IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on	**30.01.2026**
Judgment pronounced on	**06.02.2026**

DATED: 23-01-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 21006 of 2022
&
WMP Nos.20010, 20012 & 20013 of 2022

Chandrasekaran Joseph Vijay
Villa 105, 3rd Avenue,
Panaiyur, Chennai 600 019
PAN:AABPY3488N

..Petitioner(s)

Vs

1. The Deputy Commissioner of Income Tax
Central Circle 2(2),
Income Tax Department,
108, Nungambakkam High Road,
Nungambakkam,
Chennai-600 034.

2. The Additional Commissioner of Income Tax,
Central Range 2,
Income Tax Department,

108, Nungambakkam High Road, Nungambakkam,
Chennai-600 034.

3. The Principal Commissioner of Income Tax,
Central-2, Chennai, Income Tax Department, 108,
Nungambakkam High Road, Nungambakkam,
Chennai-600 034.

..Respondent(s)

PRAYER: This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the records of the Writ Petitioner on the file of the First Respondent to quash the impugned order dated 30.06.2022 passed u/s.271AAB of the Act for the Assessment Year 2016-17 in ITBA/PNL/F/271AAB(1)/2022-23/1043699359(1).

For Petitioner(s) : M/s. A.S.Sriraman
G.Tarun

For Respondent(s): Mr.A.P.Srinivas, Senior Standing Counsel

* * * * *

ORDER

Background

In financial year (FY) 2015-16 [corresponding to assessment year (AY) 2016-17], search proceedings were initiated against the petitioner on 30.09.2015. According to the revenue, incriminating materials were found and seized in course of search. The case of the petitioner was later centralised with the Central Circle-2. During the search proceedings, the petitioner submitted a sworn statement admitting that he received a sum of

Rs.5 crore in cash as remuneration in addition to the cheque receipts of Rs.16 crore. In response to a further query with regard to total cash income in FY 2015-16, the petitioner admitted an additional income of Rs.10 crore for the said FY, thereby aggregating to the receipt of a sum of Rs.15 crore in cash during FY 2015-16.

2. A return of income was filed by the petitioner for FY 2015-16 (AY 2016-17) on 29.07.2016 declaring the total income of Rs.35,42,91,890/-, which included the above mentioned sum of Rs.15 crore. Not accepting the return of income, an assessment was undertaken and assessment order dated 30.12.2017 was issued making three additions, which are discussed below. In the return of income, depreciation of Rs.89,07,814/- was claimed. By concluding that the depreciation claim partly pertained to personal use of the relevant assets by the petitioner, 20% of the amount claimed as depreciation (i.e. Rs.17,81,562/-) was disallowed and this amount was added to the assessee's total income. On verification of the profit and loss account, it was noticed that the assessee had claimed a sum of Rs.2,92,44,825/- as expenditure under the head "Release & Rasigar Mandram Expenses". Out of this sum, it was stated by the authorized representative of the petitioner in

letter dated 15.12.2017 that a sum of Rs.2 crore was paid directly by the producer, M/s.SKT Studios, to the members of the Rasigar Mandrams all over Tamil Nadu and Puducherry. As regards the sum of Rs.92,44,825/-, it was stated that the petitioner paid this amount to the members of the Rasigar Mandram by cash.

3. On the ground that proper proof of payment was not provided in respect of a sum of Rs.2 crore, the inclusion of this amount in business expenses was rejected and this income was added to the total income of the assessee. With regard to the balance sum of Rs.92,44,825/-, after taking note of the expenses incurred towards Rasigar Mandrams in earlier assessment years, only 30% of the expenses booked on this account was accepted and the remaining 70% of Rs.64,71,377/- was disallowed. In effect, in the assessment order, in addition to the returned income of Rs.35,42,91,890/-, three additions were made and the total income was computed in a sum of Rs.38,25,44,829/-. The assessment order recorded that penalty proceedings under Section 271(1)(c) /271AAB of the Income-tax Act, 1961 (the I-T Act) would be initiated separately. On the same date, a notice under Section 274 read with 271(1)(c) of the I-T Act was issued to the petitioner.

4. Shortly thereafter, on 25.01.2018, the petitioner filed an appeal before the Commissioner of Income-Tax (Appeals) (CIT Appeals) against assessment order dated 30.12.2017. The addition towards depreciation was not appealed against, but the other two additions were challenged. The appellate authority took into account the contention of the petitioner that the sum of Rs.2 crore formed part of the receipt of Rs.5 crore in cash, which was admitted in course of the search proceedings, and therefore concluded that the same amount cannot be added again. As regards the addition of 70% of the expenses claim of Rs.92,44,1825/-, the appellate authority concluded that 50% of the total expenditure claim may be allowed. Thus, the appeal was partly allowed on the terms indicated above. The revenue filed an appeal against the appellate order before the Income Tax Appellate Tribunal (the ITAT). By order dated 22.12.2024, the order of the appellate authority was modified by allowing the appeal partly and allowing 50% of the total expense claim of Rs.2,92,44,825/-.

5. Meanwhile, by exercising powers under Section 263 of the I-T Act, the Principal Commissioner of Income-Tax set aside assessment order dated

30.12.2017 on the ground that penalty proceedings should have been initiated under Section 271AAB of the I-T Act. The petitioner challenged the said order before the ITAT. By order dated 13.05.2022, the ITAT took note of the fact that the assessment order had recorded that penalty proceedings would be initiated under Section 271(1)(c)/271AAB. Therefore, the ITAT concluded that the exercise of jurisdiction under Section 263 was unwarranted. Consequently, the revision order was quashed.

6. In the interregnum, notice dated 11.12.2018 was issued under Section 274 read with Section 271AAB. After considering the objections of the petitioner dated 22.01.2019 and 05.04.2019 in response, impugned order dated 30.06.2022 imposing penalty under Section 271AAB of the I-T Act was issued. The present writ petition challenges the penalty order.

Counsel and their contentions:

7. Oral arguments on behalf of the petitioner were advanced by Mr.A.S.Sriraman, learned counsel, and on behalf of the revenue by Mr.A.P.Srinivas, learned senior standing counsel.

8. Although objections were raised against the proposed imposition of penalty under Section 271AAB on multiple grounds, both in the reply to the notice under Section 274 read with Section 271AAB and in the grounds herein, learned counsel confined the challenge before this Court to the ground of limitation. By referring to Section 275(1) of the I-T Act, learned counsel contended that clause (a) thereof is not applicable when the appeal against the assessment order does not relate to the imposition of penalty under Section 271AAB. According to him, clause (c) thereof is applicable not only in cases where no appeal is filed against the assessment or other order, but also to cases where the appeal does not relate to the penalty proposed to be issued.

9. By pointing out that the petitioner had admitted receipt of cash income of Rs.15 crore during the search proceedings, he submitted that the petitioner did not challenge the imposition of penalty in appellate proceedings. In view thereof, he contended that the appellate proceedings had no bearing on the imposition of penalty. As a corollary, he submitted that clause (c) and not clause (a) of Section 275(1) is applicable for determining the period of limitation. If clause (c) were to be applied, he submitted that no

order imposing penalty may be issued: (i) after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty was initiated, are completed; or (ii) 6 months from the end of the month in which the action for imposition of penalty was initiated, whichever is later.

10. By turning to the facts, he dealt with the limitation period in both the above situations. If computed on the basis of completion of proceedings in which the action for imposition of penalty was initiated, he submitted that proceedings culminated in assessment order dated 30.12.2017, which fell within FY 2015-16. The said FY ended on 31.03.2016. Hence, he contended that the order imposing penalty could have been passed only up to 31.03.2016. If computed with reference to the date of initiation of action for the imposition of penalty, he contended that the starting date would be the end of the month in which the assessment order was issued (i.e. 31.12.2017) and the end date would be six months therefrom, i.e. on or before 30.06.2018. Because the order imposing penalty was issued on 30.06.2022, he contended that the order was liable to be set aside.

11. Rebutting the contention of learned senior standing counsel that clause (c) of Section 275(1) only applied where no appeal was filed, he relied on several judgments wherein appeals against the assessment order had been filed, but clause (c) was held to be applicable. He also denied the contention that such judgments only dealt with the imposition of penalty by an officer, other than the assessing officer. According to him, the overarching principle in those judgments is that clause (c) and not clause (a) applies whenever the appellate proceedings against the assessment order have no bearing on the penalty proceedings. In support of these contentions, learned counsel referred to and relied upon the following judgments:

(i) Commissioner of Income-Tax v. Hissaria Bros., [2008] 169 taxmann 262 (RAJ) (Hissaria Bros), particularly paragraphs 14 to 27 thereof;

(ii) Commissioner of Income-tax-VI v. Worldwide Township Projects Ltd., [2014] 48 taxmann.com 118 (Delhi) (Worldwide Township), particularly paragraphs 4 and 5 thereof;

(iii) Circular No.10 of 2016 dated 26.04.2016 accepting the judgment in Worldwide Township;

(iv) Principal Commissioner of Income-Tax-5 v. JKD Capital and Finlease Ltd, [2017] 81 taxmann.com 80 (Delhi)(JKD Capital), particularly paragraphs 10 and 11 thereof;

(v) Principal Commissioner of Income-tax, Central-2 v. Mahesh Wood Products (P) Ltd. [2017] 82 taxmann.com 39 (Delhi) (Mahesh Wood Products), particularly paragraphs 8 and 9 thereof;

(vi) Commissioner of Income-tax (TDS) v. Turner General Entertainment Networks India (P) Ltd, [2024] 168 taxmann.com 634 (Delhi), particularly paragraph 19 thereof;

(vii) Subodh Kumar Bhargava v. Commissioner of Income-Tax [2008] 175 taxmann 520 (Delhi) (Subodh Kumar Bhargava), particularly paragraphs 9 to 12 thereof;

(viii)) Principal Commissioner of Income-Tax v. K.Umesh Shetty [2025] 170 taxmann.com 748 (Karnataka), particularly paragraph 6.5 thereof; and

(ix) Principal Commissioner of Income Tax, Kanpur v. Sandeep Chandak [2018] 93 Taxmann.com 405 (Sandeep Chandak), particularly paragraphs 20 to 27 thereof.

12. In response to these contentions, learned senior standing counsel for the Income-Tax Department submitted that the petitioner had not disclosed the receipt of remuneration in cash in his books of account. During the course of search proceedings, he admitted receipt of cash income of Rs.15 crore in FY 2015-16. Therefore, penalty was leviable under Section 271AAB. This was indicated in assessment order dated 30.12.2017. The assessment order was challenged by the petitioner/assessee before the CIT Appeals. The appeal was partly allowed by order dated 20.08.2018. The appellate order was challenged by the revenue before the ITAT. Such appeal was partly allowed by order dated 30.10.2019. This was the final and binding order because neither party filed an appeal therefrom.

13. He proceeded to contend that, as per Section 275(1)(a) of the I-T Act, the limitation period for issuing an order imposing penalty is the date of expiry of the FY in which the proceedings in the course of which the action for imposition of penalty was initiated are completed, or 6 months from the end of the month in which the order of the CIT Appeals or, where relevant, the ITAT is received, whichever is later. The order of the ITAT was issued on 22.12.2021. The relevant month expired on 31.12.2021. Consequently, as per

the second limb of Section 275(1)(a), he contended that the period of limitation expires on 30.06.2022. Because the order imposing penalty was issued on 30.06.2022, learned senior standing counsel contended that the order was issued within the period of limitation.

14. As regards Section 275(1)(c) of the I-T Act, learned senior standing counsel contended that it cannot be applied if the case falls within clause (a) or clause (b). He also pointed out that the assessment order was set aside by exercising powers of revision under Section 263 on 30.10.2019, and the order in revision was set aside by the ITAT only on 13.05.2022. In these circumstances, he submitted that the order imposing penalty cannot be said to be barred by limitation.

15. As regards the judgments relied on by learned counsel for the petitioner, Mr.Srinivas submitted that all the judgments relate to penalty proceedings initiated by an officer, other than the assessing officer. After pointing out that penalty proceedings cannot be initiated by the assessing officer in respect of penalties under certain provisions, learned senior standing counsel contended that such penalty proceedings do not emanate

from the assessment or other order and, consequently, are completely independent of any appeal arising therefrom. Thus, he submitted that clause (c) of Section 275(1) only applies to such penalty proceedings or to cases where no appeal is filed against the assessment or other order. Without prejudice, by relying on the judgment of this Court in *Tvl. Chandro Process v. Deputy Commissioner of Income-Tax [2025] 173 taxmann.com 976 (Madras) (Chandro Process),* he contended that this Court expressly dissented from *Hissaria Bros* with regard to the interpretation of Section 275(1). Because action for the initiation of penalty proceedings was taken by the assessing officer in this case, he contended that clause (a) is applicable.

16. As an alternative submission, he contended that the limitation period prescribed in clause (c) is in addition to that prescribed in clause (a) and does not have the effect of curtailing the period of limitation. In support of this contention, he relied on the judgment of this Court in *J. Srinivasan v. Assistant Commissioner of Income Tax [2018] 91 taxmann.com 429 (Madras] (J.Srinivasan),* wherein he contended that this Court left it open to the revenue to initiate penalty proceedings after the order is passed by the CIT Appeals in spite of concluding that the penalty notices were beyond the period of limitation prescribed in Section 275(1)(a).

Discussion, analysis and conclusions:

17. In the replies of the petitioner to the notice dated 11.12.2018 under Section 274 read with 271AAB of the I-T Act, the petitioner raised objections on multiple grounds. The first ground was that no incriminating documents were found or seized in course of search. The second ground was that the additional income of Rs.15 crore was voluntarily admitted and does not qualify as undisclosed income. The third ground was that the notice is invalid. Eventually, in course of arguments before this Court, only the ground of limitation was argued by both the assessee and revenue. Therefore, only the question of limitation is being adjudicated herein.

18. The period of limitation for imposing penalties is prescribed in Section 275 of the I-T Act. Section 275(1) is central to the adjudication of this dispute and the said provision, as it stood during the relevant period, is set out below:

> *"**Bar of limitation for imposing penalties**.*
>
> *275.(1) No order imposing a penalty under this Chapter shall be passed-*

(a) ***in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253****, after the expiry of the financial year in which the proceedings****, in the course of which action for the imposition of penalty has been initiated,*** *are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Chief Commissioner or Chief Commissioner or [Principal Commissioner or Commissioner,* ***whichever period expires later*** *:*

Provided *that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, whichever is later;*

(b) ***in a case where the relevant assessment or other order is***

the subject-matter of revision under section 263 or section 264*, after the expiry of six months from the end of the month in which such order of revision is passed;*

(c) ***in any other case****, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later."* *(emphasis added)*

Whether clause (c) of Section 275(1) is supplementary or residuary?

19. Learned senior standing counsel advanced the fall-back contention that the period of limitation prescribed in clause (c) of Section 275(1) is in addition to that prescribed in clause (a) by *inter alia* relying on *J. Srinivasan.* Clause (c) of Section 275(1) opens with the phrase "in any other case". In *Chandro Process,* this Court examined clause (c) and concluded that it is a residuary clause that applies only if the specific clauses [i.e. (a) or (b)] do not. I concur fully. Taking into consideration the preambular phrase "in any other case", it is beyond doubt that Parliament intended that clause (c) would apply only to cases wherein clauses (a) and (b) of Section 275(1) do not apply.

20. In *J.Srinivasan,* a show cause under Section 271(1) was challenged when the appeal before the CIT Appeals against the assessment order was pending. In that factual context, this Court concluded that the notice is barred under the first limb of Section 275(1)(a), but was cognisant that the limitation period under the second limb had not been triggered because the appeal was pending. Therefore, it was left open to revenue to initiate penalty proceedings under the second limb. Hence, the judgment does not support the contention of Mr. Srinivas. For these reasons, I am unable to accept the fall-back contention of Mr. Srinivas that the period of limitation in clause (c) is in addition to that prescribed in clauses (a) or (b). In view thereof, I propose to first examine whether clauses (a) or (b) are applicable.

Elements of clause (a) of Section 275(1)

21. On careful scrutiny, Clause (a) contains the following material phrases:

(i) “in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section

253”

(ii) “after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed”

(iii) “or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, whichever period expires later.”

Imposition of penalty

22. Learned counsel for the petitioner contended that clause (a) does not apply because the penalty proceedings under Section 271AAB relate to a part of the returned income, and that no appeal was filed in respect thereof. Consequently, he contended that only clause (c) applies. He also relied on several judgments to contend that clause (c) applies wherever the penalty proceedings are unrelated to the assessment order forming the subject of an appeal before the CIT Appeals or the ITAT. Before discussing these judgments, examining and categorising penalties under the I-T Act would facilitate rational adjudication.

23. Chapter XXI of the I-T Act deals with the imposition of penalties. These penalties are prescribed in Sections 270A to 273 thereof. At a concept level, every penalty proceeding is independent of tax proceedings inasmuch as such a proceeding may be contested by the assessee even on grounds distinct from those raised in tax proceedings of such assessee. Such proceedings, however, often originate in assessment or other proceedings and the degree of linkage or interconnectedness with the primary tax proceeding varies. On close reading of Chapter XXI, the provisions pertaining to some of the penalties use the expression "in the course of any proceedings under this Act" or "during the course of any proceedings under this Act", thereby indicating that the genesis of the direction to pay a penalty is traceable to such proceedings. By way of illustration, reference may be made to Sections 270A, 271 and 271AAD.

24. A second category in Chapter XXI consists of penalties for breach of obligations under other provisions of the statute. For instance, Chapter XXB prescribes requirements relating to loans, deposits, payments and repayments in Sections 269SS to 269TT. In the event of breach, penalties are

imposable under Sections 271D, 271DA, 271DB and 271E of Chapter XXI. Several other penalties fall in this category, i.e. they pertain to breaches of obligations under other provisions of the I-T Act, albeit not under Chapter XXB. Reference may be made illustratively to Sections 271A, 271AA, 271B, 271BB and 271C.

25. A sub-category under the second category is provisions wherein penalties are imposable only by the Joint Commissioner of Income-tax (the JCIT), and not by the assessing officer. Examples include Sections 271C, 271CA, 271D and 271DA. Another sub-category is provisions stipulating a fixed sum as penalty for breach. Illustratively, reference may be made to Sections 271A, 271BA and 271F. Such stipulation is indicative of a greater degree of separation from the assessment proceedings.

26. Many of the penalties for breach of other provisions of the I-T Act under Chapter XXI are subject to a reasonable cause defence under Section 273B. The common thread running through the whole of the second category of penalties is that they are typically not strongly linked to assessment or other proceedings. It should, nonetheless, be recognised that

the breaches could have been noticed either in course of assessment or other proceedings or otherwise. Hence, the expressions "in the course of any proceedings under this Act" or "during the course of any proceedings under this Act" are not found in the provisions relating to these penalties. A third, small, category is discernible. This relates to penalties originating in search proceedings and Sections 271AAA and 271AAB fall in this category. Because Section 271AAB is at the heart of this dispute, I discuss the provision in greater detail later. Now, keeping in mind this statutory backdrop and, particularly, the varying degrees of separation from the primary tax proceedings, I turn to the judgments cited by learned counsel for the petitioner.

Precedents on penalty proceedings

27. *Hissaria Bros* is a judgment of the Division Bench of the Rajasthan High Court dealing with the imposition of penalty for the breach of Sections 269SS and 269T. In that context, it was held as follows:

> *"23.* ***A close scrutiny of section 275 which is reproduced hereinabove shows that clause (1)(a) covers those cases where the penalty proceedings are in respect of a default related to principal assessment for a particular assessment***

year and the penalty proceedings are required to be initiated in the course of that proceedings only. *In such cases where the relevant assessment order or other orders are the subject-matter of an appeal to the CIT(A) under section 246 or an appeal to the Tribunal under section 253, after the expiry of the financial year in which the proceedings in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of CIT(A) or, as the case may be of the Tribunal is received by the Chief CIT or CIT, whichever period expires later.*

Apparently, clause (a) governs the categories which are integrally related to the assessment proceedings and are not independent of it.

25. We have also noticed that sections 271 and 273 were the two original penalty provisions, which require relevant proceedings, as the case may be. The penalty proceedings could also be initiated during the appellate proceedings arising out of the relevant assessment proceedings. It is only where the assessment (sic) proceeding are independent and not directly linked to the assessment proceedings that the result of such proceedings in the course of which the penalty proceedings were initiated does not affect the levy of penalty. ***On such penalty proceedings, independent of the assessment***

proceedings, clause (c) has been made applicable. In this category, the period of limitation for completing the penalty proceedings is linked with the initiation of the penalty proceedings itself.

In such cases, the penalty proceedings can be initiated independent of any proceedings but obviously, the penalty proceedings can be initiated only when the default is brought to the notice of the concerned authority which may be during the course of any proceedings and, therefore, for this type of cases where the penalty proceedings have been initiated in connection with the defaults for which no statutory mandate is there about any particular proceedings during the course of which only such penalty proceedings can be initiated, a different period of limitation has been prescribed under clause (c) as a separate category. In cases falling under clause (c), penalty proceedings are to be completed within six months from the end of the month in which the proceedings during which the action for imposition of penalty is initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later. There is no provision under clause (c) for the extended period of limitation commensurating with completion of the appellate proceedings, if any, arising from the proceedings during the course of which such penalty proceedings are initiated as in the case where the penalty

proceedings are linked with the assessment proceedings or the other relevant proceedings.

27. We are, therefore, of the opinion that since penalty proceedings for default in not having transactions through the bank as required under sections 269SS and 269T are not related to the assessment proceedings but are independent of it, therefore, the completion of appellate proceedings arising out of the assessment proceedings or the other proceedings during which the penalty proceedings under sections 271D and 271E may have been initiated has no relevance for sustaining or not sustaining the penalty proceedings and, therefore, clause (a) of sub-section (1) of section 275 cannot be attracted to such proceedings. If that were not so, clause (c) of section 275(1) would be redundant because otherwise, as a matter of fact every penalty proceeding is usually initiated when during some proceedings such default is noticed, though the final fact finding in this proceeding may not have any bearing on the issues relating to establishing default, eg. penalty for not deducting tax at source while making payment to employees, or contractor, or for that matter not making payment through cheque or demand draft where it is so required to be made. Either of the contingencies does not affect the computation of taxable income and levy of correct tax on chargeable income, if clause (a) was to be invoked, no

necessity of clause (c) would arise."(emphasis added)

28. *Chandro Process* dealt with limitation for imposition of penalty under Section 271D, but the exclusion of time under the Taxation and Other Laws (Relaxation of Certain Provisions) Act, 2020 was applicable therein. In the said judgment, this Court concluded that the ratio of *Hissaria Bros* was that the sale proceeds in the hands of a Kachcha Arhatiya or farmer's agent does not qualify as a deposit under Section 269T as per Circular No.556 dated 23.02.1990 of the Central Board of Direct Taxes and, consequently, also concluded that the interpretation of Section 275(1) in *Hissaria Bros* is in the nature of *obiter dicta*.

29. In any event, in *Hissaria Bros,* as is evident from the above extracts, the Rajasthan High Court concluded that clause (c) of Section 275(1) covers cases where the penalty proceedings are unrelated to the assessment proceedings. The judgment of the Delhi High Court in *Worldwide Township* followed the judgment of the Rajasthan High Court in *Hissaria Bros*. In this case, penalty proceedings were initiated under Section 269SS and the Court took note of the decision of ITAT that Section 266SS was not attracted and concluded that there is no merit in the appeal. Even

Circular No.10/2016 of the Central Board of Direct Taxes (CBDT) accepting the judgment in *Worldwide Township* is limited to a breach of Section 269SS and does not extend beyond. *JKD Capital* related to the imposition of penalty for breach of Section 269T, wherein penalty is imposable under Section 271E by the JCIT, but not by the assessing officer.

30. *Mahesh Wood Products* related to the contravention of Sections 269SS and 269T and the imposition of penalty under Sections 271D and 271E. In this case, the action for initiation of penalty was not in the assessment order. The judgment in *Subodh Kumar Bhargava* pertained to the imposition of penalty under Section 271B for breach of the auditing obligation under Section 44AB. Most of these judgments follow the judgment of the Rajasthan High Court in *Hissaria Bros* and relate to penalties several degrees removed from assessment proceedings. Indeed, except *Sandeep Chandak,* none of them deal with the imposition of penalty under Section 271AAB. Therefore, I set out Section 271AAB before examining the judgment in *Sandeep Chandak.*

Section 271AAB

31. Section 271AAB, as it stood during the relevant period, is set out below:

> ***"Penalty where search has been initiated.***
>
> *271AAB.(1)* ***The Assessing Officer may****, notwithstanding anything contained in any other provisions of this Act,* ***direct*** *that,* ***in a case where search has been initiated under section 132*** *on or after the 1st day of July, 2012 but before the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,- (a) a sum computed at the rate of ten per cent of the undisclosed income of the specified previous year, if such assessee-*
>
> *(i)* ***in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income*** *and specifies the manner in which such income has been derived;*
>
> *(ii) substantiates the manner in which the undisclosed income was derived; and*
>
> *(iii)* ***on or before the specified date-***
>
> *(A)* ***pays the tax, together with interest, if any, in respect of the undisclosed income; and***
>
> *(B)* ***furnishes the return of income for the specified***

previous year declaring such undisclosed income therein*;*

(emphasis added)

(b) a sum computed at the rate of twenty per cent of the undisclosed income of the specified previous year, if such assessee-

(i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income; and

(ii) on or before the specified date-

(A) declares such income in the return of income furnished for the specified previous year; and

(B) pays the tax, together with interest, if any, in respect of the undisclosed income;

(c) a sum which shall not be less than thirty per cent but which shall not exceed ninety per cent of the undisclosed income of the specified previous year, if it is not covered by the provisions of clauses (a) and (b).”

32. From the text of Section 271AAB, the following aspects are noticeable. First, it only applies to a case where a search was initiated under Section 132 after 01.07.2012. Secondly, as the provision stood at the relevant time, only the assessing officer could direct that penalty be paid by the assessee. Thirdly, as pre-conditions for limiting penalty to 10% of the

undisclosed income under Section 271AAB(1)(a), the assessee should have admitted the undisclosed income in the course of the search; and paid the tax along with interest and filed the return of income before the due date (i.e. specified date). If such return were to be accepted, there would be no assessment order under Section 143(3) and, consequently, no scope for the initiation of action for the imposition of penalty in the assessment order. Action for the initiation of penalty proceedings could, however, be taken independently. In that situation, limitation for the imposition of penalty under Section 271AAB would be determined as per Section 275(1)(c). On the other hand, if an assessment order were to be issued, such order would take within its fold the undisclosed income admitted in course of search proceedings and included in the return of income. It also becomes possible to initiate action for the imposition of penalty in such assessment order.

33. In *Sandeep Chandak,* action for the imposition of penalty under Section 271AAB was not initiated in the assessment order. Instead, it was done in separate proceedings. Such action was upheld on the ground that the ingredients of Section 271AAB had been satisfied. It was also held therein that such proceedings may be initiated independently of the assessment

proceedings and that satisfaction of the assessment officer in respect thereof is not required to be recorded during assessment proceedings. The said judgment did not deal with the limitation period under Section 275(1) of the I-T Act. The view taken in the judgments cited by learned counsel for the petitioner is that clause (c) applies in cases where the penalty proceedings have no link to the assessment proceedings. Because clause (c) is residuary, I turn to clause (a) first to determine its applicability.

Interpretation of Section 275(1)

34. In order to glean the meaning of clause (a) of Section 275(1), it is necessary to attribute meaning to each phrase and arrive at the scope and applicability of the clause as a whole. Adopting this approach, I reach the following conclusions:

(i) It applies to cases where the relevant assessment or other order is the subject matter of an appeal before the CIT Appeals or ITAT; and

(ii) The action for the imposition of penalty should have been initiated in the course of assessment or other proceedings culminating in the assessment or other order referred to in (i) above.

(iii) In cases satisfying both the above criteria, clause (a) prescribes that the

last date for passing a penalty order may be computed by the following two methods and no penalty order may be issued after the later of the two following limitation periods:

(a) The end of the financial year in which the proceedings are completed; or

(b) 6 months from the end of the month in which the order of the Commissioner (Appeals) or ITAT is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

35. When examined in the factual context, search proceedings were carried out in respect of the petitioner on or about 30.09.2015. Cash income of Rs.15 crore was admitted in course thereof in a sworn statement of the petitioner. The return of income for AY 2016-17 was filed by the petitioner later on 29.07.2016 and the returned income of Rs.35,42,91,890/- included the sum of Rs.15 crore. An assessment order dated 30.12.2017 was issued making three additions to the returned income and initiating action for the imposition of penalty *inter alia* under Section 271AAB. The said assessment order was admittedly appealed against by the assessee before the CIT Appeals. The order of the CIT Appeals was further appealed against by the

revenue before the ITAT. On account thereof, the proviso to Section 275(1)(a), which prescribes a larger period of limitation for matters that culminate at the first appellate stage, does not apply. The order of the ITAT attained finality because neither the assessee nor the revenue filed any further appeal. Thus, all the criteria set out above for the applicability of clause (a) of Section 275(1) are satisfied in this case. I next examine whether clause (c) should nonetheless apply because the proceedings are under Section 271AAB.

36. Both the assessee and the revenue agree that only clause (a) of Section 271AAB(1) is relevant for present purposes. It follows from the text of Section 271AAB(1), as applicable to this dispute, that penalty under this provision may be imposed by the assessing officer and not by any other person. It is also evident that this provision is only applicable to cases where a search was initiated under Section 132 of the I-T Act. The assessment order, in this case, makes reference to the initiation of a search. It also records that penalty proceedings under Section 271AAB would be initiated separately. Therefore, in this case, the action for the imposition of penalty was initiated in the course of assessment proceedings.

37. The assessment order was challenged in respect of two out of three additions, but not in respect of the income of Rs.35,42,91,890/-, which was the income returned in the income-tax return of the petitioner for AY 2016-17. One of the additions made in the assessment order relates to the receipt of the sum of Rs.2 crore, which was claimed as expenses by the petitioner towards Rasigar Mandram expenses. The petitioner objected to this addition *inter alia* on the ground that it forms part of the total cash income of Rs.15 crore admitted by the petitioner. Accepting this contention, the addition of this income in the assessment order was entirely set aside by the CIT Appeals. On further appeal by the revenue before the ITAT, the appeal was partly allowed and the expenses claim booked by the petitioner was allowed to the extent of 50% and disallowed as regards the balance 50%.

38. The inference that flows from the above discussion is that the addition of the sum of Rs.2 crore under the assessment order forming the subject of the appeal before the CIT Appeals and thereafter before the ITAT was closely linked to the admission during search proceedings of the cash income of Rs.15 crore. The order of imposition of penalty under Section 271AAB related to the admitted cash income of Rs.15 crore and a penalty of

Rs.1.5 crore at 10% of the said sum was imposed thereon under Section 271AAB(1)(a). Therefore, the penalty proceedings originate from and are closely related to the assessment order.

39. If penalty proceedings under Section 271AAB had been initiated after accepting the return of income, there would have been no assessment order or appeal therefrom. In such event, I recognise that the limitation period for imposition of penalty would be computed under clause (c). While it may appear anomalous that two different methods of computing limitation could apply to the same penalty, the rationale underlying clause (a) is that it applies when the action for the initiation of penalty originates in the assessment order, which, in turn is carried in appeal. In those circumstances, the period of limitation gets linked to the date of conclusion of appellate proceedings on the basis that there is a reasonable link between assessment and penalty proceedings. Because all necessary conditions for the application of clause (a) are fulfilled and there is nothing in Section 271AAB that *per se* delinks such proceedings from tax proceedings, I conclude that clause (a) - and not clause (c), which is a residuary clause - of Section 275(1) is attracted. Whether the order imposing penalty was within the period of limitation specified therein remains to be considered.

Computation of period of limitation

40. As discussed above, action for the imposition of penalty was initiated in the assessment order dated 30.12.2017. If the said date is construed as the date of completion of proceedings, it falls within financial year 2017-18. If limitation were to be reckoned on the basis of expiry of the financial year in which proceedings were completed, the last date for issuing the penalty order would be 31.03.2018. If determined on this basis, the penalty order dated 30.06.2022 would be beyond the period of limitation.

41. Section 275(1), however, also enables the period of limitation to be computed from the date on which the appellate order or the order of the appellate tribunal is received. The starting point for such computation is the end of the month in which the order is received and the end date is 6 months from such date. If determined on this basis, the order of the ITAT was issued on 22.12.2021 and could not have been received prior thereto. Considering 22.12.2021 as the date of receipt, the relevant month ended on 31.12.2021. The 6 month period therefrom expired on 30.06.2022. The order imposing penalty was issued on 30.06.2022, which is the last date falling within the

period of limitation computed on this basis. All that remains is to briefly touch on clause (b) of Section 275(1).0

42. Clause (b) of Section 275(1) applies where an assessment or other order is the subject matter of revision proceedings. In this case, revision order dated 30.10.2019 was issued *suo motu* but was later quashed by order dated 13.05.2022 of the ITAT. This nullified the revision proceedings. Consequently, clause (b) of Section 275(1) does not apply.

43. For reasons aforesaid, I conclude that the order imposing penalty was issued within the period of limitation prescribed in Section 275(1)(a) of the I-T Act. Thus, I find no infirmity warranting interference. Therefore, the writ petition is dismissed without any order as to costs. Consequently, connected miscellaneous petitions are closed. As recorded at the outset, however, I have not examined the other grounds on which the imposition of penalty was opposed by the petitioner or recorded findings thereon. It is left open to the petitioner to assail the impugned order before the appellate authority on grounds other than limitation.

06.02.2026

Neutral Citation : Yes/No

kal

36/37

SENTHILKUMAR RAMAMOORTHY J.

kal

WP No. 21006 of 2022
&
WMP Nos.20010, 20012 & 20013 of 2022

06.02.2026