

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, CHANDIGARH

PHYSICAL HEARING

HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपीलसं. / ITA No.1355/CHANDI/2025
(निर्धारणवर्ष / Assessment Year: 2019-20)

Shri Sohan Lal 166/3, Ward No. 1, Badah Mohal Kullu, Himachal Pradesh - 175126	बनाम/ Vs.	ITO Ward Dhalpur Kullu - 175126
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. BCOPL-3928-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Parveen Sharma (Advocate) – Ld. AR (Virtual)
प्रत्यर्थीकीओरसे/ Respondent by	:	Dr. Ranjit Kaur (Addl. CIT) – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	09-04-2026
घोषणाकीतारीख / Date of Pronouncement	:	15-04-2026

आदेश / ORDER

1. Aforesaid appeal by assessee for Assessment Year (AY) 2019-20 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 11-08-2025 in the matter of a penalty levied by Ld. Assessing Officer [AO] u/s 271D for Rs.1.50 Lacs.
2. The impugned penalty stem from the fact that the assessee was assessed u/s 147 on 12-03-2024. It transpired that the assessee and his brother sold immoveable property for Rs.16 Lacs. The assessee's share therein was Rs.8 Lacs. The Ld. AO accepted Long Term Capital Gains as offered by the assessee and accepted the returned income. However, since the assessee received consideration of Rs.1.50 Lacs

in cash, Ld. AO proposed penalty u/s 271D for contravention of provisions of Sec.269SS. Subsequently, impugned penalty was levied on the assessee vide order dated 16-09-2024. The concluding para of penalty order read as under: -

This order is passed with the prior approval of the Jt. Commissioner of Income Tax as per the provisions of sub-section (2) of Section 274 of the Income Tax Act, 1961. Issue Demand notice and Challan accordingly.

The assessee's challenge to the same before Ld. CIT(A) did not meet with any success. Aggrieved, the assessee is in further appeal before Tribunal.

3. The Ld. AR raised legal ground by drawing attention to the provisions of Sec.271D which provide that such penalty is to be levied by Joint CIT only. The Ld. AR also argued on merits by referring to the decision of SMC bench of this Tribunal in **Mrs. Surjit Kaur (ITA No.1136/Chandi/2025 dated 06-01-2026)**. The Ld. Sr. DR argued and stated that the penalty has correctly been levied.

4. I find that sub-section (2) of Sec.271D provide that any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner. It has further been provided that such penalty on or after 01-04-2025 shall be imposed by the Assessing Officer. In the present case, it is quite clear that penalty has been levied by Ld. AO on 16-09-2024 which falls before 01-04-2025. Thus, this penalty could be levied only by Ld. JCIT and not by Ld. AO. When the law mandate any act to be done by specified authority, the same must be done by that specified authority only. Therefore, I would hold that the impugned

penalty could not be sustained for want of jurisdiction. Delving into the merits has been rendered academic in nature.

5. The appeal stand allowed.

Order pronounced on 15th April, 2026.

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

AS

Dated: 15-04-2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH