in Writ Petition No.3620 of 2019 dated 05.01.2022**. Referring to paragraph 5 of the said judgment, the learned DR submitted that the Hon'ble High Court had specifically observed that it would be open to the Revenue authorities to take action under section 271D of the Act in accordance with law. It was therefore contended that the Hon'ble jurisdictional High Court itself recognized the independent nature of proceedings under section 271D.

31. The learned DR lastly submitted that reassessment proceedings in the assessee's case were quashed on legal grounds relating to validity of reopening and not on merits of the alleged cash loan transactions. Therefore, according to the learned DR, the findings relating to acceptance of cash loans in violation of section 269SS still survive and the penalty levied under section 271D of the Act deserves to be sustained.

32. We have heard the rival submissions and perused the material available on record including the orders of the lower authorities and the judicial precedents relied upon before us. The short controversy involved in the present appeals is whether penalty levied under section 271D of the Act can survive once the very reassessment proceedings and consequential additions,

forming the basis for initiation of such penalty proceedings, have already been quashed by the Coordinate Bench in assessee's own case.

33. The undisputed factual position emerging from the record is that reassessment proceedings for the years under consideration were initiated solely on the basis of information received from the Investigation Wing pursuant to search action conducted in the case of M/s Evergreen Enterprises and statements recorded from Shri Nilesh Bharani and other persons alleging that the assessee had accepted cash loans. Based on such allegations, additions under sections 68/69A of the Act were made and simultaneously penalty proceedings under section 271D were initiated alleging violation of section 269SS.

34. It is also an admitted position that the Coordinate Bench in assessee's own case vide order dated 12.06.2024 in **ITA Nos.440/Mum/2024, 442/Mum/2024 and 443/Mum/2024** quashed the reassessment proceedings themselves and deleted the consequential additions made under sections 68/69A of the Act by holding that the very assumption of jurisdiction under section 147 was unsustainable in law.

35. The learned DR has relied upon the judgments in the cases of **Hissaria Bros. and Worldwide Township Projects Ltd.** to contend that penalty proceedings under section 271D are independent proceedings. There can be no dispute with the legal proposition that proceedings under section 271D are independent

proceedings for the purpose of limitation and are not strictly dependent upon completion of assessment proceedings. However, the issue involved in the present appeals is not merely procedural independence of penalty proceedings, but whether such penalty can survive when the very foundational proceedings and allegations giving rise to initiation of penalty have already been held to be invalid.

36. In our considered opinion, once the reassessment proceedings initiated on the basis of alleged cash loan transactions have themselves been quashed and the consequential additions no longer survive, the very substratum for alleging violation of section 269SS disappears. The Revenue has not brought on record any independent material establishing actual acceptance of cash loan by the assessee dehors the reassessment proceedings already held to be invalid.

37. We also find that the learned CIT(A), while confirming the impugned penalties, attempted to distinguish the decisions relied upon by the assessee, particularly the decision in the case of **Ravi Nirman Nigam Ltd.**, by observing that in the said case the original assessment order had been replaced by a fresh assessment order and therefore the satisfaction recorded in the original assessment order ceased to survive, whereas according to the learned CIT(A), in the present case the reassessment proceedings were quashed only on jurisdictional grounds and the factual findings relating to alleged cash loan transactions continued to survive.

38. In our considered opinion, the aforesaid distinction drawn by the learned CIT(A) is not legally sustainable in view of the ratio laid down by the Hon'ble Supreme Court in the case of **Jaya Lakshmi Rice Mills (supra)** as well as the subsequent Coordinate Bench decisions relied upon before us. The Coordinate Bench in the case of **Ravi Nirman Nigam Ltd.**, after considering the judgment of the Hon'ble Supreme Court in **Jaya Lakshmi Rice Mills** and the decision of Chandigarh Bench in **Karan Empire Pvt. Ltd.**, specifically held that even where reassessment proceedings themselves are quashed as void ab initio, the ultimate consequence remains that the original assessment order and the satisfaction recorded therein for initiation of penalty proceedings do not survive.

39. The Coordinate Bench in **Ravi Nirman Nigam Ltd.** specifically observed as under:

*“though undeniably, there is a difference in the facts of both the cases as in the case before the Hon'ble Apex Court, the assessment had been set aside with the direction to frame a fresh assessment. While in the present case before us, the assessment order passed has been held to be invalid, the proposition laid by the Hon'ble Apex Court still applies since the ultimate effect of the facts in both the cases still results in the original assessment order not surviving, as also the satisfaction recorded therein for the purpose of initiation of penalty proceedings under section 271E/271D of the Act.”(para 9 of Karan Empire Pvt. Ltd.)*

40. Thus, the very distinction sought to be drawn by the learned CIT(A) already stands considered and rejected by the Coordinate Benches while interpreting the judgment of the Hon'ble Supreme Court in **Jaya Lakshmi Rice Mills**. Once the reassessment

orders themselves have been quashed as void ab initio, the satisfaction recorded therein for initiation of penalty proceedings cannot survive independently.

41. We further find that the learned CIT(A) proceeded on the footing that the factual findings regarding alleged cash loan transactions remained undisturbed despite quashing of reassessment proceedings. However, as already noted hereinabove, the Coordinate Bench in assessee's own quantum proceedings specifically observed that the entire reassessment and additions were based merely on statements of partners of M/s Evergreen Enterprises and that no independent evidence had been brought on record by the Assessing Officer. Therefore, the so-called surviving factual foundation referred to by the learned CIT(A) itself stood seriously discredited by the Coordinate Bench while quashing the additions.

42. Accordingly, we are unable to concur with the reasoning adopted by the learned CIT(A) for distinguishing the judicial precedents relied upon by the assessee.

43. At this stage, it would also be relevant to examine the scope of section 269SS read with section 271D. Section 269SS prohibits acceptance of loan or deposit exceeding prescribed monetary limit otherwise than through prescribed banking channels and section 271D provides for levy of penalty equivalent to the amount of such loan or deposit accepted in contravention thereof. Therefore, before invoking section 271D, the Revenue is required to

establish through cogent and reliable evidence that the assessee had in fact accepted loan or deposit in cash in violation of section 269SS.

44. In the present case, except for third-party statements and alleged coded entries recovered during search proceedings conducted upon M/s Evergreen Enterprises, no independent incriminating material evidencing actual receipt of cash loan by the assessee has been brought on record. No corresponding entry of such alleged cash loan was found recorded in the books of account of the assessee. Further, the very additions made on the basis of such allegations already stand deleted by the Coordinate Bench in assessee's own case.

45. We further find that the Coordinate Bench in assessee's own case for A.Y. 2016-17 in **ITA No.6596/Mum/2025 dated 28.01.2026**, while dealing with identical penalty proceedings arising from the same search action and same allegations relating to M/s Evergreen Enterprises, after considering the earlier quantum order dated 12.06.2024, held as under:

*“19. Heard, the parties and perused the material available on record. Admittedly, the addition on the basis of which the penalty of Rs.64,25,000/- has been levied under Section 271 (D) of the Act vide penalty order dated 26.09.2022, is not in existence as observed above. The Assessee throughout the income tax proceedings claimed that he has not made any transaction of Rs.64,25,000/-, as alleged, with M/s. Evergreen Enterprises and the Hon'ble Coordinate Bench of the Tribunal vide order dated 12.06.2024 in the quantum appeal, by observing that entire assessment addition is based on the statements of the partners of M/s. Evergreen Enterprises. No other evidence is brought on record by the AO and the observation in the “reason recorded” is itself*

*erroneous and while relying on the decision of the Hon'ble Coordinate Bench of the Tribunal, in the Assessee's own case for the AY 2012-13, ultimately quashed the addition made under Section 68 of the Act."*

46. The Coordinate Bench thereafter, after considering the judgment of the Hon'ble Supreme Court in the case of **CIT vs. Jaya Lakshmi Rice Mills reported in 379 ITR 521 (SC)**, observed as under:

*"20. We further observe that in the assessment order dated 22.03.2022 under Section 147 read with Section 144 (B) of the Act, the AO has not recorded clear cut satisfaction with regard to the initiation of the penalty proceedings under Section 271 (D) of the Act and thus, attracts the judgment of the Hon'ble Apex Court in the case of CIT vs. M/s. Jaya Laxmi Rice Mills (2015) 379 ITR 521 (SC)..."*

47. The Coordinate Bench further reproduced and relied upon the following observations of the Hon'ble Supreme Court:

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

48. The Coordinate Bench thereafter also relied upon the decision in the case of Ravi Nirman Nigam Ltd. and observed as under:

*"9. We have heard the rival contentions and perused the material on record. Admittedly, it is a fact on record that the reassessment proceedings, u/s. 147 of the Act in the course of which penalty proceedings u/s. 271D and 271E were initiated have been quashed as void ab initio by the Co-ordinate Bench... we have perused the order of the Hon'ble Apex Court in the case of Jayalakshmi Rice Mills (supra), and find that it clearly applies in the present case to hold that with the*

*quashing/annulling of the reassessment order passed in the case of the assessee by the ITAT, the penalty initiated therein u/s. 271D did not survive.”*

49. The Coordinate Bench ultimately concluded as under:

*“Thus, on the aforesaid analysis, the penalty levied and affirmed by the Ld. Commissioner, is unsustainable, hence the same is deleted.”*

50. The facts involved in the present appeals are identical inasmuch as the impugned penalties arise from the same search action, same Investigation Wing information, same alleged modus operandi and identical reassessment proceedings already quashed by the Coordinate Bench in assessee’s own case. Respectfully following the aforesaid Coordinate Bench decisions and considering the totality of facts and circumstances of the case, we hold that the impugned penalties levied under section 271D of the Act cannot be sustained. Accordingly, the Assessing Officer is directed to delete the penalties levied for the assessment years under consideration.

51. In the result, both the appeals filed by the assessee for A.Ys. 2013-14 and 2017-18 are allowed.

Order pronounced in the open court on 22.05.2026.

**Sd/-**  
**(KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(MAKARAND VASANT MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated 22/05/2026  
Dhananjay, Sr.PS

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai