

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 6149/Del/2024
Assessment Year: 2017-18

Amir Ahmed 2208/13, Bazar Sita Ram, Jama Masjid, Delhi- 110006	Vs.	Joint Commissioner of Income Tax Civic Centre, Minto Road New Delhi-02
PAN: AEFPA7187M		
(Appellant)		(Respondent)

ITA No. 6150/Del/2024
Assessment Year: 2017-18

Naved Ahmed 245, Meena Bazar, Jama Masjid, Delhi- 110006	Vs.	Joint Commissioner of Income Tax Civic Centre, Minto Road New Delhi-02
PAN: CFXPA0004E		
(Appellant)		(Respondent)

Assessee by	Shri W. A. Khan, Adv. Shri Monis Khan, Adv.
Department by	Ms. Ankush Kalra, Sr DR

Date of hearing	21.05.2026
Date of pronouncement	29.05.2026

ORDER

PER SATBEER SINGH GODARA, JM

These instant cases ITA Nos. 6149 & 6150/Del/2024, involve
the twin assessee herein Shri Amir Ahmed and Shri Naved

Ahmed, for assessment years 2017-18, arise against Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre (for short, "CIT(A)/NFAC"), Delhi's DINs and Orders No. ITBA/NFAC/S/250/2021-22/1040737932(1)& ITBA/NFAC/S/250/2022-23/1043550780(1), dated 15.03.2022 & 23.06.2022, involving proceedings u/s 271D of the Income Tax Act, 1961; hereinafter referred to as, 'the Act'.

Heard both the assesseees as well as the department at length. Case files perused.

2. For the reasons stated herein in this twin assessee's respective condonation petition, explaining delay(s) of 945 days each as on account of circumstances beyond control going unrebutted from the Revenue side, we hereby condone the same in the light of Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).

3. Next comes both these assessee's identical sole substantive ground directed against the learned Assessing Officer's corresponding findings levying section 271D penalty (ies) in issue which stand upheld in the CIT(A) lower appellate discussion. Both of them hold these twin assesseees/appellants to have violated

section 269SS of the Act in having received a part of their respective sale consideration (s) in lieu of transfer of immovable properties as attracting the impugned penalty.

4. It is in this factual backdrop that the learned counsel raises his first and foremost legal argumenta that neither of the Assessing Officer herein had initiated the impugned penalty (ies) in the corresponding assessment (s) which has gone unrebutted from the revenue side. This tribunal's recent decision in M/s Gayatri Villa vs DCIT in ITA Nos. 615 & 616/Del/2024 dated 31.05.2024 has already settled the very issue that such a non-compliance is indeed fatal to the penalty herein; against the department reading as under:

14. We have heard the rival submissions and have perused the relevant material on record. On careful perusal of the assessment order, we find no satisfaction recorded by the Assessing Officer in his assessment order for initiating penalty u/s 271D of the Act. The Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills [supra] has held as under:

"In the fresh assessment order, there was no satisfaction recorded regarding penalty proceeding under Section 271D of the Act, though in that order the Assessing Officer wanted penalty proceeding to be initiated under Section 271(1)(c) of the Act. Thus, insofar as penalty under Section 271D is concerned, it was without any satisfaction and, therefore, no such penalty could be levied."

15. A similar issue came up before the ITAT, Raipur Bench in the case of Shri Bhowmick Raj Singh in ITA No. 128/RPR/2016 dated 02.01.2024 wherein it was held as under:

"Considering the fact that the issue before us is no more res integra in light of the judgment of the Hon'ble Supreme Court in the. Jai Laxmi Rice Mills Ambala City (supra), therefore, in the backdrop of our aforesaid deliberations, the penalty imposed by the Jt.CIT u/s. 271D of the Act cannot be sustained and is liable to be struck down for want of valid assumption of jurisdiction."

16. Similar decision was taken by the ITAT Chennai Bench in the case of Subramaniam Thanu ITA No. 785/Chny/2023 dated 13.03.2024.

17. We have considered the judicial pronouncement and the legal dictum established by the Hon'ble Supreme Court from which it emerges that the Assessing Officer has to record his

satisfaction in the assessment order u/s 143(3) of the Act for initiating penalty proceedings u/s 271D of the Act for violation of provisions of section 269SS of the Act. In this case, assessment order u/s 143(3) r.w.s 147 of the Act was passed on 27.12.2019 for A.Y 2016-17 and on 18.12.2019 for A.Y 2017-18. The JCIT issued notice u/s 271D of the Act on 30.03.2022 for both the A.Ys and levied penalty u/s 271D of the Act on 31.03.2022.

18. The Assessing Officer, in his order u/s 143(3)/147 of the Act for both the A.Ys has recorded penalty proceedings u/s 271(1)(c) of the Act to be initiated separately. The Assessing Officer, however, has not recorded any satisfaction to initiate penalty u/s 271D of the Act for either of the A.Ys and thereby failed to adhere to the mandate of law as laid down by the Hon'ble Supreme Court in the case of Jai Laxmi Rice Mills [supra].

19. Considering the facts of the case in totality and respectfully following the ratio laid down by the Hon'ble Supreme Court [supra], we do not find these to be fit case for levy of penalty u/s 271D of the Act. We accordingly, delete the penalty so levied u/s 271D of the Act in both the A.Ys and allow both the appeals.

5. We adopt the learned co-ordinate bench's above detailed reasoning *mutatis mutandis* to delete the impugned identical section 271D penalty (ies) levied in theses assessee's hands in very terms.

6. Both these assessee's as many appeals ITA Nos. 6149 & 6150/Del/2024 are allowed. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 29.05.2026.

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 29.05.2026

Pooja Mittal/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi