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

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री मंजूनाथ जी, माननीय लेखा सदस्य
SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT
AND
SHRI MANJUNATHA G, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./**I.T.A.Nos.1038 to 1042/Hyd/2026**
(निर्धारण वर्ष/ **Assessment Years: 2019-20 to 2023-24)**

Vasavi Developers, Hyderabad. PAN : AAJFV4255B	*Vs.*	The Assistant Commissioner of Income-Tax/The Deputy Commissioner of Income-Tax, Circle – 3(2), Hyderabad.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Maheshwar Reddy, C.A. and Shri K.C. Devdas, C.A. and Shri B. Narsing Rao, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Narendra Kumar Naik, CIT-DR and Dr. Sachin Kumar, Sr. A.R.
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	29.04.2026
घोषणा की तारीख/ Date of Pronouncement	:	24.06.2026

O R D E R

PER BENCH :

The captioned appeals filed by the assessee firm i.e. "Vasavi Developers" are directed against the separate, but identical orders of the learned Commissioner of Income Tax (Appeals), Hyderabad

– 11, [for short "Ld. CIT(A)"] dated 21.03.2026 pertaining to the assessment years 2019-20 to 2023-24, respectively, which arise out of the separate penalty orders passed u/s.271DA of the Income Tax Act, 1961 by the Addl. Commissioner of Income Tax, Central Range-3, Hyderabad, dated 27.02.2025. Since facts are identical and common issues are involved in all the five appeals, the same were heard together and are being disposed of by this single consolidated order for the sake of convenience and brevity.

2. The assessee firm has raised common grounds of appeal in all the assessment years. Therefore, for the sake of brevity, grounds of appeal filed for the A.Y. 2019-20 in ITA No.1038/Hyd/2026 are re-produced as under:

> *"1. The order passed by the Ld.CIT(A) is erroneous in law as well as facts of the case.*
>
> *2. The Ld. CIT(A) ought to have quashed the penalty order as the notice issued u/s. 274 r.w.s 271DA is invalid in the absence of the specific violations in contravention of the provisions of Sec. 269ST.*
>
> *3. The Ld. CIT(A) has erred in upholding the penalty levied u/s. 271DA of the IT Act by the Ld.AO without appreciating the actual facts involved in the case.*
>
> *4. The Ld. CIT(A) ought to have deleted the penalty levied u/s. 271DA, as there is no proper satisfaction drawn by the Assessing Officer in the Assessment Order.*
>
> *5. The Ld. CIT(A) ought to have appreciated that the Ld.AO has not drawn proper satisfaction in the Assessment order as to what is the quantum of amount for which the Appellant is liable for penalty u/s. 271DA.*

6. The Ld.CIT(A) erred in rejecting the contention of the Appellant that the notice issued u/s. 271DA of the IT Act for initiating the penalty proceedings lacks jurisdiction in the absence of recording of a valid satisfaction by the Assessing Officer in his order regarding the violations of provisions of section 269ST of the Act and the penalty order passed in pursuant to the said notice is void ab initio.

7. The Ld.CIT(A) ought to have appreciated that the Ld.AO has erred in rejecting the contention of the Appellant that the burden to establish the contravention of the provisions of sec.269ST is on the revenue and the onus is not on the Appellant to produce verifiable evidence in support of its claim of non-violation of the provisions of section 269ST.

8. The Ld.CIT(A) has erred in invoking the provisions of sec.271DA by merely relying on the loose sheets and rough tally data. Therefore, the penalty levied by the Ld.AO is baseless and void.

9. The Ld.CIT(A) has erred in considering the fact that the Ld.AO has levied the penalty on uncorroborated/ unauthenticated tally data. Therefore, the penalty levied is not tenable.

10. The Ld.CIT(A) ought to have observed that the Ld.AO has neither brought any material on record nor drawn any adverse inference but has simply proceeded to levy penalty u/s. 271DA of the IT Act, which is bad in law.

11. The Ld. CIT(A) has erred in confirming the penalty without considering that there is no finding regarding the mode of receipt in violation of section 269ST, and hence the provisions of section 271DA are not attracted.

12. The Ld.CIT(A) ought to have observed that there is no evidence brought on record either by the investigation wing of by the AO at the time of assessment proceedings to show that there is recipient and payee and the transactions in cash in excess of Rs. 2 lakhs. In the absence of such evidence, no penalty can be levied under section 271DA.

13. The Ld. CIT(A) ought to have appreciated that the Ld.AO has failed to distinguish the contravening from the non-contravening transaction and the blind reliance on an undifferentiated sum lack of proper application of mind. consequently, the blanket levy of penalty is arbitrary and unsustainable in law.

14. The Ld.CIT(A) ought to have observed that penalty cannot be levied automatically on mere admission of additional income offered voluntarily on estimation basis and the same is not permissible as per law.

15. The Ld. CIT(A) has erred in not considering the judicial precedents and settled legal position that penalty under section 271DA cannot be imposed in absence of cogent and corroborative evidence.

16. The Appellant craves to add/alter/modify/leave any other grounds at the time of hearing."

3. The brief facts of the case are that, a search and seizure operation under Section 132 of the Income Tax Act, 1961 was conducted in the case of Vasavi Group on 17.08.2022 covering various business premises, residential premises of directors, partners and other connected persons and entities of the Group. During the course of search proceedings, the Investigation Wing found and seized various incriminating materials in physical as well as electronic form including loose sheets, original MOUs, vouchers and tally data maintained in hard disks and pen drives. The electronic devices seized during the course of search were inventorised as Annexure A/VG/MS/51 and Annexure A/VG/CORP/ED/3. The Revenue also referred to certificates issued u/s. 65B of the Indian Evidence Act, 1872 in support of the electronic evidence found during the course of search proceedings. On examination of the seized material, the Revenue noticed alleged cash receipts from customers in connection with sale of flats, villas and commercial units relating to various projects belonging to Vasavi Group. Statements u/s. 132(4) of the Act,

were also recorded from various persons connected with the Group including Shri Y. Vijay Kumar, Managing Partner of the assessee, Shri K.P. Durga Prasad, Shri G. Ramdev Reddy, Shri Masani Srinivas and Shri Abhishek Chanda. In the statement recorded under Section 132(4) of the Act, on 17.08.2022, Shri Y. Vijay Kumar, CMD of Vasavi Group, admitted that, the entries reflecting in the tally books of account pertaining to Vasavi Group's projects are true in nature and are recorded on the basis of parties involved in the transactions. The Revenue relied upon the said statements and observed that, the entries reflected in the tally data represented actual transactions relating to various projects of the Group.

4. Subsequent to the search proceedings, the assessment for the A.Y. 2019-20 was completed u/s.143(3) r.w.s. 147 of the Act. During the course of assessment proceedings, the A.O. observed that, the seized tally data reflected customer receipts which were not fully recorded in the regular books of account. The A.O. noted that penalty proceedings u/s. 271DA of the Act, are being referred to in cases where the on-money received in cash in violation of provisions of Section 269ST of the Act, and over and above the

specified sum. Thereafter, the A.O. forwarded proposal dated 09.08.2024 to the Addl. Commissioner of Income Tax, Central Range-3, Hyderabad for initiation of penalty proceedings. The A.O. further noted that, the analysis of the seized tally data reveals that the assessee has recorded total receipts from the various projects, including cash receipts, and also recorded various expenditure in cash. The A.O. further noted that, during the post-search investigation, the assessee has quantified total receipts recorded in the seized tally data for each entity in respect of customer advances, undisclosed part of cash receipts, undisclosed unsecured cash loans received in cash, etc., and accordingly admitted additional income of Rs. 400 crores to cover up the discrepancies in the seized documents for the entire group. The A.O. further noted that, going by the modus operandi employed by the assessee, coupled with the documents found during the course of search, it is undisputedly proved that, the assessee was involved in receipt of on-money in cash from various customers for sale of flats and commercial space, and the same has not been recorded in the regular books of account maintained by the assessee. The A.O. has analyzed the seized material with reference

to amount quantified by the assessee and observed that, the assessee has recorded on-money receipts for sale of flats and commercial space under two categories, one under the head “on-money receipts directly from customers” and further, “on-money receipts routed through partners under the head partner's contribution”. Therefore, the A.O. observed that, the books of accounts maintained by the assessee in the normal course of its business are not true and correct, because it did not contain total receipts from the business. The A.O. further noted that, the secondary set of books maintained by the assessee in the tally data are also defective on broad issues, including payables to landlords recorded under capital group, site-to-site projects to customers are not clearly recorded, transactions relating to transfer between partners is not explained, and therefore, observed that, the books of account maintained by the assessee are not true and correct. Thus, the A.O. rejected the books of account of the assessee under section 145(3) of the Act, and by taking into account the additional income offered by the assessee @ 15% on-money received, which is not recorded in the books of

account, estimated 16% profit on total receipts as quantified from the seized tally data.

5. On receipt of the said proposal, the Additional Commissioner of Income Tax, Central Range-3, Hyderabad issued a show-cause notice under Section 274 r.w.s. 271DA of the Act, dated 22.08.2024, which was duly served on the assessee. During the course of penalty proceedings, the Addl. CIT has obtained information from the A.O. with regard to the violation of provisions of Section 269ST of the Act. The information contained in the seized material, including the accounting data maintained in Tally data seized during the course of search proceedings, has been obtained from the A.O. and the same has been examined. The said accounting data maintained in tally with regard to the cash received by the assessee was confronted to the learned counsel for the assessee and the final show-cause notice dated 14.02.2025 was also issued and served on the assessee. In response to the show-cause notice, the assessee has filed its submissions for initiation of penalty proceedings and submitted that the seized documents lacked credibility and evidentiary value. Further, there was no concrete identification of the parties to the transactions for

applying provisions of Section 269ST of the Act. There are no corroborative evidences brought on record to show that on a particular date, a particular amount received from a particular person is in violation of Section 269ST of the Act. The data was rough, unauthenticated and maintained outside the official books of account. It was also defective as pointed out by the A.O. in his assessment order and therefore, the said books of account cannot be considered for the purpose of penalty under Section 271DA of the Act. The assessee further claimed that the admission is only for estimation of income to quietus the prolonged litigation and settle the dispute amicably and the admission of the assessee is not acceptance of violation of provisions of Section 269ST of the Act.

6. The Addl. CIT, Central Range -3, Hyderabad, after considering the submissions of the assessee and also taking note of the provisions of Section 269ST of the Act, observed that on perusal of the seized documents including the accounting data maintained in tally seized, it is clear that, the assessee has received a sum of Rs. 61,22,43,906/- in cash on various occasions, thereby the assessee had violated the provisions of Section 269ST of the Act. The Addl.

CIT further noted that, the accounting data which was maintained date-wise and transaction-wise clearly shows cash receipts of Rs. 61,22,43,906/- on various occasions. Further, upon verification of relevant cash receipts, it was observed that, the actual cash receipts in violation of provisions of Section 269ST of the Act, is only Rs. 11,90,09,000/-. Therefore, observed that, the assessee has violated the provisions of Section 269ST of the Act by accepting an amount of Rs. 2,00,000/- or more in aggregate from a person in a day, in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed. Therefore, levied penalty of Rs. 11,90,09,000/- under Section 271DA of the Act, for violating the provisions of Section 269ST of the Act. The relevant findings of the learned Addl. CIT are as under:

> *"8. The assessee has made the submissions which have been carefully perused and considered. The submissions of the assessee has not been found to be tenable on the following grounds.*
>
> *a. It is pertinent to mention that the seized material was seized during the course of search proceedings from the office and residential premises, after following due process and procedure of Income Tax law. Also, the*

seized material which are seized as electronic document ie digital evidence, was duly authenticated by way of certificate u/s.65B Indian Evidence Act which was signed by the assessee during the course of search proceedings.

b. Shri Y Vijay Kumar, Managing Partner of the Vasavi Group has confirmed the cash transactions in the sworn statement. Also, Shri G.Ramdev Reddy, GM (Admin), M/s Vasavi Group, Hyderabad, in his statement recorded has confirmed the statement of Shri K.P. Durga Prasad, CFO, CA & Finance recorded u/s.132(4) on 17.08.2022, wherein he explained the procedure of cash collection from customers, procedure followed by them for making various cash payments and how they are entered in parallel set of books maintained in tally. The statement of Sri Masani Srinivas, Accounts Manager was also recorded on 17.08.2022, who reports to Sri Durga Prasad, CFO and is involved in making cash entries in the parallel set of books. Further, one of the main partner, Sri Abhishek Chanda's statement was recorded on 18.08.2022, who has also confirmed the cash transactions. Also the assessee in the submission made during the penalty proceedings has also confirmed the cash transactions.

c. The decision relied upon by the assessee in the case of R. Anbuvelrajan Vs Additional CIT, Central Range-1 (ITA Nos 2165 & 2166/2024), the Chennai Bench of Hon'ble ITAT has been perused. It is seen that the facts of the case are totally distinguishable in the way that in the said case the amounts were received by the assessee, who is only a middle man or broker. The assessee is just a facilitator between the seller and the purchaser. However, the facts of this case is totally distinguishable from that of this instant case wherein the assessee has received the cash directly from the prospective buyers i.e. customers.

9. The assessee has relied upon certain case laws with regard to the principle of law that for applicability of penal provisions under a particular section, the conditions stated therein must exist. In this regard, the section s.269ST of the Income Tax Act, 1961 is hereby reproduced as under,

Mode of undertaking transactions.

269ST. No person shall receive an amount of two lakh rupees or more-

(a) in aggregate from a person in a day, or

(b) in respect of a single transaction: or

(c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed

10. In the instant case of the assessee, on perusal of the seized documents including the accounting data maintained in Tally seized vide A/VG/MS/51 (S/N NACN7VAW) and A/VG/CORP/ED/3, it is clear that the assessee has received the sum of Rs. 61,22,43,906/- in cash on various occasions thereby the assessee has violated the provisions of Section 269ST fulfilling the conditions of the said section. It is seen from the accounting data which is maintained date-wise and transaction-wise in the instant case for A.Y.2019-20, the assesse has received Rs. 61,22,43,906/- on various occasions. But during the penalty proceedings, a detailed examination of the seized material was carried out and after considering the relevant submissions of the assesse in this regard, it is found that out of Rs. 61,22,43,906/-, the actual receipt of cash transaction on several occasions is totaling to an amount of Rs. 11,90,09,000/- only. So, the assessee has fulfilled the conditions stated in the section 269ST i.e. doing transactions of two lakhs rupees or more otherwise than by an account payee cheque or draft or use of electronic clearing system through a bank account or through any other electronic modes, in contravention of the provisions of section 269ST of Income Tax Act.

11. As per the provisions of S.271DA of the Act, if a person violates the provisions of S.269ST of the Act, then he/she/it may be liable for levy of penalty u/s. 271DA of the Act. Thus, for receiving sum to the tune of Rs. 11,90,09,000/- in cash on several occasions, the assessee is liable to pay penalty as per provisions of S. 271DA of the Act.

12. Therefore, in view of facts and circumstances mentioned above, I am satisfied that it is a fit case for levy of penalty u/s 271DA of the Income Tax Act, 1961 for violation of provisions of Section 269ST of I.T. Act, 1961. In the instant case, an amount of Rs. 11,90,09,000/- was received in cash during the period relevant to A.Y.2019-20, which is in contravention of the provisions of Section 269ST of the Income Tax Act. Also the assessee has not proved that there were good and sufficient reasons for said contravention of provisions of Section 269ST of the Act by the assessee. Thus, as per provisions of Section 271DA of the Act, a penalty of Rs. 11,90,09,000/- for A.Y.2019-20 which is equal to the amount received otherwise than through banking channels or any other electronic means (as per Rule 6ABBA), is imposed upon the assessee. The demand notice is generated for this amount which is enclosed."

7. Aggrieved by the penalty order, the assessee preferred appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee challenged the validity of initiation of penalty proceedings as well

as levy of penalty on merits. The assessee submitted that, the A.O. did not record proper satisfaction in the assessment order regarding alleged contravention of provisions of section 269ST of the Act. The assessee further submitted that, the notice issued u/s.274 r.w.s. 271DA of the Act, was vague and did not specify the precise nature of violation alleged against the assessee. The assessee further submitted that, the entire penalty proceedings were initiated only on the basis of loose sheets, rough tally data and uncorroborated electronic entries without any independent evidence to establish actual receipt of cash from identifiable persons. The assessee also submitted that, the Revenue did not establish identity of payer, nature of transaction, date of receipt and actual mode of receipt so as to attract provisions of section 269ST of the Act. The assessee further submitted that, mere admission of additional income or estimation of profit during the course of assessment proceedings would not automatically justify levy of penalty u/s.271DA of the Act.

8. The assessee further submitted that, the burden to establish contravention of provisions of section 269ST lies entirely upon the Revenue and such burden cannot be shifted upon the assessee

merely on the basis of rough tally entries found during the course of search proceedings. The assessee further submitted that, the tally data relied upon by the Revenue was neither corroborated with regular books of account nor supported by independent evidence to establish actual receipt of cash from customers. The assessee also submitted that, the Revenue did not bring any material on record either during the course of assessment proceedings or penalty proceedings to establish name of the payer, mode of receipt and exact nature of transaction in order to invoke provisions of section 269ST of the Act. The assessee further submitted that, the Addl. CIT levied penalty on the basis of uncorroborated tally data and therefore the penalty proceedings are unsustainable in law.

9. The assessee further submitted that, the Addl. CIT did not distinguish contravening transactions from non-contravening transactions and proceeded to levy penalty on an undifferentiated sum without proper application of mind. The assessee also submitted that, penalty u/s. 271DA of the Act, cannot be levied automatically merely because additional income was offered or estimated during the course of assessment proceedings. Further,

the assessee had also challenged the reasons given by the A.O. to rely upon the rejected books of accounts for the purpose of selective identification of cash entries in excess of Rs.2,00,000/- or more for the purpose of Section 269ST of the Act, even though the A.O. himself has admitted that, books of accounts maintained by the assessee in the normal course of business and secondary set of books of accounts maintained in the seized tally data are incomplete and incorrect and from the above books of accounts, the correct income of the assessee cannot be determined. The assessee further relied upon various judicial precedents in support of the proposition that penalty provisions require strict interpretation and in the absence of cogent and corroborative evidence, no penalty can be levied merely on the basis of loose sheets, rough notings or electronic entries.

10. The Ld. CIT(A), after considering the penalty order, seized material, statements recorded during the course of search proceedings and written submissions filed by the assessee, observed that, the search operation resulted in seizure of incriminating electronic evidence and parallel tally books clearly reflecting cash transactions outside the regular books of account.

The Ld. CIT(A) further observed that, the statements recorded from various persons connected with Vasavi Group explained the procedure followed for collection of cash from customers and maintenance of parallel tally books. The Ld. CIT(A) also observed that, the electronic evidence seized during the course of search proceedings was supported by certificates issued u/s.65B of the Indian Evidence Act, 1872 and therefore, the evidentiary value of such material cannot be ignored merely because the entries were maintained in electronic form.

11. The Ld. CIT(A) further observed that, the tally entries were maintained date-wise and transaction-wise and therefore the seized material clearly established receipt of cash in violation of provisions of section 269ST of the Act. The Ld. CIT(A) also observed that, during the course of penalty proceedings, the Addl. CIT examined the seized material in detail and after verification reduced the alleged cash receipts from Rs. 61,22,43,906/- to Rs. 11,90,09,000/-. The learned CIT(A) further noted that the report submitted by the Range Head/A.O. during the appellate proceedings clearly explained the basis on which the distinction was drawn between transactions attracting penalty and those not

attracting penalty. The report states that all entries recorded in the tally books do not automatically amount to contravention of section 269ST of the Act. It is specifically explained that all transactions below Rs. 2,00,000/- were excluded, that journal entries, internal adjustments, intra-project and inter-project transfers, cash adjustment entries between partner entities, redistribution of surplus funds, notional entries and capital adjustment entries relating to land acquisition or partner's contribution were not treated as final transactions because such entries did not represent receipt of cash in contravention of section 269ST of the Act. Thus, the report clearly set out the nature of non-contravening receipts and the basis for excluding them. The record clearly shows that such an exercise was undertaken and as per the details available with the A.O., there are clear evidences of cash receipts in excess of Rs. 2,00,000/- or more in aggregate from a single person for sale of flats or commercial spaces in violation of provisions of section 269ST of the Act and therefore, the arguments of the assessee that the Revenue has not brought out clear evidence of contravention of provisions of section 269ST of the Act, in the assessment order or

in the penalty order is totally contrary to the facts available on record and cannot be accepted. Therefore, according to the Ld. CIT(A), the Addl. CIT did not levy penalty mechanically and examined the seized material and explanations furnished by the assessee before arriving at the final figure of alleged cash receipts. The Ld. CIT(A) further observed that, the seized tally data reflected receipt of cash otherwise than by account payee cheque, account payee bank draft or prescribed electronic modes and therefore the conditions prescribed u/s. 269ST of the Act, stood satisfied. The Ld. CIT(A) further observed that, statements recorded from key managerial persons and employees of Vasavi Group also supported the case of the Revenue regarding receipt of cash from customers and maintenance of parallel tally books outside the regular books of account. The Ld. CIT(A) further observed that, the assessee failed to disprove the seized material with supporting evidence and also failed to establish that the tally entries did not represent actual cash transactions.

12. The Ld. CIT(A) further observed that, the judicial precedents relied upon by the assessee are distinguishable on facts and not applicable to the present case. The Ld. CIT(A) further observed

that, the assessee received cash in excess of the prescribed limits otherwise than through banking channels and therefore violated provisions of section 269ST of the Act, attracting levy of penalty u/s.271DA of the Act. Accordingly, the Ld. CIT(A) confirmed the penalty levied by the Addl. CIT for the A.Y.2019-20.

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

14. The learned counsel for the assessee, Shri C. Maheswar Reddy, C.A., Shri K.C. Devdas, C.A. and Shri S. Narsing Rao, C.A., submitted that, the learned CIT(A) erred in sustaining penalty levied by the Addl. CIT/A.O. under Section 271DA of the Act, for violation of provisions of section 269ST of the Act, without appreciating the fact that, the conditions required for invoking the provisions of section 269ST are not satisfied. The learned counsel for the assessee further, referring to the assessment order passed by the A.O. under Section 143(3) r.w.s. 147 of the Act, dated 16.07.2024 and consequent penalty order passed by the Addl. CIT under section 271DA of the Act, dated 27.02.2025 submitted that, there is no dispute with regard to the fact that during the course

of search proceedings, secondary set of books of account maintained by the assessee in tally data were found and seized, which shows various cash receipts, including cash receipts from sale of flats and commercial space and corresponding expenditure incurred in cash. It is also an admitted fact that Shri Y. Vijay Kumar, CMD of the assessee group, in his statement recorded under section 132(4) of the Act, has admitted that, the entries contained in the secondary tally data maintained in pen drive contained total cash receipts and cash payments of the business and also came forward to admit additional income of Rs. 400 crores for the entire group. Further, the assessee group had also offered additional income by estimating 15% profit on total unaccounted receipts found during the course of search and also paid taxes. However, fact remains that neither during the course of search proceedings nor during the course of assessment proceedings, the assessee did not accept any kind of violation of provisions of section 269ST of the Act, so as to invoke provisions of section 271DA of the Act. Therefore, the initiation of penalty proceedings under section 271DA without mandatory requirement of fulfilling conditions provided therein is totally incorrect.

15. The learned counsel for the assessee further, referring to the assessment order, submitted that there is no satisfaction from the A.O. with regard to violation of provisions of section 269ST of the Act, in the assessment order, which is evident from the relevant assessment order passed by the A.O. where the A.O. simply in one line stated that penalty proceedings under section 271DA of the Act, are being referred to in cases where the on-money received in cash is in violation of provisions of section 269ST, over and above the specified sum. From the above, it is not discernible as to whether the A.O. has arrived at a clear satisfaction as regards violation of provisions of section 269ST of the Act. Therefore, without any satisfaction in the assessment order, initiation of penalty proceedings under section 271DA of the Act, is totally incorrect. The learned counsel for the assessee, further referring to the assessment order passed by the A.O., submitted that although the A.O. has discussed the modus operandi employed by the assessee group on receipt of on-money for sale of flats and commercial spaces and also quantified the aggregate amount received by the assessee firm for the year under consideration, but the A.O. has not given any details of the persons, who paid an

amount of Rs. 2,00,000/- or more in aggregate from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person, which is evident from the assessment order passed by the A.O. where the A.O. only tabulated the year-wise on-money receipts for sale of flats and commercial spaces without any details as to the name of the customer who paid the money, date of such payment, whether it is in cash or otherwise than cash, or the amount of Rs. 2,00,000/- or more in aggregate from a person in a single day or for an event or occasion. In the absence of any details as to the violation of provisions of section 269ST of the Act, it cannot be said that the A.O. has arrived at a satisfaction before referring the case to the Addl. CIT for imposing penalty under Section 271DA of the Act. The learned counsel for the assessee, further referring to the decision of the Hon'ble Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills reported in (2015) 64 taxmann.com 75 (SC), submitted that it is a well-established principle of law by the decision of the Hon'ble Supreme Court that, the A.O. must record satisfaction in the assessment order before initiation of penalty proceedings under sections 271D and 271E of the Act. The

Hon'ble Supreme Court further held that, the satisfaction arrived at by the A.O. regarding violation of relevant provisions should be discernible from the assessment order itself and the same should be recorded in clear terms indicating the violations referred to under relevant provisions. Therefore, from the above decision, it is very clear that, recording satisfaction before initiation of penalty proceedings is not a mere formality, but a statutory requirement and therefore, the A.O. must record clear satisfaction regarding violation of provisions of section 269ST of the Act, by bringing relevant facts in the assessment order indicating the details of the payer, the date of payment, the aggregate amount paid in a day in respect of a single transaction or in respect of transactions relating to one event or occasion.

16. The learned counsel for the assessee further submitted that, in the present case, the entire assessment order passed by the A.O. only speaks about the receipt of on-money by the assessee group and the incorrectness of books of accounts maintained by the assessee for estimating profit on gross receipts including on-money receipts. However, there is no iota of evidence in the assessment order regarding violation of provisions of section

269ST of the Act. Therefore, the conclusion drawn by the learned CIT(A) that, there is a clear satisfaction from the A.O. regarding violation of provisions of Section 269ST of the Act, in the assessment order is contrary to the facts available on record and therefore, is devoid of merit and cannot be accepted. In this regard, they relied upon the following judicial precedents:

1. Commissioner of Income-tax-V Vs. Rampur Engg. Co. Ltd. reported in (2009) 176 Taxman 211 (Delhi) (FB).
2. Shri Umakant Sharma Vs. JCIT in ITA Nos. 364 to 366/Ind/2022 (Indore - Trib.).
3. Joint Commissioner of Income-tax Vs. Grandhi Sri Venkata Amarendra reported in (2026) 183 taxmann.com 545 (SC).
4. Grandhi Sri Venkata Amarendra Vs. Joint Commissioner of Income-tax.
5. Srinivasa Reddy Reddeppagari Vs. Joint Commissioner of Income Tax in W.P. No. 44285 of 2022 (Telangana).
6. Bhowmick Raj Singh Vs. Joint Commissioner of Income-tax reported in (2025) 171 taxmann.com 575 (Raipur - Trib.).
7. Kesireddy Ravinder Reddy Vs. The Income Tax Officer, Ward-1(1) in ITA Nos. 1617 & 1722/Hyd/2025 (Hyderabad - Trib.).
8. Somireddy Sudhakar Reddy Vs. The Income Tax Officer, Ward-9(1) in ITA No. 1505/Hyd/2025 (Hyderabad - Trib.).
9. ACIT, Central Circle-30 Vs. Seven Seas Hospitality Private Ltd. in ITA Nos. 2225 & 2226/Del/2025 (Delhi - Trib.).

17. The learned counsel for the assessee further submitted that, the penalty levied by the Addl. CIT under Section 271DA of the

Act, and sustained by the learned CIT(A) is unsustainable in law going by the facts of the present case. The learned counsel for the assessee, referring to various documents, submitted that the A.O. has solely relied upon the tally data found during the course of search and observed that there were cash transactions in excess of Rs. 2,00,000/- or more in aggregate from a single person in a day; or in respect of a single transaction; or an event or occasion. However, fact remains that neither during the course of assessment proceedings nor during the course of penalty proceedings, any such details have come from the A.O. The A.O. neither quantified the details of cash receipts in excess of specified sum referred to under section 269ST of the Act, nor has given any details as to the names of the persons from whom the assessee has received cash in excess of specified sum, the date of cash received, and the purpose of cash received. In the absence of any details as to the amount received from the person, it cannot be said that the conditions precedent for invoking the provisions of Section 271DA of the Act, are satisfied. The learned counsel for the assessee further submitted that, there is no dispute with regard to the fact that the assessee firm has received cash for sale

of flats and commercial space and the data relating to receipt of on-money in cash has been recorded in tally data for arriving at net profit from cash transactions without any details as to assessee-wise receipt of cash from persons, project-wise details from any person, date of receipt and purpose of receipt, etc. Further, the A.O. himself has admitted in his assessment order in para 6.2 that, the secondary set of books were also defective on broad issues tabulated therein, including various transactions payable to landlords recorded under different heads, transfer of funds from one site to another site or one project to another project, transactions relating to transfers between partners, notional entries, cancellation of booking advances, etc. From the above, it is very clear that, the A.O. has rejected the books of account maintained by the assessee in the normal course of its business, including regular books of account maintained for the purpose of filing of return of income and also secondary set of books maintained in tally data. Therefore, once the books of account are rejected and the profit has been estimated by applying a certain rate of profit, then the very same books of account cannot be considered for the purpose of levying penalty under

section 271DA of the Act. Since the documents maintained by the assessee are incomplete and the evidences considered by the Addl. CIT for the purpose of levying penalty under section 271DA of the Act, are non-speaking ones without any details as to the name of the person from whom the cash was received, date of cash receipt and the purpose, the data relied upon by the A.O. for the purpose of section 271DA of the Act, is totally incorrect and therefore, the penalty levied by the Addl. CIT on the basis of the said evidence cannot be upheld. The learned counsel for the assessee further submitted that, apart from the rough and unauthenticated tally data, neither the investigation nor the A.O. has brought on record any corroborative evidence to prove the violation of provisions of section 269ST of the Act. In the absence of any cogent evidence, levy of penalty on the basis of rejected books of accounts and only on the basis of admission of additional income during the search is a clear case of levying penalty under section 269ST of the Act, merely on the basis of suspicion without any independent application of mind. Therefore, they submitted that the penalty levied by the A.O. is unsustainable in law.

18. The learned counsel for the assessee further submitted that, the A.O. has rejected the books of account under section 145(3) of the Act, and estimated 16% net profit on gross receipts, including receipts disclosed by the assessee in the return of income filed under section 139 of the Act, and also unaccounted cash receipts quantified as per seized tally data found during the course of search. The A.O. had also noted that, the unaccounted tally data contains various expenditure incurred by the assessee in cash out of on-money received in cash from various customers. Therefore, the A.O. has resorted to estimation of profit on the ground that the books of account maintained by the assessee are not verifiable with reference to the entries recorded therein and therefore, once the A.O. came to the conclusion that the entries recorded in the books of account are not verifiable, then for the purpose of identifying violation of provisions of section 269ST of the Act, the A.O. cannot rely on the very same books of account which were incomplete and incorrect. The learned counsel for the assessee further submitted that the A.O. solely relied upon the entries contained in the secondary books of account maintained in tally data. The evidences relied upon by the A.O. are not supported by

any corroborative evidence either in the form of cash receipts or agreements with customers or any details, bills, etc., issued by the assessee. The A.O. had also not quantified the customer-wise cash receipts in excess of Rs. 2,00,000/- or more in aggregate from a person in a day; or in respect of a single transaction; or in respect of transaction relating to one event or occasion from a person. No inquiry was conducted with any customers. The A.O. has considered unilateral entries recorded by the assessee firm without any supporting evidence and came to the conclusion that the assessee has received cash in violation of the provisions of section 269ST of the Act. No customer confirmed cash payments. Therefore, the allegation of the A.O. that, the assessee has received Rs. 2,00,000/- or more in aggregate in a single day; or in respect of a single transaction or event or occasion otherwise than by way of an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed is totally based on suspicion and surmises and not based on any evidence. Therefore, they submitted that, in the absence of any independent inquiry to support the claim of the A.O. that, the

assessee has received cash in excess of Rs. 2,00,000/- or more contrary to the provisions of section 269ST of the Act, levy of penalty on the basis of unilateral entries passed by the assessee in the books of account which are rejected and not considered for the purpose of assessment cannot be accepted. In this regard, they relied upon the decision of the Hon'ble Andhra Pradesh High Court in the case of Sait Bansilal & Rangisetti Veeranna Vs. CIT [1972] 83 ITR 750 (Andhra Pradesh), The assessee has also relied upon the decision of the Hon'ble Supreme Court in the case of CIT Vs. Khoday Eswarsa & Sons [1972] 83 ITR 369 (SC). The assessee had also relied on the decision of ITAT, Hyderabad Bench in the case of MSN Laboratories Pvt. Ltd. Vs. Addl. CIT (2026) 185 taxmann.com 655. (Hyderabad Trib.)

19. The learned counsel for the assessee further submitted that, the A.O. had miserably failed in distinguishing the contravening and non-contravening transactions from the seized tally data, which is evident from the assessment order passed by the A.O., where the A.O. has identified cash receipts in excess of specified sum referred to under section 269ST of the Act, at Rs. 61,22,43,906/-, whereas in the order levying penalty under

section 271DA of the Act, the Addl. CIT observed that, the amount in excess of specified sum is at Rs. 11,90,09,000/-. From the above, it is very clear that, the A.O. had failed to identify transactions that fall within the scope of section 269ST of the Act, and transactions that are outside the scope of section 269ST of the Act. Therefore, he submitted that since the A.O. had clearly erred in not identifying the transactions which fall within the scope of section 269ST of the Act, from the tally data and therefore, merely on the basis of admission of the assessee during the course of assessment proceedings, he cannot come to the conclusion that, the assessee has admitted violation of provisions of 269ST of the Act. The learned counsel for the assessee further submitted that, the evidence considered by the A.O. for the purpose of estimation of income and levy of penalty under section 271DA of the Act, is a dumb document without any details as to the nature of transaction and the purpose of transaction. Although the assessee has admitted additional income on estimation basis on total receipts quantified as per seized tally data, the admission made by the assessee is only to settle the dispute and avoid further litigation and however, the admission of

income on estimation basis cannot be considered as admission of violation of provisions of section 269ST of the Act. Therefore, levying penalty on the ground of assessee's admission of additional income on cash receipt proceeds from sale of flats and commercial spaces and claiming that, the assessee has violated the provisions of section 269ST of the Act, is totally non-application of mind by the A.O. without any reason as to how the penalty under Section 271DA of the Act, is applicable in the given facts of the present case.

20. The learned counsel for the assessee further, referring to section 271DA of the Act, submitted that penalty under section 271DA of the Act, is not mandatory. As per section 271DA of the Act, no penalty shall be imposed on a person, if he, proves that there were good and sufficient reasons for the contravention. Penalty proceedings are quasi-judicial in nature and therefore, the burden lies on the Revenue to establish that the assessee acted with guilty mind or deliberate defiance of law and in the present case, no such findings have been made by the A.O. Further, the primary objective of section 271DA of the Act, is to curb black money and tax evasion. In the present case, there is no iota of

evidence in the assessment order or in the penalty order that the assessee has evaded tax by employing modus operandi in receipt of on-money. Therefore, levying penalty under Section 271DA of the Act, equal to the amount of cash receipts in excess of Rs. 2,00,000/- is contrary to the purpose of insertion of section 271DA by the legislation into the statute book going by the provisions of Section 271DA and the purpose of its insertion. The learned counsel for the assessee further, referring to the provisions of Section 158BFA(2) of the Act, which is applicable to cases where search has been initiated on or after 01.04.2024, submitted that the Finance Act, 2024 has reintroduced the block assessment scheme under Chapter XIV-B of the Act, and has simultaneously introduced Section 158BFA which provides for the rate of tax on undisclosed income for the block period. As per Section 158BFA(2) of the Act, no penalty is leviable under sections 271AAB, 271AAC, 271AAD or 271DA of the Act, in respect of undisclosed income for the block period where the tax payable on the income returned for the block period has been paid. The legislative intent behind this proviso is very clear, as per which no penalty is leviable for violation of any provisions of the Act, if

prompt disclosure is made towards undisclosed income and payment of tax on the said income. In the present case, the assessee has disclosed unaccounted receipts as per the tally data found during the course of search and also paid taxes on additional income offered during the course of search. Therefore, once again levying penalty under Section 271DA of the Act, that too equal to the amount of transaction, is totally incorrect and against the principles of fair taxation as enshrined in Article 265 of the Constitution of India. Therefore, it was submitted that, the Department having accepted the income declared by the assessee on estimation basis, erred in levying 100% penalty on cash transactions in excess of Rs. 2,00,000/- under section 271DA of the Act. The learned counsel for the assessee further, referring to the principles of Wednesbury reasonableness, submitted that various Courts, including the Hon'ble Supreme Court have referred to the principles of Wednesbury reasonableness and going by the said principles, the action of the A.O. in levying penalty equal to 100% of the cash transactions is quite opposed to the principles of Wednesbury reasonableness and therefore, once the A.O. has accepted the income on estimation basis and concluded

that the assessee has earned only a certain percentage of income out of cash receipts, erred in levying 100% penalty under Section 271DA of the Act, which is contrary to the above principles and therefore, the penalty levied by the Addl. CIT on this count also should be deleted.

21. The learned counsel for the assessee further, referring to various details, submitted that the burden of proof to establish violation of section 269ST is on the A.O. The A.O. has failed to establish violation of section 269ST of the Act, either in the assessment order or the penalty order, which is evident from the relevant orders passed by the A.O. where the A.O. referred to receipts in excess of Rs. 2,00,000/- for the whole year without any details as to the name of the person who paid the amount, date of payment, purpose of payment, etc. The learned CIT(A) also admitted the fact that there are no such facts coming from the assessment order or in the penalty order, but erred in obtaining a report from the A.O. on the list of transactions in excess of Rs. 2,00,000/- or more in aggregate from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion without providing any

opportunity to the assessee. Further, even assuming for a moment that the learned CIT(A) was right in obtaining a report from the A.O. regarding violation of section 269ST of the Act, but fact remains that even in the list submitted by the A.O., there are no clear details as to the name of the person who paid the amount, date of payment and the purpose of payment, etc. The learned counsel for the assessee, referring to the list of transactions reproduced by the learned CIT(A) in the appellate order, submitted that although the learned CIT(A) has considered various transactions in the names of certain individuals, but going by a few transactions, it appears that the narration is contrary to the reasons given by the A.O. The A.O. stated that the assessee has received cash for sale of flats and commercial space, whereas going by the entries, it only talks about unilateral entries recorded by the assessee in the tally software found during the course of search without any details as to the purpose of transaction, etc. Since there are no clear details in the list submitted by the A.O. regarding violation of section 269ST of the Act, the learned CIT(A) ought not to have rested his findings on the basis of unilateral and unverified list submitted by the A.O. to support the findings of the

A.O. that there is violation of section 269ST of the Act. Therefore, he submitted that on this count also, the penalty levied by the Addl. CIT cannot be upheld.

22. The learned CIT-DR, Dr. Narendra Kumar Naik, and the learned Sr.A.R., Dr. Sachin Kumar, supporting the order of the learned CIT(A), submitted that, provisions of section 271DA of the Act, were inserted to curb black money and specifically inserted after demonetization. Therefore, the above provisions should be construed strictly without any addition or deletion for the purpose of giving any different meaning. The learned CIT-DR further submitted that, it is an admitted fact that during the course of search, various incriminating materials were found which contain details of on-money receipts for sale of flats and commercial spaces by the assessee group, including the assessee. It is also an admitted fact that the assessee itself has quantified unaccounted receipts of on-money from the very same seized tally data i.e., entry-wise and year-wise and also admitted additional income at 15% on total receipts quantified as per seized tally data. Therefore, the arguments of the learned counsel for the assessee that there is

no evidence with the A.O. regarding violation of section 269ST of the Act, is incorrect.

23. The learned CIT-DR further submitted that there is a clear satisfaction from the A.O. regarding violation of section 269ST of the Act, which is evident from the relevant findings recorded in the assessment order where the A.O. has brought out the modus operandi employed by the assessee group in receipt of on-money for sale of flats and commercial spaces and also quantified year-wise receipts recorded in tally data under different heads, including the amount received by the partners and routed through the capital account. The assessee has not reconciled the entries contained in the seized data with the books of account and also failed to explain the transactions to the satisfaction of the A.O. Therefore, the arguments of the learned counsel for the assessee that there is no satisfaction from the A.O. before initiation of penalty proceedings under section 271DA of the Act, is totally incorrect going by the provisions of section 271DA and the purpose of its insertion. The learned CIT-DR further submitted that, once there is a finding from the A.O. regarding violation of Section 269ST of the Act, then it is sufficient compliance of

satisfaction as required under law and also as held by various Courts, including the decision of the Hon'ble Supreme Court in the case of CIT vs. Jai Laxmi Rice Mills (supra). Further, there is no mandate in law to record satisfaction in a particular manner. Once there is an observation from the A.O. regarding violation of provisions of section 269ST of the Act, it is sufficient to hold that there is satisfaction from the A.O. and the A.O., on the basis of noticing violation of provisions of section 269ST of the Act, has referred the case to the Addl. CIT for initiation of penalty proceedings under section 271DA of the Act, which is followed by issuing a show-cause notice and levy of penalty under section 271DA of the Act. Therefore, the stand taken by the assessee on the issue of satisfaction is devoid of merit and cannot be accepted.

24. The learned CIT-DR further submitted that, there is clear evidence with the A.O. in the form of seized tally data, which shows various cash receipts towards sale of flats and commercial space by the assessee. The analysis of the seized tally data clearly shows unaccounted receipts for sale of flats and commercial space and the same has been admitted by Shri Y. Vijay Kumar, CMD of the assessee group and other employees handling the issue at

each entity. The assessee has also quantified unaccounted receipts of on-money and also admitted additional income of Rs. 400 crores for the entire assessee group for the assessment period. Further, the assessee has also determined additional undisclosed income by estimating 15% profit on unaccounted cash receipts. From the above, it is very clear that there are cash receipts which are not recorded in the regular books of account and the same has been identified by the A.O. from the seized tally data and further, the same has been confirmed by the assessee and its employees. Therefore, the arguments of the learned counsel for the assessee that there is no evidence with the A.O. to allege violation of section 269ST of the Act, is incorrect.

25. The learned CIT-DR further submitted that, the A.O. has identified cash receipts in excess of Rs. 2,00,000/- or more in aggregate in a single day, in respect of a single transaction or in relation to an event or occasion from the seized material and the same has been considered during the course of assessment proceedings and penalty proceedings, which is evident from the amount quantified by the A.O. towards cash receipts in violation of provisions of section 269ST of the Act. Although there are no

details with regard to who has paid the amount, date of payment and the purpose of payment in the assessment order or in the penalty order, but fact remains that during the course of appellate proceedings, the A.O. has submitted a report along with the list of payments which are in excess of the specified sum as per section 269ST of the Act and the same has been considered by the learned CIT(A) and observed that the assessee has received cash in excess of Rs. 2,00,000/- or more which falls under the provisions of section 269ST of the Act. Therefore, the argument of the assessee that the A.O. has not discharged the burden is incorrect.

26. The learned CIT-DR further submitted that, the arguments of the learned counsel for the assessee that once the books of account are rejected and the profit has been estimated, then there is no scope for levying penalty under section 271DA of the Act, is also devoid of merit going by the provisions of section 271DA and the purpose of its insertion. Further, there is no relation between assessment of income on undisclosed cash receipts and levy of penalty under section 271DA of the Act. The A.O. determined the income on the basis of estimation going by the facts of the case, the evidence available with the A.O. and the explanation of the

assessee. However, when it comes to penalty under section 271DA of the Act, it is for violation of section 269ST, which deals with the mode of undertaking transactions and as per section 269ST, no person shall receive Rs. 2,00,000/- or more in aggregate from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system, etc. In the present case, the details found during the course of search clearly show receipt of cash from customers in excess of Rs. 2,00,000/- or more in aggregate in a day, in respect of sale of flats and commercial spaces and the above receipt of cash in excess of specified sum falls under the provisions of section 269ST of the Act, and therefore, the Addl. CIT has rightly levied penalty under Section 271DA of the Act. Further, the arguments of the learned counsel for the assessee that the learned CIT(A) cannot improve the penalty order is also incorrect going by the facts available on record, because the learned CIT(A) has only supported the findings of the Addl. CIT by obtaining reports from the A.O. regarding violation of provisions of section 269ST of the Act, where the A.O.

had submitted a list of payments received by the assessee in excess of Rs. 2,00,000/- or more from a person in a single day or in respect of sale of property. Therefore, the arguments of the learned counsel for the assessee that, the learned CIT(A) has improved the penalty order, which is not the case of the Addl. CIT, is also incorrect.

27. The learned CIT-DR further submitted that, there is no dispute with regard to the fact that the income of the assessee has been determined on estimation basis. The A.O. rejected the books of account and estimated 16% profit on total receipts as quantified by the assessee on the basis of tally data found during the course of search. However, fact remains that the A.O. had given various reasons for rejection of books of account and estimation of profit. According to the A.O., the books of account maintained by the assessee in the normal course of business are incorrect and incomplete going by the modus operandi employed by the assessee for receipt of cash transactions and recording of cash transactions of on-money receipts towards sale of flats and commercial spaces and further, the secondary set of books maintained by the assessee in tally data is also not reliable going by the entries

contained therein and therefore, merely because the profit is estimated, it cannot be said that penalty under section 271DA of the Act, is not leviable. The learned CIT-DR further submitted that, the arguments of the assessee in light of provisions of Section 158BFA(2) is also devoid of merit going by the said provisions. The provisions relating to Section 158BFA(2) were made applicable by the Finance Act, 2024 in cases where the search was conducted on or after 01.04.2024, the income of the block period is computed and tax is levied at 60% and therefore, considering the rate of tax levied on undisclosed income, immunity has been provided for levying of penalty for various violations including violation under Section 269ST of the Act. Therefore, the comparison of provisions of Section 271DA with Section 158BFA(2) is totally incorrect and cannot be accepted. The learned CIT-DR further submitted that, the reliance placed by the learned counsel for the assessee in the case of Shri Mohanlal Vs. JCIT in ITA No.221/JPR/2019 dated 06.09.2021 is distinguishable on facts, because in the above case there was no evidence of cash transactions in excess of Rs. 2,00,000/- or more in aggregate from a person in a single day; or in respect of a single

transaction. Therefore, he submitted that, the learned CIT(A) has rightly sustained the penalty levied by the Addl. CIT under section 271DA of the Act, and thus, the order of the learned CIT(A) should be upheld.

28. We have heard the rival submissions and perused the material on record. We have also carefully considered relevant assessment order and penalty order passed u/s 271DA of the Act, along with various case laws relied upon by the learned counsel for the assessee. The A.O. levied penalty u/s 271DA of the Act, for contravention of section 269ST of the Act. The triggering point for levy of penalty u/s 271DA of the Act, was a search and seizure operation u/s 132 of the Act, conducted in the case of the Vasavi Group of Companies and Firms, including the assessee. During the course of search, the Department found incriminating documents, including secondary books maintained in tally data which was found and seized. Further, analysis of seized tally data found unaccounted cash receipts for sale of flats and commercial space and also unaccounted expenditure incurred for the business. This fact has been confirmed by Shri Y. Vijay Kumar, CMD of Vasavi Group and other employees having knowledge of

the transactions. Further, Vasavi group had also admitted additional income towards unaccounted cash receipts on estimation basis and declared 15% profit on unaccounted receipts in each entity including the assessee firm. The assessee had also filed revised return in response to notice issued in consequent to search and in the return, admitted additional income and paid relevant taxes. Consequent to search, assessment has been completed u/s 147 of the Act and the A.O. has rejected books of account maintained in the regular business u/s 145(3) of the Act, on the ground that books are incorrect and incomplete and has estimated 16% profit on total receipts as per books maintained in seized tally data and assessed the income for each of the entities, for relevant assessment years. Further, in the assessment order, the A.O. noted that penalty proceedings u/s 271DA of the Act, are being referred in cases where the on-money received in cash is in violation of provisions of section 269ST over and above the specified sum. Thereafter, the Addl. CIT, Central Range - 3, Hyderabad issued show cause notice u/s 274 r.w.s. 271DA and after considering submissions of the assessee levied penalty u/s 271DA of the Act, for Rs. 11,90,09,000/- for violation of provisions

of section 269ST of the Act. Therefore, it is necessary for us to decide the issue in light of above facts, and arguments of the learned counsel for the assessee and, as well as the Ld. CIT-DR/Sr.AR for the revenue.

29. The assessee has agitated penalty levied by the A.O. on multiple grounds. The first and foremost ground raised by the assessee is validity of order passed by the Addl.CIT/A.O. u/s 271DA of the Act, in absence of proper satisfaction from the assessing officer during assessment proceedings. The counsel for the assessee argued that, in the absence of proper satisfaction, initiation of penalty u/s 271DA makes the entire penalty proceedings a nullity and void-ab-initio. The primary issue for consideration is whether penalty under section 271DA of the Act, can be sustained where the Assessing Officer has not recorded satisfaction in the assessment order regarding violation of section 269ST of the Act. Section 271DA of the Act, provides for penalty where a person receives any sum in contravention of section 269ST of the Act. The provisions of section 269ST deal, with mode of undertaking transactions and as per above section, no person shall receive an amount of Rs. 2,00,000/- or more in aggregate

from a person in a day; or in respect of a single transaction; or in respect of transaction relating to one event or occasion from a person, otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account. Further, if an assessee is found to have accepted Rs. 2,00,000/- or more as specified under section 269ST of the Act, then the A.O., may levy penalty u/s 271DA of the Act, a sum equal to the amount of sum received in violation of section 269ST of the Act. However, the initiation of penalty proceedings must be based on a valid jurisdictional foundation, and such jurisdictional requirement must be discernible from the assessment order. In other words, the A.O. must record a satisfaction regarding violation of section 269ST of the Act, in the assessment order itself. Therefore, in our considered view, it is mandatory for the A.O. to initiate penalty proceedings after recording clear satisfaction and such satisfaction must be arrived at during assessment proceedings and it must be discernible from the assessment order. The satisfaction of the A.O. in the assessment order is not a mere procedural formality, but a jurisdictional requirement, because penalty under section 271DA is a quasi-

criminal proceeding and requires strict compliance with jurisdictional conditions. Further, satisfaction cannot be presumed or inferred subsequently from penalty notices. Therefore, in our considered view, whether the A.O. has assumed valid jurisdiction for initiating penalty proceedings u/s 271DA of the Act, or not shall be decided from the findings of the A.O. regarding violation of section 269ST of the Act, in the assessment order passed by the A.O. and whether such satisfaction is discernible from the assessment order.

30. In the present case, upon perusal of assessment order, we find that, there is no iota of any kind of satisfaction from the assessing officer on alleged violation of section 269ST of the Act. The assessment order is completely silent, and it does not contain any satisfaction of the A.O. Although, there is observation from the A.O. for initiation of penalty proceedings u/s 271DA of the Act, for violation of section 269ST of the Act, but said observation does not satisfy the requirement of law. The law is very clear in as much as, there shall be a clear and unambiguous findings from the A.O., in the assessment order regarding receipt of Rs. 2,00,000/- or more, from a person, in aggregate in a single day, in

respect of a single transaction; or in respect of transactions relating to one event or occasion from a person, otherwise than by way of account payee cheque or account payee bank draft or electronic mode of payment through a bank account. The A.O. neither records any findings with reference to receipt in excess of Rs. 2,00,000/- or more from any person in a single day; or in respect of a single transaction; or in respect transactions relating to one event or occasion nor made out a case for invoking section 269ST of the Act. Although the A.O. discussed the issue of on-money received by the Vasavi Group, including the assessee in light of modus operandi employed by the group and observed that there is clear evidence for receipt of on-money, but there is no iota of discussion on violation of section 269ST of the Act. No doubt, the assessee group including the assessee indulged in receipt of on-money for sale of flats and commercial spaces and this fact was confirmed by the CMD of Vasavi Group, but said admission cannot be considered as admission of violation of section 269ST of the Act. The penalty has been initiated subsequently without the foundational satisfaction in the assessment order and thus, such initiation is legally unsustainable. The ratio of the Hon'ble

Supreme Court in CIT Vs. Jai Laxmi Rice Mills (supra) squarely applies where it has been held that *"where no satisfaction recorded for initiating penalty u/s 271E, impugned penalty passed under section deserves to be set aside".* Though, the said decision was rendered in the context of section 271E/269T, the principle is equally applicable to penalty provisions such as sections 271D, 271E and 271DA, which are pari materia in nature. Further, in the case of CIT Vs. Rampur Engineering Company Ltd. (2009) 309 ITR 143 (Delhi), the Full Bench of the Hon'ble Delhi High Court held that "*power to impose penalty under Section 271 depends upon the satisfaction of the A.O. in the course of the assessment proceedings under the Act. It cannot be exercised if he is not satisfied and has not recorded his satisfaction about the existence of the conditions specified therein. In absence of clear finding as to the violation of relevant provisions, the initiation of penalty proceedings will be without jurisdiction."* Further, the judicial precedents, including the case of Shri Umakant Sharma Vs. JCIT in ITA No.364 to 366/Ind/2022 and also in the case of Kasireddy Ravinder Reddy Vs. ITO in ITA No.1617 and 1722/Hyd/2025 had also supports the proposition that penalty under section 271DA of

the Act, cannot survive where the assessment order is silent on satisfaction regarding violation of section 269ST of the Act. Recent ITAT decisions, in the case of ACIT Vs. Seven Seas Hospitality Pvt. Ltd. (Delhi ITAT) and Ravirishi Educational Society Vs. DCIT (2026) 184 taxmann.com 15 (Hyderabad Trib) have followed the decision in the case of CIT Vs. Jai Laxmi Rice Mills (supra) and held that "*the absence of recorded satisfaction in the assessment order renders penalty under section 271DA invalid"*. Therefore, in our considered view, the penalty order passed under section 271DA is without valid jurisdiction and cannot be sustained. The competent authority under section 271DA derives jurisdiction only when the assessment proceedings disclose prima facie satisfaction regarding violation of section 269ST. In absence of such satisfaction, the entire penalty proceeding is void ab initio and liable to be quashed.

31. In the present case, the assessment order is completely silent regarding alleged contravention of section 269ST. The foundational jurisdictional requirement for initiation of penalty under section 271DA is absent and therefore, the impugned penalty order deserves to be quashed. The A.O. merely stated that

penalty proceedings u/s 271DA are being referred to where violation of section 269ST is found without recording satisfaction that conditions for invoking section 271DA are satisfied. The Addl.CIT independently initiated penalty without assessment findings regarding violation of section 269ST of the Act. In the present case, on perusal of the assessment order, we find that, the A.O. has not recorded any clear, specific or conscious satisfaction that, the assessee had received any amount in violation of section 269ST of the Act. The assessment order neither identifies the particular transaction alleged to be contravention of section 269ST nor records the statutory ingredients necessary for assumption of jurisdiction under section 271DA of the Act. There is absolutely no finding regarding the nature of receipt, mode of transaction, aggregate amount received, identity of parties or circumstances constituting the alleged violation. The Revenue has failed to point out any portion of the assessment order indicating objective satisfaction regarding violation of section 269ST of the Act. Mere reference to cash transactions, additions made during the assessment cannot automatically confer jurisdiction to the A.O. to initiate penalty proceedings under section 271DA unless the A.O.

arrives at a definite and conscious satisfaction regarding contravention of section 269ST of the Act. It is equally settled that penalty proceedings cannot be initiated on the basis of assumptions and presumptions or post facto reasoning supplied during penalty proceedings or appellate proceedings, because jurisdictional satisfaction cannot be supplemented or improved subsequently through notices, penalty orders or appellate proceedings. Therefore, we are of the considered view that, the above observations of the A.O. cannot be considered as satisfaction for initiation of penalty u/s 271DA of the Act. Since the A.O. initiated penalty proceedings without complying statutory requirement of recording satisfaction, in our considered view, the orders passed by the Addl.CIT, Central Range-3, Hyderabad u/s 271DA of the Act, in absence of proper satisfaction can be held to be invalid and liable to be quashed.

32. Coming back to second leg of arguments of the assessee. The learned counsel for the assessee submitted that, there is no reason for levy of penalty u/s 271DA of the Act, because the mandatory conditions precedent for invoking said section are not satisfied. The learned counsel for the assessee took us to the

assessment order and the observations of the A.O. on the issue of on-money receipts for sale of flats and commercial spaces and argued that although the A.O. computed total amount of on-money received by the assessee for the assessment years and tabulated in the assessment order, but there are no details regarding receipt of Rs. 2,00,000/- or more from a person, in aggregate in a single day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account. Therefore, he submitted that, in absence of any findings as to violation of section 269ST of the Act, levying penalty u/s 271DA on the basis of unilateral entries recorded by the assessee and admission during search is totally incorrect and contrary to section 271DA of the Act. Therefore, it is necessary for us to examine the issue in light of above facts and the provisions of Section 269ST and 271DA of the Act. For better understanding Section 269ST of the Act, is reproduced which reads as under:-

"Mode of undertaking transactions

Section 269ST*. No person shall receive an amount of two lakh rupees or more—*

(a) in aggregate from a person in a day; or
(b) in respect of a single transaction; or
(c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed:

Provided that *the provisions of this section shall not apply to—*

(i) any receipt by—

(a) Government;
(b) any banking company, post office savings bank or co-operative bank;

(ii) transactions of the nature referred to in Section 269SS;
(iii) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(a) "banking company" shall have the same meaning as assigned to it in clause (i) of the Explanation to Section 269SS;
(b) "co-operative bank" shall have the same meaning as assigned to it in clause (ii) of the Explanation to Section 269SS."

33. A plain reading of section 269ST of the Act, makes it clear that, no person shall receive an amount of Rs. 2,00,000/- or more in aggregate from a person in a day; or in respect of a transaction; or in respect of transactions relating to an event or occasion from a person, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a

bank account. In other words, no person shall receive an amount of Rs. 2,00,000/- or more in cash from a person in a day; or in respect of a single transaction; or transactions relating to one event or occasion. If any person receives Rs. 2,00,000/- or more in cash in contravention of section 269ST of the Act, then the A.O./Addl.CIT may levy penalty u/s 271DA of the Act, and relevant section 271DA reads as follows:-

> ***"Penalty for failure to comply with provisions of section 269ST.***
>
> ***271DA.*** *(1) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt:*
>
> ***Provided*** *that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.*
>
> *(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner:*
>
> *[13][**Provided** that any penalty under sub-section (1), on or after the 1st day of April, 2025, shall be imposed by the Assessing Officer.]"*

34. Section 271DA provides for penalty where a person receives any sum in contravention of section 269ST. The penalty is equal to the amount of such receipt. However, penalty under section 271DA of the Act, can be levied only when there is a clear and demonstrable violation of section 269ST. The statutory provision itself proceeds on the existence of an actual receipt in a prohibited mode. In the present case, the penalty has been imposed merely

on the basis of the alleged admission of the assessee. The Revenue has not brought on record any independent evidence to establish the name of the person from whom cash was received; the date of receipt; the exact amount received from each person; whether such receipt was in respect of a single transaction; whether it related to one event or occasion; and whether the threshold under section 269ST was crossed in the manner contemplated by law. In absence of these foundational facts, the charge of violation of section 269ST remains vague and unproved. Further, in order to invoke section 269ST of the Act, there should be two parties i.e., one is payer and another is payee and there must be identifiable transaction and the transaction should be a single transaction and finally the transactions relate to one event or occasion. In the present case, although the A.O. has tabulated total cash receipts in a financial year in respect of sale of flats and commercial spaces, but there is no identification as to individual payments from a single person in respect of a transaction or an event or occasion, otherwise than by way of bank transactions. In the absence of any corroborative evidence, the very foundation for levy of penalty fails, because penalty proceedings and assessment

proceedings are separate and the findings of the A.O. in the assessment proceedings may not be conclusive evidence for levying penalty. In the present case, the A.O. primarily rests his findings on the basis of evidence found during the course of search coupled with statement recorded from few persons, including the CMD of the assessee group and admission of the assessee towards undisclosed income on estimation basis. But fact remains that, admission of additional income ipso facto does not lead to a conclusion that there is a admission of violation of section 269ST of the Act. Therefore, in our considered view, the conclusion drawn by the A.O. on the basis of admission of the assessee without any independent evidence regarding violation of section 269ST of the Act, is totally incorrect and cannot be accepted.

35. Penalty proceedings are quasi-criminal in nature. Though strict rules of criminal law may not apply, the Department must establish the default with cogent material. A mere admission, without corroborative evidence, cannot by itself justify levy of penalty, particularly where the statutory conditions for levy have not been independently demonstrated. We further note that,

penalty under Section 271DA requires proof of receipt in modes barred by section 269ST and cannot be sustained where the material does not establish transaction-wise or person-wise violation. Recent judicial precedents also indicate that, where seized records or statements do not establish single cash transaction/event/person-wise receipts beyond the statutory limit, penalty under section 271DA of the Act, is not sustainable. The Revenue's case is not that there are identified cash receipts from named persons exceeding Rs. 2,00,000/- in a day; or in respect of a single transaction or event. Rather, the penalty is found on a general admission. Such an approach is legally insufficient, because section 269ST of the Act, is not attracted merely because cash exists or because cash receipt is broadly admitted. The precise statutory violation must be proved. Further, even assuming there was some technical breach, section 271DA(1) of the Act, contains a proviso that no penalty shall be imposed where the assessee proves good and sufficient reasons for the contravention. The existence of such proviso shows that the provision is not intended to operate mechanically in every case. In the facts of the present case, there is no clear evidence of violation

of section 269ST. The penalty has been levied only on the basis of an uncorroborated admission, without independent verification or supporting material. Therefore, the penalty cannot be sustained. Penalty proceedings being quasi-criminal require strict proof. Section 269ST of the Act, is aimed at curbing black money and unaccounted transactions and not penalising every unverified allegation. In absence of clear evidence, i.e., receipts, books, confirmations, or transaction-wise evidence, penalty cannot survive merely on statement/admission.

36. In the present case, the facts of the case themselves demonstrate that penalty under section 271DA is wholly unsustainable. The A.O. has admittedly rejected the books of accounts under section 145(3) of the Act, on the ground that, the books were incomplete, unreliable, or incapable of proper verification. Having rejected the books, the Assessing Officer proceeded to determine the income on an estimated basis. Once the Revenue itself holds that the books are incomplete and unreliable, the same books or alleged entries therein cannot simultaneously be selectively relied upon for imposing a stringent penalty under section 271DA, unless independent corroborative

evidence is brought on record. The approach of the Revenue becomes self-contradictory. The estimation of income by the A.O. clearly establishes that there was no certainty regarding the correctness of transactions, receipts, or accounting records maintained by the assessee. Further, the A.O. has not carried out any enquiry with alleged payers of cash in excess of Rs. 2,00,000/- or more to ascertain correctness of entries recorded by the assessee in tally books. Therefore, we are of the considered view that, penalty under Section 271DA, being a penal provision, requires precise and conclusive evidence of actual receipt of cash in violation of section 269ST of the Act. Such violation cannot be inferred merely from estimated additions or approximations adopted during assessment proceedings. In the present case, no specific person-wise receipt has been identified; no date-wise cash receipt exceeding the prescribed threshold has been established; no transaction-wise analysis has been carried out; no material has been brought to prove that, any receipt exceeded Rs. 2,00,000/- in a single day, or in respect of single transaction, or an event/occasion; no seized cash vouchers, receipts, confirmations, or independent documentary evidence has been produced. The

penalty proceedings are therefore, founded not on proven transactions but on assumptions arising out of rejected books and estimated assessment.

37. It is a settled proposition that additions made on estimation basis do not automatically justify penalty proceedings. When income itself is determined on approximation and best judgment basis, a further penal consequence cannot be imposed unless the Revenue independently establishes deliberate and clear contravention of law. The rejection of books and estimation of income indicate uncertainty in the computation process. Such uncertainty is fundamentally inconsistent with the degree of certainty required for sustaining penalty under section 271DA. Further, the alleged admission relied upon by the Department cannot override the absence of independent evidence. An admission cannot substitute statutory proof, especially in penal proceedings. The Department is still required to establish the exact nature and ingredients of violation contemplated under section 269ST of the Act. The Tribunal in several cases has consistently held that where income is estimated after rejection of books, penalty proceedings cannot survive mechanically unless

supported by cogent incriminating evidence. The rationale behind this principle squarely applies to proceedings under Section 271DA also. Moreover, once income is estimated, individual entries in the rejected books lose independent evidentiary sanctity unless separately corroborated. The Department cannot adopt inconsistent stands by rejecting books for assessment purposes and simultaneously treating isolated entries or alleged statements as conclusive proof for penalty purposes. Such contradictory action is legally impermissible in absence of independent corroborative evidence. The very fact that the A.O. resorted to estimation demonstrates absence of certainty regarding actual receipts and transactions. In absence of conclusive determination of actual cash receipts violating section 269ST, levy of penalty under section 271DA becomes arbitrary and unsustainable in law. Therefore, on the peculiar facts of the case, where books were rejected, income was estimated, no independent corroborative evidence exists, and penalty is based merely on assumptions and alleged admission, the penalty levied under Section 271DA deserves to be deleted in entirety. Therefore, we are of the considered view that, the A.O. having completed the assessment

by estimating the income, ought not to have levied penalty under section 271DA of the Act.

38. We further note that, the admission of the assessee does not ipso facto lead to levy of penalty, even though the assessee has made a statement regarding receipt of amount from the sale of flats and commercial space. Further, mere confessional statement without there being any documentary evidence in support of such breakup of transactions cannot be solely relied upon while considering the penalty proceedings. Such evidence by way of statement might be considered for making the assessment, but however for consideration of the penalty proceedings being independent in nature, further additional evidence is required to brought on record as corroborative in nature. Moreover, the assessment proceedings and penalty proceedings are different altogether and the evidences that were relied upon during the assessment proceedings may not be considered as sole factor and sufficient evidences for levy of penalty. This legal principle is supported by the decision of the Hon'ble Jurisdictional High court of Andhra Pradesh in the case of Sait Bansilal & Rangisetti Veeranna Vs. CIT (supra) wherein the Hon'ble High Court of

Andhra Pradesh held that *"Tax and Penalty, like tax and penal interest, are distinct and different concepts under the Act. Penalty is in addition to the tax determined as payable by the assessee. Penalty cannot be taken as additional tax for all purposes. The penalty and assessment proceedings are not one and the same proceedings. The findings given in the assessment proceedings would only be relevant and admissible, but not final and conclusive in penalty proceedings. In penalty proceedings, further evidence can be led to rebut the findings given in the assessment proceedings."* According to the said case law, it can be understood that in order to levy penalty, the A.O. has to gather the evidence from the seized material. In the present case, the seized material is wholly non-speaking and dumb with regard to the transaction-wise and buyer-wise details of the sales of flats and commercial space. There is no material whatsoever to reach any conclusion regarding contravention of the provisions of section 269ST. Consequently, the penalty under section 271DA of the Act, cannot be levied. We, also refer to the decision of the Hon'ble Supreme Court in the case of CIT Vs. Khoday Eswarsa & Sons (supra), where it was held that "*Penalty proceedings being penal in character, the department must*

establish that the receipt of the amount in dispute constitutes income of the assessee. Apart from the falsity of the explanation given by the Assessee, the department must have before it, before levying penalty cogent material or evidence from which it could be inferred that the assessee had consciously concealed the particulars of his income or had deliberately furnished inaccurate particulars in respect of the same and that the disputed amount is a revenue receipt. No doubt, the original assessment proceedings for computing the tax may be a good item of evidence in the penalty proceedings, but the penalty cannot be levied solely on the basis of the reasons given in the original order of assessment". A similar view has been taken by the ITAT, Hyderabad Bench in the case of MSN Laboratories Pvt. Ltd. Vs. Addl. CIT (supra), where it has been held that "*for levy of penalty under Section 271DA r.w.s. 269ST of the Act, the A.O. must conclusively prove the violation of provisions of section 269ST of the Act and said violation cannot be on the basis of assumptions and presumptions and admission of the assessee."* The Coordinate Bench of the Tribunal, Jaipur in the case of Shri Mohanlal Vs JCIT in ITA No.221/JPR/2019 (supra), also taken a similar view and held that "*in the absence of*

*independent evidence on record, the levy of penalty cannot be sustained."*Therefore, in our considered view the material considered by the A.O. for the purpose of levy of penalty u/s 271DA for violation of section 269ST does not show any evidence of violation of section 269ST of the Act, and thus, penalty levied by the A.O. under section 271DA is unsustainable under law.

39. We further note that, it is a settled law that the burden of establishing the occurrence of default by the assessee under the relevant provision of the statute which makes the assessee liable for penalty under the Act, with the aid of tangible and cogent evidence is on the revenue, since the allegation of such violation is made by the Revenue. This legal principle is supported by the decision of Hon'ble Supreme Court in the case of Dilip N. Shroff Vs. JCIT (2007) 291 ITR 519 (SC) where it has been held that *"primary burden of proof is therefore on the revenue. The statute requires satisfaction on the part of the A.O. He is required to arrive at a satisfaction so as to show that there is a primary evidence to establish that the assessee had concealed the amount or furnished inaccurate particulars and the onus is to be discharged by the department.* A similar view has been taken by the Hon'ble

Supreme Court in the case of T. Ashok Pai Vs. CIT (2007) 292 ITR 11 (SC) where it has been held that "*the order imposing penalty is quasi-criminal in nature and thus, burden lies on the department to establish that the assessee had concealed his income. Since burden of proof in penalty proceedings varies from that in the assessment proceedings, a finding in an assessment proceedings that a particular receipt is income cannot automatically be adopted, though a finding in the assessment proceedings constitute good evidence in the penalty proceedings."* In the present case, since the allegation of violation of section 269ST of the Act, has been made by the A.O., the onus lies on the Revenue to establish the said alleged violation by the assessee. However, as noted in earlier part of this order, from the material considered by the A.O. for the purpose of levy of penalty under section 271DA of the Act, no such evidence is forthcoming from the seized material and no evidence to the said fact has been brought on record by the A.O. Although the Ld. Addl.CIT observed that, it is for the assessee to discharge the burden by furnishing the relevant evidence and prove that the cash received towards the sale of flats and commercial space is less than the amount specified under section 269ST of the Act,

and the assessee has not discharged the burden, but in our considered view, once the A.O. makes the allegation that the assessee had violated the provision of section 269ST of the Act, then it is for the A.O to prove the allegation with relevant evidences. Once the A.O. discharge the burden, then the assessee has to disprove the claim of the A.O by explaining the details to the A.O for the purpose of levying penalty under section 271DA of the Act. In the present case, admittedly, there is no evidence of any kind of sales bills or cash receipts for sale of flats and commercial space. The only evidence which was found during the course of search was tally data maintained in a pen drive which contains details of receipts and expenditure including amounts considered in regular books for the entire group and as explained by the assessee, the above document contains details of sales made for a particular period by the group as a whole in respect of all the group entities. Although the A.O. culled out certain entries from seized tally data and claimed that the assessee had received Rs. 2,00,000/- or more from a person in a day for sale of flats and commercial spaces, but in our considered view, the entries culled out by the A.O. are not reliable evidence in absence of any cash

receipts and sale bills. Further, neither the Investigation Wing during the course of search and the post search investigation, nor the A.O. during the course of assessment proceedings, carried out any further inquiry with the alleged payers of cash in excess of Rs.2,00,000/- to ascertain the nature of payment, the purpose of payment and the date of payment. The Ld. Addl.CIT also failed to carry out any inquiry by issuing any notice to the alleged payers to ascertain the nature of payments and whether they have paid any amount in cash to the assessee for purchase of residential flats, commercial units, etc. Although the Ld. CIT(A) had obtained a report from the A.O. with regard to the list of alleged cash payment in excess of Rs.2,00,000/- and claimed that, there is clear evidence of receipt of Rs.2,00,000/- from a single person in respect of a transaction or in respect of an event or occasion, which falls under the provisions of section 269ST of the Act, so as to levy penalty u/s 271DA, but in our considered view, on perusal of the relevant list, which is reproduced in the order of the Ld. CIT(A), we find that, there are various discrepancies and contradictions in the list and the findings of the Ld. CIT(A), which is evident from in many cases, the narration does not show any

details of cash payments for purchase of residential flats and commercial units. The A.O. considered unilateral entries made by the assessee group from rejected books of account and therefore, in our considered view the A.O. had followed selective approach where he had rejected books of accounts on ground that, they are incomplete and estimated income, whereas when it comes to penalty u/s 271DA, he had considered very same incomplete and incorrect books. Therefore, in our considered view, the A.O has not conclusively proved the violation of provisions of section 269ST of the Act, so as to levy penalty under section 271DA of the Act, and thus, in our considered view, penalty levied by the A.O. is not sustainable on merits on the facts of this case and in law.

40. Coming back to one more argument of the learned counsel for the assessee in light of provisions of Section 115BFA(2) of the Act. The learned counsel for the assessee referring to newly inserted section 115BFA(2) by the Finance Act, 2024, which is applicable for searches conducted on or after 01.04.2024 submitted that, as per section 115BFA(2), if income is admitted and tax is paid, then immunity is provided under section 271D, 271DA, 271E and 271AAD of the Act, and therefore, if we apply

same analogy for the present case, the assessee has admitted additional income in respect of unaccounted receipts and paid entire taxes before filing the return of income and therefore, the A.O. ought to have given immunity to the assessee and not levied penalty under section 271DA of the Act. In our considered view, although, the context and purpose of section 115BFA(2) is different and applicable to searches conducted after 01.04.2024, but going by the intention of the legislature, it is true that penalty under section 271DA of the Act, is not automatic in all cases, where technical violations of section 269ST of the Act, are noticed by the A.O. Further, even in section 271DA, proviso makes it very clear that, penalty is not automatic if such person proves that there are good and sufficient reasons for the contraventions. Therefore, if we, apply the same analogy to present case, the assessee has admitted additional income and paid tax on additional income before filing return of income. The A.O. also accepted additional income declared by the assessee and completed the assessment. Thus, from the above facts, it is clear that, the A.O. himself had assessed the income of the asseseee @ 16% on gross receipts and further, levied penalty @ 100% on cash

receipts for contravention of section 269ST of the Act. Therefore, in our considered view, it is classic case of collecting taxes over and above the income estimated by the A.O. Since, the A.O. himself concluded that the assessee has earned only 16% income on receipts, ought not to have levied 100% penalty u/s. 271DA of the Act. Further, it is also relevant to refer to the Wednesbury principle of reasonableness, where the principle mandates reasonableness of any assessment. In the present case, the penalty levied by the A.O. is astronomically high when compared to income estimated by the A.O. on total receipts. Therefore, going by the above principle and provisions of section 115BFA(2) of the Act, in our considered view, when the assessee has discharged taxes on income admitted during the course of search, the A.O. should not have levied penalty u/s 271DA of the Act, and thus, on this ground also, penalty u/s 271DA cannot be upheld.

41. In this view of the matter and considering the facts and circumstances of the case, we are of the considered view that, the A.O. had levied penalty under section 271DA of the Act, without satisfying the conditions precedent for levying such penalty. The Ld. CIT(A) without appreciating the relevant facts, simply upheld

the levy of penalty under section 271DA of the Act. Thus, we set aside the order of Ld. CIT(A) and direct the A.O. to delete the penalty levied under section 271DA of the Act.

42. In the result, the appeal of the assessee in ITA No.1038/Hyd/2026 for A.Y. 2019-20 is allowed.

ITA Nos.1039 to 1042/Hyd/2026 for A.Ys. 2020-21 to 2023-24

43. The facts and issues involved in these appeals filed by the assessee for A.Ys. 2020-21 to 2023-24 are exactly identical to the facts and issues which we have considered in assessee's own case for A.Y. 2019-20 hereinabove, except change in figures. The reasons given by us in the preceding paragraph nos. 28 to 41 shall mutatis mutandis apply to these appeals, as well. Therefore, for similar reasons, we set aside the orders of the Ld. CIT(A) and direct the A.O./Addl. CIT to delete the penalty levied u/s.271DA of the Income Tax Act, 1961 for A.Ys. 2020-21 to 2023-24 also. Thus, the appeals filed by the assessee firm for A.Ys. 2020-21 to 2023-24 are allowed.

44. In the result, the appeals of the assessee firm in ITA Nos.1039 to 1042/Hyd/2026 for A.Ys. 2020-21 to 2023-24 are allowed.

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

Order pronounced in the Open Court on 24th June, 2026.

Sd/- श्री विजय पाल राव **(VIJAY PAL RAO)** **उपाध्यक्ष /VICE PRESIDENT**	**Sd/-** (मंजूनाथ जी) **(MANJUNATHA G.)** **लेखा सदस्य/ACCOUNTANT MEMBER**

Hyderabad, dated 24.06.2026.
TYNM/sps

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

1.	निर्धारिती/The Assessee	:	Vasavi Developers, C/o. B. Narasing Rao and Co LLP, Plot No.554, Road No.92, Jubilee Hills, Hyderabad – 500096, Telangana.
2.	राजस्व/ The Revenue	:	1. The Deputy Commissioner of Income Tax, Central Circle – 3(2), Hyderabad. 2. The Assistant Commissioner of Income Tax, Central Circle – 3(2), 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: 2026.06.25 11:27:01 +05'30'

Sr. Private Secretary
ITAT, Hyderabad