**Reserved on : 13.03.2026**
**Pronounced on : 07.07.2026**

R

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 07TH DAY OF JULY, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE S.G.PANDIT**

**AND**

**THE HON'BLE MR. JUSTICE K. V. ARAVIND**

**WRIT APPEAL No. 1991 OF 2025 (T-IT)**

**C/W**

**WRIT APPEAL No. 1977 OF 2025 (T-IT)**

**WRIT APPEAL No. 1980 OF 2025 (T-IT)**

**WRIT APPEAL No. 1982 OF 2025 (T-IT)**

**WRIT APPEAL No. 1994 OF 2025 (T-IT)**

**WRIT APPEAL No. 1995 OF 2025 (T-IT)**

**WRIT APPEAL No. 1996 OF 2025 (T-IT)**

**WRIT APPEAL No. 2003 OF 2025 (T-IT)**

**WRIT APPEAL No. 2021 OF 2025 (T-IT)**

**WRIT APPEAL No. 2023 OF 2025 (T-IT)**

Digitally signed by VINUTHA B S
Location: High Court of Karnataka

**IN WA No. 1991/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE, MANGALURU
ALBUQUERQUE HOUSE,
OPP. FORUM MALL,
PANDESHWARA,
MANGALURU - 575 001.

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE, HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961,
AAYKAR BHAVAN, 2ND STAGE,
BELUR ROAD, HASSAN - 573 201.

…APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. GANESH AGARWAL
PROPRIETOR OF VP TRADERS
S/O. LATE SRI VISHNU BHAGVAN AGARWAL,
AGED ABOUT 57 YEARS,
RESIDING AT NO.01,
OM SAI RAM, 4TH MAIN,
2ND CROSS, SHIVANANJAPPA LAYOUT
KR EXTENSION, TIPTUR
TUMKUR - 572 201.
ALSO AT RMC YARD TIPTUR,

…RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.22008/2025 DATED 18/09/2025 AND ETC.,

**IN WA No. 1977/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE, MANGALURU
ALBUQUERQUE HOUSE
OPP FORUM MALL
PANDESHWARA MANGALURU – 575 001

*Corrected vide chamber order dated 15.07.2026.

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961
AAYKAR BHAVAN, 2ND STAGE,
BELUR ROAD,
HASSAN 573 201

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. BASAVANNA NANJAMARI VIJAYKUMAR
S/O SRI BELAGARAHALLI NANJAMARI
AGED ABOUT 48 YEARS
NO.138, BELAGARAHALLI
TIPTUR TUMKUR 572 201

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.20219/2025 DATED 18/09/2025 AND ETC,.

**IN WA NO. 1980/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE MANGALURU
ALBUQUERQUE HOUSE
OPP FORUM MALL, PANDESHWARA
MANGALURU 575 001

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961
AAYKAR BHAVAN
2ND STAGE

*Corrected vide chamber order dated 15.07.2026.

BELUR ROAD
HASSAN 573 201

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. PRAMOD KUMAR PANDEY
PROPRIETOR OF SRI GANESH
SALES CORPORATION
S/O LATE SRI BABAN PANDEY
AGED ABOUT 58 YEARS
#597 OPP SHANKAR MATA
K R EXTENSION TIPTUR
TUMKURU 572 201

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.20242/2025 DATED 18/09/2025 AND ETC,.

**IN WA NO. 1982/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE MANGALURU
ALBUQUERQUE HOUSE
OPP FORUM MALL PANDESHWARA
MANGALURU 575 001

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961
AAYKAR BHAVAN 2ND STAGE
BELURU ROAD HASSAN 573 201

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

*Corrected vide chamber order dated 15.07.2026.

**AND:**

1. PRAMOD KUMAR PANDEY
   PROPRIETOR OF SRI GANESH
   SALES CORPORATION
   S/O LATE SRI BABAN PANDEY
   AGED ABOUT 58 YEARS
   RMC YARD TIPTUR
   TUMKURU 572 201

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.20220/2025 DATED 18/09/2025 AND ETC,.

**IN WA NO. 1994/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
   CENTRAL RANGE MANGALURU
   ALBUQUERQUE HOUSE
   OPP FORUM MALL
   PANDESHWARA
   MANGALURU 575 001

2. THE ASST. COMMISSIONER OF INCOME TAX
   CENTRAL CIRCLE HASSAN
   THE ASSESSING OFFICER
   UNDER INCOME TAX ACT 1961
   AAYKAR BHAVAN 2ND STAGE
   BELURU ROAD
   HASSAN 573 201

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL)
**A/W SRI DILIP M., ADVOCATE)*

*Corrected vide chamber order dated 15.07.2026.

**AND:**

1. RAJANIKANTH SARAF
S/O SRI DEVARAJ SARAF
AGED ABOUT 68 YEARS
3189, ANJANI KUNJ B H ROAD
ARASIKERE HASSAN 573 103

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.20209/2025 DATED 18/09/2025 AND ETC,.

**IN WA NO. 1995/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE, MANGALURU
ALBUQUERQUE HOUSE,
OPP. FORUM MALL,
PANDESHWARA,
MANGALURU - 575 001.

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE, HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961,
AAYKAR BHAVAN, 2ND STAGE,
BELUR ROAD,
HASSAN – 573 201.

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL)
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. BASAVANNA NANJAMARI SUNIL
S/O. SRI. BELAGARAHALLI NANJAMARI
AGED ABOUT 41 YEARS

*Corrected vide chamber order dated 15.07.2026.

NO.138, BELAGARAHALLI,
TIPTUR, TUMKUR - 572 201.

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No. 20235/2025 (T-IT) DATED 18.09.2025 AND ETC,.

**IN WA NO. 1996/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE MANGALURU
ALBUQUERQUE HOUSE
OPP FORUM MALL
PANDESHWARA
MANGALURU 575 001

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961
AAYKAR BHAVAN 2ND STAGE
BELUR ROAD
HASSAN – 573 201

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. RAJASTHAN COMMERCIAL CORPORATION
A PARTNERSHIP FIRM UNDER
THE INDIAN PARTNERSHIP ACT 1932
NO.1913 APMC YARD ARSIKERE
HASSAN 573 103

REPRESENTED BY ITS PARTNER
SRI NITHIN SARAF

*Corrected vide chamber order dated 15.07.2026.

AGED ABOUT 43 YEARS
S/O SRI RAJNIKANTH SARAF

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.20192/2025 DATED 18/09/2025 AND ETC,.

**IN WA NO. 2003/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE, MANGALURU
ALBUQUERQUE HOUSE,
OPP. FORUM MALL,
PANDESHWARA,
MANGALURU - 575 001.

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE, HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961,
AAYKAR BHAVAN, 2ND STAGE,
BELUR ROAD,
HASSAN – 573 201.

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. SRI ANUP KUMAR
S/O. SRI PRAMOD KUMAR PANDEY,
AGED ABOUT 28 YEARS,
RESIDING AT 597, OPP. TO SHANKAR MATA,
K.R. EXTENSION, TIPTUR,
TUMKUR - 572 201.

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

*Corrected vide chamber order dated 15.07.2026.

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.22032/2025 DATED 18/09/2025 AND ETC,.

**IN WA NO. 2021/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE, MANGALURU
ALBUQUERQUE HOUSE,
OPP. FORUM MALL,
PANDESHWARA,
MANGALURU - 575 001.

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE, HASSAN
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961,
AAYKAR BHAVAN, 2ND STAGE,
BELUR ROAD,
HASSAN - 573 201.

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. RAJANIKANTH SARAF
S/O. SRI DEVARAJ SARAF,
AGED ABOUT 71 YEARS
NO. 3189,
ANJANI KUNJ B H ROAD,
ARASIKERE, HASSAN-573 103.

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No. 20188/2025 (T-IT) DATED 18.09.2025 AND ETC,.

*Corrected vide chamber order dated 15.07.2026.

**IN WA NO. 2023/2025**

**BETWEEN:**

1. THE JOINT COMMISSIONER OF INCOME TAX
CENTRAL RANGE MANGALURU,
ALBUQUERQUE HOUSE, OPP FORUM MALL,
PANDESHWARA,
MANGALURU - 575 001.

2. THE ASST. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE, HASSAN,
THE ASSESSING OFFICER
UNDER INCOME TAX ACT 1961,
AAYKAR BHAVAN, 2ND STAGE,
BELUR ROAD,
HASSAN - 573 201.

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., SENIOR STANDING COUNSEL
**A/W SRI DILIP M., ADVOCATE)*

**AND:**

1. PRAMOD KUMAR PANDEY
PROPRIETOR OF SRI. GANESH,
SALES CORPORATION,
S/O LATE SRI. BABAN PANDEY,
AGED ABOUT 58 YEARS,
RMC YARD,
TIPTUR, TUMKUR - 572 201.

...RESPONDENT

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.20212/2025 DATED 18/09/2025 AND ETC,.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, ***K.V. ARAVIND J.,*** DELIVERED THE FOLLOWING:-

*Corrected vide chamber order dated 15.07.2026.

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

## C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri Y. V. Ravi Raj, learned Senior Standing Counsel for the appellants and Sri Shreehari Kutsa, learned Counsel for the respondents.

2. These appeals are by the Revenue under Section 4 of the Karnataka High Court Act, 1961, impugning the judgments passed in the writ petitions by the learned Single Judge. For convenience the Writ Appeals impugning the Writ Petitions are tabulated below.

| **Sl. No.** | **Writ Appeals** | **Writ Petitions** | **Order Date** |
|---|---|---|---|
| 1. | 1991/2025 | 22008/2025 | 18.09.2025 |
| 2. | 1977/2025 | 20219/2025 | |
| 3. | 1980/2025 | 20242/2025 | |
| 4. | 1982/2025 | 20220/2025 | |
| 5. | 1994/2025 | 20209/2025 | |
| 6. | 1995/2025 | 20235/2025 | |
| 7. | 1996/2025 | 20192/2025 | |
| 8. | 2003/2025 | 22032/2025 | |
| 9. | 2021/2025 | 20188/2025 | |
| 10. | 2023/2025 | 20212/2025 | |

**FACTUAL BACKGROUND**

3. The brief facts are that the return of income filed by the assessee was selected for scrutiny. Upon completion of the assessment, the Assessing Officer initiated penalty proceedings under Section 270A of the Income Tax Act, 1961 (for short "the Act"). The case also attracted initiation of penalty proceedings under Section 271DA of the Act. Since, penalty under Section 270A of the Act can be initiated by the Assessing Officer, the Assessing Officer issued notice under Section 274 read with Section 270A of the Act. Insofar as the penalty under Section 271DA of the Act is concerned, the jurisdiction to impose the penalty is vested with the Joint Commissioner of Income Tax. Accordingly, a proposal was made by the Assessing Officer to the Joint Commissioner for such purpose.

3.1 The Joint Commissioner, upon examination of the proposal, issued notice under Section 274 read with Section 271DA of the Act. The notice issued under Section 271DA of the Act came to be challenged in the writ petitions, contending that the same had been issued beyond the period prescribed under Section 275 of the Act. The learned Single Judge,

referring to the judgment of the Co-ordinate Bench in ***Principal Commissioner of Income Tax v. K. Umesh Shetty (2025) 170 taxmann.com 748 (Karnataka)*****,** held that the limitation has to be computed from the date of proposal/reference made to the Joint Commissioner of Income Tax.

4. All these appeals involve a common question of law concerning the interpretation of Section 275 of the Income Tax Act, 1961, in the context of Section 271DA of the said Act. Hence, all the appeals are disposed of by this common judgment.

**SUBMISSIONS**

5. Sri Y. V. Raviraj, learned Senior Standing Counsel for the Revenue, submits that the judgment in ***K. Umesh Shetty*** (*supra*) is not applicable to the facts of the present case. It is submitted that, in the said case, the conclusion of the proceedings after proposal/reference had suffered inordinate delay and, on that ground, the proceedings were held to be barred by limitation. It is further submitted that Section 271DA of the Act vests the jurisdiction to levy penalty with the Joint Commissioner, whereas the assessment is completed by the

Assistant Commissioner/Deputy Commissioner. Hence, a proposal/reference by the Assessing Officer is warranted.

5.1 It is submitted that where the penalty can be imposed by the Assessing Officer himself, initiation of penalty proceedings takes place while concluding the assessment proceedings. In that context, the understanding of Section 275 of the Act would be different. The same meaning and interpretation cannot be applied to a case where the penalty is required to be initiated and levied by another authority upon a proposal/reference made by the Assessing Officer.

5.2 It is also submitted that the proposal/reference made by the Assessing Officer to the Joint Commissioner is not final. It is within the discretion of the Joint Commissioner to examine the proposal/reference and decide whether initiation of penalty proceedings is warranted. The learned Single Judge, without noticing the context of Section 275 of the Act, has erroneously interpreted the provision to mean that the period of limitation commences from the date of reference, even when no initiation of penalty proceedings has taken place. According to the Revenue, the proposal/reference made by the Assessing Officer

to the Joint Commissioner cannot be construed as initiation of penalty proceedings.

6. Sri Srihari Kutsa, learned counsel appearing for the respondents-assessees, submits that the issue is no longer *res integra* in view of the pronouncement of the Co-ordinate Bench in the case of ***K.Umesh Shetty*** (*supra*). It is submitted that when a proposal/reference is made by the Assessing Officer to the Joint Commissioner in the course of assessment proceedings, the limitation prescribed under Section 275 of the Act is set in motion, and the Joint Commissioner is bound to complete the penalty proceedings within the period so prescribed.

6.1 It is further submitted that no satisfaction has been recorded by the Joint Commissioner for initiation of proceedings under Section 271DA of the Act and, therefore, the entire proceedings are *void ab initio* for want of jurisdiction. It is also contended that no such satisfaction has been recorded by the Assessing Officer. Even assuming that satisfaction had been recorded by the Assessing Officer, since the penalty proceedings are required to be initiated by the Joint

Commissioner, the imposition of penalty cannot be founded on borrowed satisfaction.

6.2 It is further submitted that even if Section 275(1)(c) of the Act is liberally interpreted, the commencement of limitation cannot extend beyond the date of the assessment order in the course of which the necessity for initiation of proceedings under Section 271DA of the Act was found to exist.

6.3 It is also submitted that the notice issued under Section 271DA of the Act is unsustainable in law, as the notice does not contain any particulars and is merely a *proforma* notice. According to the learned counsel for the respondents, in the absence of the factual background being set out in the notice, calling upon the assessee to furnish an explanation on the basis of such incomplete particulars would remain an empty formality and would not satisfy the requirements of the principles of natural justice.

7. Having considered the submissions made by the learned counsel appearing on both sides, before proceeding to examine the rival contentions, this Court finds it necessary to analyse the relevant statutory provisions.

**STATUTORY PROVISIONS**

8. Chapter XXI, dealing with penalties imposable, contains Sections 270 to 275 of the Income-tax Act, 1961. The said Chapter provides for imposition of penalties for various acts of concealment, suppression and other statutory violations. The power to impose penalty is vested in different authorities depending upon the nature of the default. The necessity to initiate penalty proceedings in almost all cases emanates from, or is triggered by, the assessment proceedings before the Assessing Officer.

8.1 The power to impose penalty, in certain cases, is vested with the Assessing Officer, whereas in some cases it is vested with the Joint Commissioner/Additional Commissioner of Income Tax. Imposition of penalty is also vested with the Commissioner (Appeals), the Principal Commissioner, or the Commissioner in the course of proceedings under the Act. For the present, this Court is not concerned with the powers vested in authorities other than the Joint Commissioner/Additional Commissioner. In the case on hand, this Court is concerned only with the levy of penalty under Section 271DA of the Act,

which provides for imposition of penalty for failure to comply with the provisions of Section 269ST of the Act.

8.2 For a complete analysis of the Chapter, the chart below indicates the nature of the failures that attract levy of penalty and the authority competent to impose such penalty.

| Sl. No. | Section | Nature of Penalty | Competent Authority to Impose Penalty |
|---|---|---|---|
| 1 | 270A | Penalty for under-reporting and misreporting of income | Assessing Officer, JCIT (Appeals), Commissioner(Appeals), CIT or PCIT |
| 2 | 271 | Failure to furnish returns, comply with notices, concealment of income, etc. | Assessing Officer, JCIT (Appeals), Commissioner(Appeals), CIT or PCIT |
| 3 | 271A | Failure to keep, maintain or retain books of account, documents, etc. | Assessing Officer, JCIT (Appeals) or Commissioner(Appeals) |
| 4 | 271AA | Failure to keep and maintain information and documents, etc. in respect of certain transactions | Assessing Officer or Commissioner(Appeals) |
| 5 | 271AAA | Penalty where search initiated on or after 01.06.2007 but before 01.07.2012 | Assessing Officer |
| 6 | 271AAB | Penalty where search initiated on or after 01.07.2012 | Assessing Officer or Commissioner(Appeals) |
| 7 | 271AAC | Penalty in respect of income referred to in Sections 68 to 69D | Assessing Officer, JCIT (Appeals) or Commissioner(Appeals) |
| 8 | 271AAD | Penalty for false entry etc. in books of account | Assessing Officer, JCIT (Appeals) or Commissioner(Appeals) |
| 9 | 271AAE | Benefits to related persons | Assessing Officer |
| 10 | 271B | Failure to get accounts audited | Assessing Officer |

| Sl. No. | Section | Nature of Penalty | Competent Authority to Impose Penalty |
|---|---|---|---|
| 11 | 271BA | Failure to furnish report under Section 92E | Assessing Officer |
| 12. | 271BB | Failure to subscribe to the eligible issue of capital | Joint Commissioner |
| 13 | 271C | Failure to deduct tax at source | Joint Commissioner |
| 14 | 271CA | Failure to collect tax at source | Joint Commissioner |
| 15 | 271D | Failure to comply with the provisions of Section 269SS | Joint Commissioner |
| 16 | 271DA | Failure to comply with the provisions of Section 269ST | Joint Commissioner |
| 17 | 271DB | Failure to comply with the provisions of Section 269SU | Joint Commissioner |
| 18 | 271E | Failure to comply with the provisions of Section 269T | Joint Commissioner |
| 19 | 271F | Failure to furnish return of income | Assessing Officer |
| 20 | 271FA | Failure to furnish statement of financial transaction or reportable account | Prescribed Authority |
| 21 | 271FAA | Furnishing inaccurate statement of financial transaction or reportable account | Prescribed Authority |
| 22 | 271FAB | Failure to furnish statement or information or document by an eligible investment fund | Prescribed Authority |
| 23 | 271FB | Failure to furnish return of fringe benefits | Assessing Officer |
| 24 | 271G | Failure to furnish information or documents under Section 92D | Assessing Officer, Transfer Pricing Officer or Commissioner(Appeals) |
| 25 | 271GA | Failure to furnish information or furnishing inaccurate information under Section 285A | Prescribed Authority |

| Sl. No. | Section | Nature of Penalty | Competent Authority to Impose Penalty |
|---|---|---|---|
| 26 | 271GB | Failure to furnish report or furnishing inaccurate report under Section 286 | Prescribed Authority |
| 26 | 271H | Failure to furnish statements, etc. | Assessing Officer |
| 27 | 271-I | Failure to furnish information or furnishing inaccurate information under Section 195 | Assessing Officer |
| 28 | 271J | Furnishing incorrect information in reports or certificates | Assessing Officer, Joint Commissioner (Appeals) or Commissioner(Appeals) |
| 29 | 271K | Failure to furnish statements, etc. | Assessing Officer |
| 30 | 272A | Failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc. | JDIT, JCIT, PCCIT, CCIT,PCIT or CIT |
| 31 | 272AA | Failure to comply with the provisions of Section 133B | Joint Commissioner, Assistant Director, Deputy Director or Assessing Officer |
| 32 | 272B | Failure to comply with the provisions of Section 139A | Assessing Officer |
| 33 | 272BB | Failure to comply with the provisions of Section 203A | Assessing Officer |
| 34 | 272BBB | Failure to comply with the provisions of Section 206CA | Assessing Officer |
| 35 | 273 | False estimate of, failure to pay, advance tax | Assessing Officer |
| 36 | 273A | Power to reduce or waive penalty, etc., in certain cases | Principal Commissioner/Commissioner |

8.2.1 Section 269ST of the Act is attracted when a person receives an amount exceeding Rupees Two Lakhs otherwise than by way of an account payee cheque, an account payee bank draft, use of an electronic clearing system through a bank account, or through such other electronic modes as may be prescribed. The Section also provides for certain exceptions.

8.2.2 The limitation for imposition of penalties under the entire Chapter XXI is prescribed under Section 275 of the Act. For convenience of reference, Sections 269ST, 271DA, 274 and 275 of the Income-tax Act, 1961 are extracted below.

> *"[1][**269-ST. Mode of undertaking transactions**.— 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:*
>
> *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 269-SS;*

*(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 269-SS;*

*(b) "co-operative bank" shall have the same meaning as assigned to it in clause (ii) of the Explanation to Section 269-SS.]*

[1]*[**271-DA. Penalty for failiure to comply with provisions of Section 269-ST**.— (1) If a person receives any sum in contravention of the provisions of Section 269-ST, 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.]*

***274. Procedure.** - (1)No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.*

*(2)[ No order imposing a penalty under this Chapter shall be made-*

*(a)by the Income-tax Officer, where the penalty exceeds ten thousand rupees;*

*(b)by the Assistant Commissioner [or Deputy Commissioner], where the penalty exceeds twenty thousand rupees,*

*except with the prior approval of the [Joint] Commissioner]*

*[(2A) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of imposing penalty under this Chapter so as to impart*

*greater efficiency, transparency and accountability by—*

*(a) eliminating the interface between the [income-tax authority and the assessee or any other person] to the extent technologically feasible;*

*(b) optimising utilisation of the resources through economies of scale and functional specialisation;*

*(c) introducing a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income-tax authorities.*

*(2B) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (2A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to jurisdiction and procedure for imposing penalty shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:*

***Provided*** *that no direction shall be issued after the 31st day of March, 2022.*

*(2C) Every notification issued under sub-section (2A) and sub-section (2B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.]*

*(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.]*

***275. Bar of limitation for imposing penalties****.— (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 [1][* * *] [12][Principal Commissioner or Commissioner] (Appeals) under Section 246 [2][or Section 246-A] 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 [3][* * *] [12][Principal Commissioner or Commissioner] (Appeals) or, as the case may be, the Appellate Tribunal is received by the [13][Principal Chief Commissioner or Chief Commissioner] or [12][Principal Commissioner or Commissioner] whichever period expires later:*

*[4][**Provided** that in a case where the relevant assessment or other order is the subject-matter of an appeal to the [12][Principal Commissioner or Commissioner] (Appeals) under Section 246 or Section 246-A, and the [12][Principal Commissioner or 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 [12][Principal Commissioner or Commissioner] (Appeals) is received by the [13][Principal Chief Commissioner or Chief Commissioner] or [12][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 [5][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.***

*[6][(1-A) In a case where the relevant assessment or other order is the subject matter of an appeal to the [12][Principal Commissioner or Commissioner] (Appeals) under Section 246 or Section 246-A or an appeal to the Appellate Tribunal under Section 253 or*

*an appeal to the High Court under Section 260-A or an appeal to the Supreme Court under Section 261 or revision under Section 263 or Section 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty is passed before the order of the [12][Principal Commissioner or Commissioner] (Appeals) or the Appellate Tribunal or the High Court of the Supreme Court is received by the [13][Principal Chief Commissioner or Chief Commissioner] or the [12][Principal Commissioner or Commissioner] or the order of revision under Section 263 or Section 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order of the [12][Principal Commissioner or Commissioner] (Appeals) or, the Appellate Tribunal or the High Court, or the Supreme Court or order of revision under Section 263 or Section 264:*

*Provided that no order of imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty shall be passed—*

*(a) unless the assessee has been heard, or had been given a reasonable opportunity of being heard;*

*(b) after the expiry of six months from the end of the month in which the order of the [12][Principal Commissioner or Commissioner] (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the [13][Principal Chief Commissioner or Chief Commissioner] or the [12][Principal Commissioner or Commissioner] or the order of revision under Section 263 or Section 264 is passed:*

*Provided further that the provisions of sub-section (2) of Section 274 shall apply in respect of the order imposing or enhancing or reducing penalty under this sub-section.]*

*(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988), shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.*

*Explanation.—In computing the period of limitation for the purposes of this section,—*

*(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to Section 129;*

*(ii) any period during which the immunity granted under Section 245-H remained in force; and*

*(iii) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court,*

*shall be excluded.*

*(Emphasis Supplied)"*

**ANALYSIS OF THE STATUTORY SCHEME**

9. In the present batch of cases, this Court is concerned with the interpretation of clause (c) of sub-section (1) of Section 275 of the Act. The emphasis in clause (c) is on the expression, "action for the imposition of penalty has been initiated."

9.1 On a plain reading of clause (c), it appears to comprise of two parts. The first part prescribes 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. The second part provides for a period of six months from the end of the month in which the action for imposition of penalty is initiated. The provision further stipulates that the period which expires later shall apply.

9.2 There can hardly be any dispute regarding the computation of the period of limitation of six months. The real controversy centers around the meaning of the expression, "action for the imposition of penalty is initiated." The next question, therefore, is: when can such action be said to have been initiated?

10. To answer the question, two issues arise for consideration. First, whether initiation can be said to have taken place from the date on which the Assessing Officer makes a proposal/reference to the Joint Commissioner. Secondly, whether the initiation takes place only when the Joint Commissioner issues notice to the assessee.

11. There are fiscal statutes which enable initiation of proceedings by one authority, while the power to conclude such proceedings is vested in another authority. Therefore, it

becomes necessary to examine whether Section 271DA of the Act provides for such an enabling mechanism. In our considered view, the answer is in the negative.

12. Before an order imposing penalty under Section 271DA of the Act is passed, the mandate contained in Section 274 of the Act has to be complied with. Section 274 of the Act requires that the assessee shall be heard, or afforded a reasonable opportunity of being heard, before any order imposing a penalty is made. If Section 274 of the Act is read in conjunction with Section 271DA and clause (c) of sub-section (1) of Section 275 of the Act, the only manner and mechanism by which proceedings under Section 271DA of the Act can be initiated is by issuance of a notice under Section 274 of the Act.

13. Any other interpretation would lead to anomalies and unintended consequences. A proposal/reference made by the Assessing Officer is only in the nature of forwarding the material or information for appropriate action. The decision as to whether proceedings for imposition of penalty under Section 271DA of the Act should at all be initiated remains within the exclusive domain of the Joint Commissioner.

14. If the proposal/reference itself is construed as initiation of penalty proceedings, two anomalies would arise. Firstly, it would amount to initiation of proceedings by the Assessing Officer, who is admittedly not competent to impose penalty under Section 271DA of the Act. Secondly, it would result in an Assessing Officer, who lacks jurisdiction to impose such penalty, compelling the Joint Commissioner, an officer of a higher rank, to proceed with penalty proceedings, even in a case where the Joint Commissioner, upon consideration of the information or material forwarded, is not satisfied that the facts warrant initiation of penalty proceedings.

15. On a plain reading of Section 275 of the Act, a period of six months prescribed for passing an order imposing penalty is made available to the authority competent to impose such penalty. If the proposal/reference made by the Assessing Officer is construed as the starting point for computation of the said period of six months, it would again lead to an anomalous situation by curtailing the statutory period of six months available to the Joint Commissioner, who alone is competent to initiate and impose penalty under Section 271DA of the Act.

Such an interpretation would also result in the Assessing Officer effectively controlling the period of limitation provided under Section 275 of the Act to the Joint Commissioner.

16. The meaning of the expression "initiation of proceedings" has been extensively considered by the Hon'ble Supreme Court in ***Armour Security (India) Limited v. Commissioner, CGST, Delhi [2025 SCC Online SC 1700]*****.** While examining the said expression, the Hon'ble Supreme Court held that initiation of proceedings commences with the issuance of a show cause notice and does not encompass the issuance of summons or the conduct of any search or seizure proceedings.

17. It was further held that the mere issuance of summons does not imply that the Department has taken a decision to proceed against the taxpayer for recovery of liability. The issuance of summons, by no stretch of imagination, can be regarded as initiation of proceedings, since, at that stage, the Department still retains the discretion whether or not to initiate proceedings. A mere contemplation or possibility of initiating action cannot be equated with initiation of proceedings. Any

such interpretation would undermine the statutory framework governing the exercise of powers under the Act.

18. The principles enunciated by the Hon'ble Supreme Court in the aforesaid decision lend support to the view that a proposal/reference made by the Assessing Officer to the Joint Commissioner cannot, by itself, be construed as initiation of penalty proceedings under Section 271DA of the Act. Initiation, in the context of Section 271DA read with Sections 274 and 275(1)(c) of the Act, can only be understood as the issuance of a notice by the Joint Commissioner calling upon the assessee to show cause against the proposed imposition of penalty.

19. Reference in this regard may be made to relevant paragraphs extracted below of the judgment in ***Armour Security (India) Limited*** *(supra),*

> ***"57.*** *Section 70 of the CGST Act empowers a proper officer to summon any person whose presence is considered necessary for giving evidence or producing documents or any other relevant material in an inquiry. The issuance of summons is one of the instruments employed by the Department to obtain information, documents, or statements in cases involving suspected tax evasion. Such summons may be issued to the person under investigation or to a person considered a witness in investigation against another person.*

***58.*** *A summons is not the culmination of an investigation, but merely a step in its course. It is in this context that the Legislature has used the term "inquiry" in section 70, as at the stage of issuing a summons, the Department is primarily engaged in gathering information regarding a possible contravention of law, which may subsequently form the basis for proceedings against an assessee. Since the objective is to collect information, the Department has, in certain instances, advised resorting to a letter of requisition in place of a formal summons.*

***59.*** *At the stage of issuing a summons, the Department is yet to determine whether proceedings should be initiated against the assessee. Such evidence-gathering and inquiry do not constitute "proceedings" within the meaning of section 6(2)(b) of the CGST Act. The mere issuance of a summons cannot be equated with proceedings barred under the Act, as the subject-matter cannot be ascertained solely through summons. That said, summons should not be issued in routine matters or for documents readily available on the GST portal. They ought to be issued after much thought and consideration as to the exact information required. We acknowledge that the issuance of multiple, cyclostyled summons may indicate a roving inquiry.*

***60.*** *We affirm and appreciate the view taken by the High Court of Allahabad in G.K. Trading [G.K. Trading Company v. Union of India, (2021) 88 GSTR 293 (All); 2020 SCC OnLine All 1907.] and the High Court of Kerala in K.T. Saidalavi [K.T. Saidalavi v. State Tax Officer, SGST Department, (2025) 145 GSTR 369 (Ker); 2024 SCC OnLine Ker 5674.] respectively. The High Court of Allahabad rightly held that the issuance of summons cannot be conflated with a statutory step taken upon conclusion of an inquiry. Similarly, the High Court of Kerala was correct in holding that*

*initiation of inquiry or the issuance of summons does not amount to the initiation of "any proceedings". The phrase "initiation of any proceedings" refers specifically to the issuance of a notice under the relevant provisions of the GST enactment.*

***61.*** *At this juncture, we wish to refer to the Guidelines on Issuance of Summons under section 70 of the CGST Act issued by the Central Board of Indirect Taxes and Customs (GST—Investigation Wing) dated August 17, 2022. In view of the facts of the present case in hand, we would like to inject thrust into the Guidelines dated August 17, 2022, and direct the concerned Departments to adhere to the said Guidelines, in both letter and spirit.*

***62.*** *In the present case, the petitioner was served with a show-cause notice dated November 18, 2024 by respondent No. 2 under section 73 of the CGST Act, thereby initiating proceedings. The petitioner has impugned the summons dated January 16, 2025 and January 23, 2025 respectively issued by respondent No. 1 for production of documents. At the summons stage, it cannot be predicated with certainty that the subject-matter of the proceedings will be identical; the mere presence of an overlapping aspect under investigation does not ipso facto render the subject-matter "same".*

***63.*** *The High Court correctly held that the term "any proceedings" does not encompass summons issued pursuant to a search or investigation, as at the stage of issuance of summons the Department is merely engaged in gathering information. We are in agreement with the finding that a case of search is clearly distinct and separate from proceedings initiated only after issuance of a show-cause notice.*

***64.*** *We may now proceed to elaborate on our understanding of "initiation of any proceedings" within the meaning of section 6(2)(b) of the CGST Act. P. Ramanatha Aiyar's, 6th Edition, pages 4415-4420, defines "proceedings" as under:*

*"It is not a technical expression with defined meaning attached to it but the one ambit of whose meaning will be governed by the statute. The word 'proceedings' can be given a narrow or wide import depending upon the nature and scope of an enactment in which it is used and in the particular context of the language of the enactment in which it appears." (emphasis supplied)*

***65.*** *We may quote an extract from the Black's Law Dictionary, 4th Edition, page 1368, it stated as under:*

*"An act which is done by the authority or direction of the court, express or implied; an act necessary to be done in order to attain a given end; a prescribed mode of action for carrying into effect a legal right."*

***66.*** *A show-cause notice is a document served on a noticee, requiring them to explain why a particular action should not be initiated against them. Under the GST regime, issuance of a show-cause notice is a mandatory pre-condition for raising a demand. It forms the bedrock for proceedings related to the recovery of tax, interest, and penalty. The notice ensures adherence to the principles of natural justice by granting the assessee an opportunity to present their case before any adverse action is taken. In essence, it serves as both a procedural safeguard and a legal necessity, marking the commencement of quasi-judicial adjudication under the Act.*

***67.*** *A show-cause notice sets the law in motion concerning the liability under the statute, containing charges that a specific person is called upon to answer. In other words, it sets out the alleged violations of*

*legal provisions and requires the assessee to explain why the duty should not be recovered from them. Thus, a show-cause notice cannot be vague, nor can any allegations be made without evidence being commensurate with the gravity of the charges levelled against the noticee.*

***68.*** *It sets forth the framework for the proceedings proposed to be undertaken and provides the noticee with an opportunity to submit their explanation before the adjudicating authority. It outlines the background for the initiation of such proceedings, whether arising from an audit of accounts by the internal audit wing, scrutiny of returns, or intelligence gathered by officers of the Audit and Intelligence Commissionerate. It is further mandated that the authority issuing the notice must meticulously set out all relevant legal provisions under which the alleged contraventions are framed. The materials obtained through summons and relied upon for issuing the show-cause notice must be appended and disclosed to the assessee. In essence, a show-cause notice enumerates the charges levelled against the notice.*

***73.*** *The statutory framework of the CGST Act does not admit of any interpretation of the phrase "initiation of proceedings" under section 6(2)(b) other than one which ties it to the issuance of a show-cause notice. An action qualifies as "proceedings" only when it is undertaken with the object of attaining a determinate outcome. In the present context, the issuance of a show-cause notice partakes the character of proceedings, as it is inherently required to culminate in a definitive determination; there must exist a point of finality or conclusion thereto.*

***74.*** *Proceedings, by their very nature, cannot be said to be initiated in the absence of certainty, nor can they culminate without adherence to the principles of natural justice. A show-cause notice marks the*

*commencement of a process that culminates in an order passed by the adjudicating authority. The legislative intent to prevent the subjugation of a taxpayer to parallel proceedings and to avoid contradictory orders can only be realized only when the Department is clear about the subject-matter it seeks to pursue, a certainty that arises only at the stage of issuance of the show- cause notice.*

***75.*** *In the facts of the present case, the mere issuance of summons does not imply that the Department has decided to proceed against the taxpayer for recovery of liability. Therefore, issuance of summons, by no stretch, can be considered as the initiation of proceedings, since at that stage, the Department still retains the discretion not to initiate any proceedings. A mere contemplation or possibility of initiating action cannot be equated with "proceedings", as doing so would undermine the framework of cross-empowerment under the Act. Even when a discovery is made during the search proceedings under section 67 of the CGST Act, the Department is required to bring such proceedings to a definitive conclusion, either by issuing a show-cause notice under section 74 or by dropping the matter altogether.*

*(i) Reading of Circular dated October 5, 2018*

***97.*** *We summarize our final conclusion as under:*

*(i) Clause (b) of sub-section (2) of section 6 of the CGST Act and the equivalent State enactments bars the "initiation of any proceedings" on the "same subject-matter".*

*(ii) Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the tax administration to which the taxpayer is assigned.*

*(iii) Intelligence based enforcement action can be initiated by any one of the Central or the State tax administrations despite the taxpayer having been assigned to the other administration.*

*(iv) Parallel proceedings should not be initiated by other tax administration when one of the tax administrations has already initiated intelligence-based enforcement action.*

*(v) All actions that are initiated as a measure for probing an inquiry or gathering of evidence or information do not constitute "proceedings" within the meaning of section 6(2)(b) of the CGST Act.*

*(vi) The expression "initiation of any proceedings" occurring in section 6(2)(b) refers to the formal commencement of adjudicatory proceedings by way of issuance of a show-cause notice, and does not encompass the issuance of summons, or the conduct of any search, or seizure, etc.*

*(vii) The expression "subject-matter" refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.*

*(viii) Where any two proceedings initiated by the Department seek to assess or recover an identical or a partial overlap in the tax liability, deficiency or obligation arising from any particular contravention, the bar of section 6(2)(b) would be immediately attracted.*

*(ix) Where the proceedings concern distinct infractions, the same would not constitute a "same subject-matter" even if the tax liability, deficiency, or obligation is same or similar, and the bar under section 6(2)(b) would not be attracted.*

*(x) The twofold test for determining whether a subject-matter is "same" entails, first, determining if an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts, and secondly, if the demand or relief sought is identical."*

20. As noticed hereinabove, the Hon'ble Supreme Court in ***Armour Security (India) Limited*** (*supra*) has authoritatively

explained the scope of the expression "initiation of proceedings" and held that a mere contemplation of action or the taking of preliminary steps preceding the exercise of statutory power cannot be equated with initiation of proceedings. The Court has clarified that initiation occurs only when the competent authority manifests its decision to proceed by issuing the statutory notice contemplated under the relevant enactment. Consequently, the notice issued under Section 274 of the Act read with the relevant penal provision alone qualifies as the initiation of proceedings, as it reflects the decision of the competent authority to commence action with the object of attaining a determinative outcome. Until such notice is issued, the proceedings cannot be said to have been initiated in the eye of law.

21. No doubt, the aforesaid enunciation of law was rendered while interpreting the provisions of the CGST Act. However, the principles laid down therein would provide valuable guidance in understanding and ascribing meaning to the expression, "action for imposition of penalty is initiated", occurring in Section 275(1)(c) of the Act.

22. In circumstances of a similar nature, while dealing with the imposition of penalty under Sections 271D and 271E of the Act, the High Court of Kerala, in ***Grihalakshmi Vision v. Assistant Commissioner of Income Tax, Range I, Kozhikode [2015 SCC OnLine Ker 23752]***, had occasion to consider the scope and ambit of Section 275(1)(c) of the Act. The Court held as under:

> ***"10.*** *Question to be considered is whether proceedings for levy of penalty, are initiated with the passing of the order of assessment by the Assessing Officer or whether such proceedings have commenced with the issuance of the notice issued by the Joint Commissioner. From the statutory provision, it is clear that the competent authority to levy penalty being the Joint Commissioner. Therefore, only the Joint Commissioner can initiate proceedings for levy of penalty. Such initiation of proceedings could not have been done by the Assessing Officer. The statement in the assessment order that the proceedings under section 271D and section 271E are initiated is inconsequential. On the other hand, if the assessment order is taken as the initiation of penalty proceedings, such initiation is by an authority who is incompetent and the proceedings thereafter would be proceedings without jurisdiction. If that be so, the initiation of the penalty proceedings is only with the issuance of the notice issued by the Joint Commissioner to the assessee to which he has filed his reply."*

23. The aforesaid decision, though rendered in the context of Sections 271D and 271E, assumes significance, as the penalties under those provisions are also required to be imposed by an

authority other than the Assessing Officer. The reasoning adopted therein, therefore, lends support to the interpretation that the expression "action for imposition of penalty is initiated" cannot be understood as a mere proposal/reference made by the Assessing Officer, but must relate to the stage at which the competent authority initiates penalty proceedings in accordance with law.

24. Section 275 prescribes the period of limitation for penalties leviable under Chapter XXI of the Act. Section 273B of the Act, on the other hand, provides that notwithstanding anything contained in the provisions of the various sections referred to therein, no penalty shall be imposable on the person or the assessee, as the case may be, in respect of any failure referred to in the said provisions, if such person proves that there was reasonable cause for the said failure.

25. It is no doubt true that Section 271DA of the Act does not find place among the provisions enumerated in Section 273B of the Act. However, reference to Section 273B of the Act is both relevant and necessary for interpreting clause (c) of sub-section (1) of Section 275 of the Act.

26. If the commencement of limitation is to be reckoned from the date of proposal/reference made by the Assessing Officer, as urged by the learned counsel for the respondents-assessees, the Joint Commissioner would not, at that stage, have issued any notice seeking an explanation from the assessee. In such circumstances, the "action for imposition of penalty" can be said to have been initiated only when a notice is issued by the Joint Commissioner affording an opportunity to the assessee to explain the alleged default or granting an opportunity of being heard.

27. It is clarified that Section 273B of the Act has been referred to only as an aid to understand the scope and meaning of Section 275 of the Act, notwithstanding the fact that Section 271DA of the Act is not one of the provisions covered by Section 273B of the Act. It is also relevant to notice that several other provisions under Chapter XXI, where the jurisdiction to impose penalty is vested in the Joint Commissioner, are covered by Section 273B of the Act. One such provision is Section 271D of the Act.

28. When interpreting Section 275 of the Act, this Court must bear in mind that the said provision prescribes the period of limitation applicable to all penalties leviable under Chapter XXI of the Act. Therefore, a harmonious reading of Sections 271DA, 273B, 274 and 275 of the Act leads to only one conclusion, namely, that the "action for imposition of penalty" is initiated only upon issuance of a notice under Section 274 of the Act, either calling upon the assessee to furnish an explanation or affording an opportunity of being heard. Any other interpretation would render Sections 273B and 274 of the Act *otiose* in their operation and would dilute the requirement of compliance with the principles of natural justice before the competent authority proceeds to impose penalty.

**REASONING**

29. In the batch of matters before us, the parties have placed on record the details relating to the assessment year, the date of proposal/reference/intimation made by the Assessing Officer, the date of issuance of show cause notice by the Joint Commissioner, and the date of the penalty order. The said

particulars are extracted in the tabular statement below for ready reference:

| Sl. No. | WA No. | Assessment Year | Date of Intimation by AO | Date of Show cause by JCIT | Date of Penalty Order |
|---|---|---|---|---|---|
| 1 | WA No.1991/2025 Ganesh Agarwal | 2022-23 | 16.11.2023 | 29.11.2024 | 28.03.2025 |
| 2 | WA No.1994/2025 Rajanikanth Saraf | 2020-21 | 17.04.2024 | 29.11.2024 | 29.03.2025 |
| 3 | WA No.1995/2025 Basavanna Nanjamari Sunil | 2022-23 | 17.04.2024 | 03.10.2024 | 28.03.2025 |
| 4 | WA No.1996/2025 Rajastan Commercial Corporation | 2022-23 | 17.04.2024 | 29.11.2024 | 29.03.2025 |
| 5 | WA No.1977/2025 Basavanna Nanjamari Sunil | 2022-23 | 17.04.2024 | 03.10.2024 | 28.03.2025 |
| 6 | WA No.1980/2025 Pramod Kumar Pandey | 2019-20 | 17.04.2024 | 03.10.2024 | 28.03.2025 |
| 7 | WA No.1982/2025 Pramod Kumar Pandey | 2022-23 | 17.04.2024 | 03.10.2024 | 28.03.2025 |
| 8 | WA No.2003/2025 Shri. Anup Kumar | 2022-23 | 17.04.2024 | 03.10.2024 | 28.03.2025 |
| 9 | WA No.2021/2025 Rajanikanth Saraf | 2019-20 | 17.04.2024 | 29.11.2024 | 28.03.2025 |
| 10 | WA No.2023/2025 Pramod Kumar Pandey | 2020-21 | 17.04.2024 | 03.10.2024 | 28.03.2025 |

30. The above details would be relevant for examining whether the penalty proceedings under Section 271DA of the Act were initiated and concluded within the period of limitation prescribed under Section 275(1)(c) of the Act, having regard to

the interpretation placed by this Court on the expression, "action for imposition of penalty is initiated."

31. It is the contention of the Revenue that there is no limitation prescribed for initiation of proceedings under Section 271DA of the Act and that the period of limitation under Section 275 of the Act commences only from the date of such initiation. It is difficult to countenance such a submission, insofar as it seeks to contend that there is no limitation whatsoever for initiation of proceedings under Section 271DA of the Act.

32. Having regard to the timelines prescribed under various provisions of the Act mandating time-bound compliance, time-bound initiation of proceedings and time-bound conclusion of proceedings, such an unrestricted latitude cannot be made available to the Revenue. The initiation of penalty proceedings by the Joint Commissioner cannot be whimsical or arbitrary; it must necessarily be undertaken within a reasonable time.

33. At the same time, this Court is conscious of the practical realities of tax administration. The Joint Commissioner, being the Range Head, ordinarily exercises supervisory jurisdiction over a number of Assessing Officers, including Income Tax

Officers, Assistant Commissioners and Deputy Commissioners. Proposals/References received from all such Assessing Officers within the Range would require a reasonable amount of time for the Joint Commissioner to examine the material placed on record and to independently assess whether the facts warrant initiation of penalty proceedings. Otherwise, the very object behind vesting the power of imposing penalty in the Range Head would be defeated. Such an approach would reduce the role of the Joint Commissioner to a mere formality, leading to arbitrary exercise of power and consequent harassment to taxpayers.

34. The Act may not have expressly prescribed a period of limitation within which the Joint Commissioner is required to initiate proceedings under Chapter XXI with reference to the date of proposal/reference made by the Assessing Officer. This legislative silence may proceed on the reasonable expectation that the Joint Commissioner, being a senior officer and the head of the Range, would exercise such power judiciously, qualitatively and within a reasonable period of time.

35. However, in certain matters placed before this Court, initiation of proceedings by the Joint Commissioner has taken place more than one year after the date of proposal/reference made by the Assessing Officer. In the light of such circumstances, this Court finds it necessary to examine the concept of "reasonable time" and determine whether the exercise of power after such prolonged delay can be sustained in law.

36. It is a settled position of law that where the statute does not prescribe any specific timeline, it is open to the Court to read into the provision a requirement that the power be exercised within a reasonable period and, where necessary, to indicate the contours of such reasonable time for initiation or completion of proceedings.

37. Section 275 of the Act prescribes the period of limitation for completion of penalty proceedings. However, the provision is conspicuously silent with regard to the period within which such proceedings are required to be initiated. It is this legislative silence that has given rise to the present batch of litigation. Here, it would be apposite to refer to the judgment of

the Hon'ble Supreme Court in ***State of Punjab v. Bhatinda District Coop. Milk Producers Union Ltd.*****, [(2007) 11 SCC 363];**

> ***"18.*** *It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.*
>
> ***19.*** *Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years. The view of the High Court, thus, cannot be said to be unreasonable. Reasonable period, keeping in view the discussions made hereinbefore, must be found out from the statutory scheme. As indicated hereinbefore, maximum period of limitation provided for in sub-section (6) of Section 11 of the Act is five years."*

38. When this Court considers what would constitute a reasonable period for initiation of proceedings, the answer, in our considered view, lies within the scheme of Section 275 of the Act itself. When Section 275 of the Act provides a period of six months for completion of penalty proceedings from the end of the month in which action for imposition of penalty is initiated, this Court finds it reasonable to adopt a similar timeline for initiation of such proceedings by the Joint

Commissioner, reckoned from the end of the month in which the proposal/reference is received from the Assessing Officer for consideration of imposition of penalty under Chapter XXI of the Act.

39. While arriving at the aforesaid conclusion, this Court has taken into consideration the overall object underlying Chapter XXI, the prescription of limitation under Section 275 of the Act, and the procedural safeguards contained in Sections 273B and 274 of the Act. This Court has also borne in mind the administrative realities that the Joint Commissioner ordinarily supervises several Assessing Officers and is required to deal with proposals/references received from such officers recommending initiation of penalty proceedings vested in the Joint Commissioner. The Joint Commissioner is also entrusted with various other supervisory and administrative functions and approvals mandated under the Act.

40. Having regard to all these circumstances, this Court finds it reasonable to hold that initiation of proceedings by the Joint Commissioner should ordinarily take place within a period of six months from the end of the month in which the

proposal/reference from the Assessing Officer is received for consideration of action for imposition of penalty under Chapter XXI of the Act. Any initiation beyond the said period, the exercise of power would be vulnerable to challenge on the ground that it was not undertaken within a reasonable time.

41. In the present batch of cases before us, as noticed in the earlier part of this judgment, notices under Section 274 read with Section 271DA of the Act were issued to the assessees, affording them an opportunity of being heard. Pursuant thereto, the assessees filed detailed replies, which were considered by the Joint Commissioner before passing orders under Section 271DA of the Act.

42. The sequence of events in the cases on hand clearly demonstrates that the issuance of notice under Section 274 of the Act constituted the commencement of the penalty proceedings. It is only upon issuance of such notice that the assessee is informed of the proposed action, called upon to furnish an explanation, and afforded an opportunity of being heard in compliance with the mandate of Section 274 of the Act and the principles of natural justice.

43. This factual position fortifies the view taken by this Court that initiation of proceedings for imposition of penalty under Section 271DA of the Act commences only upon issuance of a notice under Section 274 of the Act by the competent authority. Such initiation cannot be traced back to the date on which the Assessing Officer addressed a letter or made a proposal to the Joint Commissioner forwarding the material for consideration of initiation of penalty proceedings under Section 271DA of the Act.

44. The proposal made by the Assessing Officer is merely a communication of information and material for the consideration of the competent authority. It neither determines the rights of the assessee nor manifests a final decision by the Joint Commissioner to proceed with the imposition of penalty. The decision to initiate proceedings remains that of the Joint Commissioner and attains legal expression only upon issuance of the statutory notice under Section 274 of the Act.

45. Much reliance has been placed by the learned counsel for the respondents-assessees on the judgment of this Court in the case of ***K. Umesh Shetty*** (*supra*). In the said decision, this

Court interpreted Section 275 of the Act in the context of penalty proceedings under Section 271D of the Act. It was held that where notice was issued by the Joint Commissioner after a period of one year from the date of reference made by the Assessing Officer, the proceedings were beyond the period of limitation prescribed under Section 275 of the Act. In that context, it was held that the order passed under Section 271D of the Act was barred by limitation under Section 275 of the Act.

46. To the aforesaid extent, and for the reasons assigned hereinabove, we concur with the conclusion reached therein. However, insofar as the observations made in the said judgment to the effect that the period of limitation under Section 275 of the Act would commence from the date of reference made by the Assessing Officer are concerned, we are of the considered view that the same cannot be applied in light of the law subsequently elucidated by the Hon'ble Supreme Court in ***Armour Security (India) Limited*** (*supra*).

47. In the light of the principles laid down by the Hon'ble Supreme Court, the proposal/reference made by the Assessing

Officer to the Joint Commissioner can only be regarded as a contemplation or possibility of initiating penalty proceedings and cannot, by itself, be equated with the initiation of such proceedings. The decision whether to initiate penalty proceedings remains within the exclusive jurisdiction and discretion of the Joint Commissioner. It is only upon the issuance of notice under Section 274 of the Act read with relevant penal provisions that the competent authority manifests its decision to commence proceedings with the object of arriving at a determinative outcome. Until such notice is issued, the proceedings cannot be said to have been initiated in the eye of law.

48. A proposal/reference made by the Assessing Officer, in the absence of a notice under Section 274 of the Act issued by the Joint Commissioner, does not result in any determinative consequence. Therefore, the interpretation placed on the expressions initiated in ***K. Umesh Shetty*** (*supra*), treating the date of reference by the Assessing Officer as the point of commencement for computing limitation under Section 275 of the Act is inconsistent with the law declared by the Hon'ble Supreme Court in ***Armour Security (India) Ltd***., (*supra*).

Consequently, the law laid down by this Court in ***K. Umesh Shetty*** (*supra*), to that extent, cannot be regarded as governing the issue that arises for consideration in the present batch of cases.

49. Further reliance has been placed by the learned counsel for the respondents-assessees on the judgment of the Delhi High Court in ***Principal Commissioner of Income Tax-5 v. JKD Capital & Finlease Limited***, ***(2017) 81 taxmann.com 80 (Delhi)***. However, as the said decision proceeds on the premise that the reference made by the Assessing Officer constitutes initiation of penalty proceedings for the purpose of computing limitation under Section 275 of the Act. The above judgment does not lend any support to the case of the respondent in view of the law enunciated by the Hon'ble Supreme Court in ***Armour Security (India) Ltd***., (*supra*).

50. Therefore, to the extent the view expressed by the Delhi High Court in ***JKD Capital & Finlease Limited*** (*supra*) is inconsistent with the interpretation placed by the Hon'ble Supreme Court in ***Armour Security (India) Limited*** (*supra*), the same cannot govern the issue arising for consideration in

the present batch of cases. Accordingly, the decision in ***JKD Capital & Finlease Limited*** (*supra*) is distinguishable and does not advance the case of the Revenue in the facts and circumstances of the present matter.

51. The learned counsel for the assessees have relied upon the judgment of the Hon'ble Supreme Court in ***Armour Security (India) Limited*** *(supra)* to contend that unless the show cause notice specifically sets out the alleged violations of the statutory provisions and calls upon the assessee to explain why the liability should not be fastened upon them, such notice would be unsustainable in law.

52. The said contention requires careful examination. The Hon'ble Supreme Court, while considering the validity and essential components of a show cause notice, was interpreting the mandatory requirements of show cause notices contemplated under Sections 73, 74 and 76 of the CGST Act. In that context, it was held that the contents of the show cause notice must disclose the allegations and the basis of the proposed action so as to enable the noticee to effectively respond to the same.

53. However, the position in the present case is materially different. The notices in question have been issued under Section 274 read with Section 271DA of the Income-tax Act, 1961. Neither Section 271DA nor Section 274 of the Act contemplates the issuance of a show cause notice in the manner envisaged under Sections 73, 74 and 76 of the CGST Act. What Section 274 of the Act mandates is that before any order imposing penalty is passed, the assessee shall be heard or shall be afforded a reasonable opportunity of being heard.

54. For the said purpose, notices under Section 274 of the Act were issued to the assessees. Pursuant thereto, the assessees submitted their replies and explanations. Upon consideration of the replies so furnished, orders imposing penalty under Section 271DA of the Act came to be passed. Therefore, the statutory requirement contemplated under Section 274 of the Act stood complied with.

55. It is a settled principle of interpretation that while construing a fiscal statute, the plain meaning of the statutory text has to be given effect to. When Sections 271DA, 274 and 275 of the Act do not contemplate issuance of a detailed show

cause notice, but merely require that the assessee be afforded a reasonable opportunity of being heard before imposition of penalty, the Court cannot import into those provisions additional procedural requirements not contemplated by the legislature. Therefore, the contention that a separate show cause notice ought to have been issued, or that the notice under Section 274 of the Act should necessarily contain all particulars and details akin to a show cause notice under the CGST Act, cannot be accepted.

56. It is also relevant to refer to the judgment of the Hon'ble Supreme Court in ***CIT v. Amitabh Bachchan, [(2016) 11 SCC 748]*** wherein it has been held that unless the statute specifically mandates issuance of a show cause notice, no such requirement can be read into the provision. The Hon'ble Supreme Court further held that where the statute merely contemplates affording an opportunity of hearing, compliance with such requirement by providing an adequate and effective opportunity would satisfy the mandate of the provision. The relevant portion of the said judgment reads as under:

> ***"10.*** *Reverting to the specific provisions of Section 263 of the Act what has to be seen is that a satisfaction that an order passed by the authority*

*under the Act is erroneous and prejudicial to the interest of the Revenue is the basic precondition for exercise of jurisdiction under Section 263 of the Act. Both are twin conditions that have to be conjointly present. Once such satisfaction is reached, jurisdiction to exercise the power would be available subject to observance of the principles of natural justice which is implicit in the requirement cast by the section to give the assessee an opportunity of being heard. It is in the context of the above position that this Court has repeatedly held that unlike the power of reopening an assessment under Section 147 of the Act, the power of revision under Section 263 is not contingent on the giving of a notice to show cause. In fact, Section 263 has been understood not to require any specific show-cause notice to be served on the assessee. Rather, what is required under the said provision is an opportunity of hearing to the assessee. The two requirements are different : the first would comprehend a prior notice detailing the specific grounds on which revision of the assessment order is tentatively being proposed. Such a notice is not required. What is contemplated by Section 263, is an opportunity of hearing to be afforded to the assessee. Failure to give such an opportunity would render the revisional order legally fragile not on the ground of lack of jurisdiction but on the ground of violation of principles of natural justice.*

***11.*** *Para 4 of the decision in CIT v. Electro House [CIT v. Electro House, (1971) 2 SCC 647 : (1971) 82 ITR 824] being illumination of the issue indicated above may be usefully reproduced hereunder : (SCC pp. 649-50 : ITR pp. 827-28)*

> *"4. This section unlike Section 34 does not prescribe any notice to be given. It only requires the Commissioner to give an opportunity to the assessee of being heard. The section does not speak of any notice. It is unfortunate that the High Court [Electro*

*House v. CIT, 1968 SCC OnLine Cal 147 : (1968) 70 ITR 421] failed to notice the difference in language between Sections 33-B and 34. For the assumption of jurisdiction to proceed under Section 34, the notice as prescribed in that section is a condition precedent. But no such notice is contemplated by Section 33-B. The jurisdiction of the Commissioner to proceed under Section 33-B is not dependent on the fulfilment of any condition precedent. All that he is required to do before reaching his decision and not before commencing the enquiry, he must give the assessee an opportunity of being heard and make or cause to make such enquiry as he deems necessary. Those requirements have nothing to do with the jurisdiction of the Commissioner. They pertain to the region of natural justice. Breach of the principles of natural justice may affect the legality of the order made but that does not affect the jurisdiction of the Commissioner. At present we are not called upon to consider whether the order made by the Commissioner is vitiated because of the contravention of any of the principles of natural justice. The scope of these appeals is very narrow. All that we have to see is whether before assuming jurisdiction the Commissioner was required to issue a notice and if he was so required what that notice should have contained? Our answer to that question has already been made clear. In our judgment no notice was required to be issued by the Commissioner before assuming jurisdiction to proceed under Section 33-B. Therefore the question what that notice should contain does not arise for consideration. It is not necessary nor proper for us in this*

*case to consider as to the nature of the enquiry to be held under Section 33-B. Therefore, we refrain from spelling out what principles of natural justice should be observed in an enquiry under Section 33-B. This Court in Gita Devi Aggarwal v. CIT [Gita Devi Aggarwal v. CIT, (1970) 76 ITR 496 (SC)] ruled that Section 33-B does not in express terms require a notice to be served on the assessee as in the case of Section 34. Section 33-B merely requires that an opportunity of being heard should be given to the assessee and the stringent requirement of service of notice under Section 34 cannot, therefore, be applied to a proceeding under Section 33-B."*

*(emphasis supplied)*

*[Note.—Section 33-B and Section 34 of the Income Tax Act, 1922 corresponds to Section 263 and Section 147 of the Income Tax Act, 1961.]*

***12.*** *It may be that in a given case and in most cases it is so done a notice proposing the revisional exercise is given to the assessee indicating therein broadly or even specifically the grounds on which the exercise is felt necessary. But there is nothing in the section (Section 263) to raise the said notice to the status of a mandatory show-cause notice affecting the initiation of the exercise in the absence thereof or to require CIT to confine himself to the terms of the notice and foreclosing consideration of any other issue or question of fact. This is not the purport of Section 263. Of course, there can be no dispute that while CIT is free to exercise his jurisdiction on consideration of all relevant facts, a full opportunity to controvert the same and to explain the circumstances surrounding such facts, as may be considered relevant by the assessee, must be afforded to him by CIT prior to the finalisation of the decision."*

57. For similar reasons, the reliance placed by the assessees on the judgment of the Hon'ble Supreme Court in ***Oryx Fisheries Pvt. Ltd. v. Union of India [(2010) 13 SCC 427]***, is of no assistance to their case. The principles laid down in the said decision were rendered in the context of the statutory scheme governing the proceedings under consideration therein and the specific requirements contemplated by the relevant provisions. The ratio of the said judgment cannot be mechanically extended to proceedings under Sections 271DA and 274 of the Income-tax Act, 1961.

57.1 As already noticed, neither Section 271DA nor Section 274 of the Act, mandates the issuance of a detailed show cause notice setting out all factual allegations and legal consequences in the manner contemplated under other enactments. The statutory requirement under Section 274 of the Act, is confined to affording the assessee a reasonable opportunity of being heard before an order imposing penalty is passed.

57.2 In the present batch of cases, notices under Section 274 of the Act, were admittedly issued to the assessees. The assessees participated in the proceedings by submitting

detailed replies and explanations, which were considered by the competent authority before passing orders under Section 271DA of the Act. Thus, the requirement of providing a reasonable opportunity of hearing stood duly complied with.

57.3 Therefore, the decision in ***Oryx Fisheries Pvt. Ltd.*** *(supra)* does not advance the case of the assessees and is distinguishable on both facts and the statutory framework involved. Consequently, the reliance placed thereon is misplaced and does not warrant interference with the proceedings on the ground urged by the assessees.

58. The reliance placed by the learned counsel for the respondents-assessees on the decision of the Delhi High Court in ***Property Plus Realtors v. Union of India, [(2025) 171 taxmann.com 426 (Delhi)]***, is equally misconceived. As noticed hereinabove, the controversy arising in the present batch of cases has to be examined in the light of the principles authoritatively laid down by the Hon'ble Supreme Court in ***Armour Security (India) Ltd***., (*supra*). The Hon'ble Supreme Court categorically explained the scope of the expressions "initiation of proceedings" and held that mere preliminary

steps, contemplation of action, or communication preceding the exercise of statutory power cannot be construed as initiation of proceedings. Initiation occurs only when the competent authority manifests its decision to proceed by issuing the statutory notice contemplated under the relevant enactment. Therefore, insofar as the reasoning in ***Property Plus Realtors*** *(supra)* proceeds on an interpretation inconsistent with the law declared by the Hon'ble Supreme Court in ***Armour Security (India) Ltd***., (*supra*), it cannot govern the issue arising in the present cases. The said decision cannot advance the case of the respondents-assessees and is of no assistance.

59. For the very same reasons, the judgment of the Rajasthan High Court in ***CIT v. Hissaria Brothers***, ***[(2008) 169 Taxman 262],*** is also inapplicable to the facts of the present case.

60. Further reliance has been placed by the assessees on the judgment of the Hon'ble Supreme Court in ***CIT v. Jai Laxmi Rice Mills, Ambala City, [(2016) 379 ITR 521 (SC)]***, to contend that the Joint Commissioner, before issuance of notice under Section 274 of the Act, is required to record satisfaction

for initiation of penalty proceedings. The observations made by the Hon'ble Supreme Court in the said case were in the peculiar factual backdrop involved therein.

60.1 In the said case, while framing the original assessment, the Assessing Officer had recorded satisfaction that penalty proceedings under Section 271E of the Act were required to be initiated. Subsequently, the assessment order was set aside and the matter was remanded for framing a *de novo* assessment. In the fresh assessment order, no satisfaction regarding initiation of penalty proceedings under Section 271E of the Act was recorded. Nevertheless, penalty proceedings came to be initiated on the basis of the satisfaction recorded in the original assessment order, which had ceased to exist upon the order of remand. It was in those circumstances that the Hon'ble Supreme Court held that, in the absence of satisfaction recorded in the *de novo* assessment proceedings, penalty proceedings under Section 271E of the Act could not be sustained.

60.2 As observed hereinabove, while interpreting a fiscal statute, the plain meaning of the statutory text has to be given

effect to. A reading of Section 271DA of the Act does not mandate or require the Joint Commissioner to record any satisfaction before initiating proceedings. It is a settled principle of law that while interpreting a taxing statute, no words can be added, implied, omitted or substituted by judicial interpretation. The statute has to be read as it stands, giving the words employed therein their ordinary and natural meaning. In this regard, it is relevant to refer to the judgment of the Hon'ble Supreme Court in ***CIT v. Calcutta Knitwears*, *[(2014) 6 SCC 444];***

> ***"31.*** *Thus, the language of a taxing statute should ordinarily be read and understood in the sense in which it is harmonious with the object of the statute to effectuate the legislative animation. A taxing statute should be strictly construed; common sense approach, equity, logic, ethics and morality have no role to play. Nothing is to be read in, nothing is to be implied; one can only look fairly at the language used and nothing more and nothing less.*
>
> ***32.*** *It is also trite that while interpreting a machinery provision, the courts would interpret a provision in such a way that it would give meaning to the charging provisions and that the machinery provisions are liberally construed by the courts. In Mahim Patram (P) Ltd. v. Union of India [(2007) 3 SCC 668] this Court has observed that: (SCC p. 680, paras 25-26)*
>
> > *"25. A taxing statute indisputably is to be strictly construed. (See J. Srinivasa Rao v. State of A.P. [(2006) 12 SCC 607 : (2006) 13 Scale 27] ) It is, however, also well settled that the machinery provisions for calculating the tax or the procedure for its*

*calculation are to be construed by ordinary rule of construction. Whereas a liability has been imposed on a dealer by the charging section, it is well settled that the court would construe the statute in such a manner so as to make the machinery workable.*

*26. In J. Srinivasa Rao [(2006) 12 SCC 607 : (2006) 13 Scale 27] this Court noticed the decisions of this Court in Gursahai Saigal v. CIT [(1963) 48 ITR 1 (SC)] and Ispat Industries Ltd. v. Commr. of Customs [(2006) 12 SCC 583 : (2006) 202 ELT 561] .*

*'17. In Gursahai Saigal [(1963) 48 ITR 1 (SC)] the question which fell for consideration before this Court was construction of the machinery provisions vis-à-vis the charging provisions. The Schedule appended to the Motor Vehicles Act is not machinery provision. It is a part of the charging provision.*

*18. By giving a plain meaning to the Schedule appended to the Act, the machinery provision does not become unworkable. It did not prevent the clear intention of the legislature from being defeated. It can be given an appropriate meaning.'"*

***33.*** *A reference to the observations of this Court in J.K. Synthetics Ltd. v. CTO [(1994) 4 SCC 276] would be apposite: (SCC p. 291, para 16)*

*"16. It is well known that when a statute levies a tax it does so by inserting a charging section by which a liability is created or fixed and then proceeds to provide the machinery to make the liability effective. It, therefore, provides the machinery for the assessment of the liability already fixed by the charging section, and then provides the mode for the recovery and collection of tax, including penal provisions meant to deal with defaulters. … Ordinarily the charging section which fixes the liability is strictly construed but that rule of strict construction is not extended to the machinery provisions which are construed like any other*

> *statute. The machinery provisions must, no doubt, be so construed as would effectuate the object and purpose of the statute and not defeat the same."*
>
> ***34.*** *It is the duty of the court while interpreting the machinery provisions of a taxing statute to give effect to its manifest purpose. Wherever the intention to impose liability is clear, the courts ought not be hesitant in espousing a commonsense interpretation to the machinery provisions so that the charge does not fail. The machinery provisions must, no doubt, be so construed as would effectuate the object and purpose of the statute and not defeat the same. Francis Bennion in Bennion on Statutory Interpretation, 5th Edn., Lexis Nexis in support of the aforesaid proposition put forth as an illustration that since charge made by the legislator in procedural provisions is excepted to be for the general benefit of litigants and others, it is presumed that it applies to pending as well as future proceedings."*

61. The Hon'ble Supreme Court in ***Amitabh Bachchan*** *(supra)* has held that where the statute does not mandate the issuance of a show cause notice and merely requires that an opportunity of hearing be afforded, the requirement of a show cause notice cannot be read into the provision. By the same principle, a requirement of recording satisfaction cannot be imported as a condition precedent when the statute itself does not prescribe such a requirement. Accordingly, when Sections 271DA, 274 and 275 of the Act neither mandate nor even contemplate the recording of satisfaction by the Joint

Commissioner, no such procedural requirement can be insisted upon. The absence of a recorded satisfaction by the Joint Commissioner does not vitiate the proceedings or warrant interference by this Court.

62. The learned Single Judge, placing reliance on the judgment of this Court in ***K. Umesh Shetty*** (*supra*), interfered with and set aside the orders imposing penalty under Section 271DA of the Act by holding the proceedings to be barred by limitation, reckoning the commencement of limitation from the date of reference made by the Assessing Officer to the Joint Commissioner of Income Tax. In view of the reasons assigned and discussion made, the order of the learned Single Judge is not sustainable.

63. We conclude our findings as under;

(i) The limitation under Section 275(1)(c) of the Act commences only from the date of issuance of notice under Section 274 of the Act by the Joint Commissioner of Income Tax. The proposal/reference forwarding information or material by the Assessing Officer to the Joint

Commissioner, for consideration of initiation of penalty proceedings under Section 271DA of the Act, cannot, be construed as initiation of proceedings for imposition of penalty under Section 271DA of the Act.

(ii) The proceedings under Section 271DA of the Act can be said to have been initiated only upon issuance of notice under Section 274 of the Act by the Joint Commissioner of Income Tax. The period of six months prescribed under Section 275(1)(c) of the Act for passing the penalty order shall commence from the end of the month in which such notice under Section 274 of the Act is issued by the Joint Commissioner.

(iii) The Joint Commissioner shall issue the notice under Section 274 of the Act within a period of six months from the end of the month in which the proposal/reference is received from the Assessing Officer for the purpose of considering initiation of proceedings for imposition of penalty under Section 271DA of the Act.

(iv) The notice issued under Section 274 read with Section 271DA of the Act which is beyond the period of six months from the end of the month in which the proposal/reference was received by the Joint Commissioner from the Assessing Officer, the proceedings shall be liable to be declared as time-barred. Where the notice under Section 274 of the Act is issued within the aforesaid period and the order imposing penalty under Section 271DA of the Act is passed within six months from the end of the month in which such notice is issued, the order shall be regarded as having been passed within the period of limitation prescribed under Section 275 of the Act.

64. Now, let us examine the timelines between the proposal made by the Assessing Officer and the issuance of notice by the Joint Commissioner, as well as the period within which the penalty order was passed from the date of issuance of notice by the Joint Commissioner.

64.1 In the batch of ten cases before us, it is found that the orders imposing penalty were passed within six months from the date of issuance of notice by the Joint Commissioner. However, insofar as the issuance of notice by the Joint Commissioner from the date of the proposal made by the Assessing Officer is concerned, in the light of the legal position discussed above, it is found that the penalty orders, which are the subject matter of Writ Appeal Nos.1991/2025, 1994/2025, 1996/2025 and 2021/2025, are barred by limitation. The notices issued by the Joint Commissioner, reckoned from the date of the proposal/reference made by the Assessing Officer, were beyond the prescribed period of six months. Accordingly, those penalty orders are declared to be barred by limitation.

64.2 However, in respect of the remaining cases, the notices issued by the Joint Commissioner were within six months from the date of receipt of the proposal/reference from the Assessing Officer and, therefore, were issued within the prescribed period of limitation.

65. Accordingly, the following:

**ORDER**

(i) Writ Appeal Nos.1991/2025, 1994/2025, 1996/2025 and 2021/2025 are ***dismissed***.

(ii) Writ Appeal Nos.1995/2025, 1977/2025, 1980/2025, 1982/2025, 2003/2025 and 2023/2025 are ***allowed***.

(iii) The orders of the learned Single Judge in Writ Petition Nos.20219/2025, 20242/2025, 20220/2025, 20235/2025, 22032/2025 and 20212/2025 are hereby set aside.

(iv) The penalty orders dated 28.03.2025 passed under Section 271DA of the Income-tax Act, 1961, and the consequential demands which were subject matter of Writ Petition Nos.20219/2025, 20242/2025, 20220/2025, 20235/2025,

22032/2025 and 20212/2025 are hereby restored.

Pending I.As., if any, stand disposed of.

We place on record our appreciation for the able assistance rendered by Sriyuths Sri Amaregouda Kellur, Research Assistant, and Sri Harshith A., Law Intern.

**Sd/-**
**(S.G.PANDIT)**
**JUDGE**

**Sd/-**
**(K. V. ARAVIND)**
**JUDGE**

DDU*