

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

**Before Sh. Bhavnesh Saini, Judicial Member**

**ITA No. 4707/Del/2016 : Asstt. Year : 1992-93**

**ITA No. 4708/Del/2016 : Asstt. Year : 1993-94**

**ITA No. 4709/Del/2016 : Asstt. Year : 1994-95**

**ITA No. 4710/Del/2016 : Asstt. Year : 1995-96**

Raj Kumar Mangla, H. No. 842, Sector-15, Part-II, Gurgaon-122001	Vs	Income Tax Officer, Ward-47(5), New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAGPM3200L</b>		

**Assessee by : Sh. Raj Kumar Mangla, Assessee**

**Revenue by : Sh. Koushlendra Tiwari, Sr. DR**

<b>Date of Hearing : 30.10.2017</b>	<b>Date of Pronouncement : 30.10.2017</b>
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**ORDER**

All the appeals by assessee are directed against different orders of Id. CIT(A)-16, New Delhi dated 28.06.2016 for above assessment years 1992-93, 1993-94, 1994-95 and 1995-96, challenging the levy of penalty u/s 271(1)(c) of the Income Tax Act, 1961.

2. The Id. CIT(A) noted in the impugned orders that assessee filed appeals on 05.06.2015 against the penalty orders u/s 271(1)(c) of the Income Tax Act dated 26.03.2015. The Id. CIT(A), therefore, noted that appeals are not filed within time. The Id. CIT(A) also noted that assessee has not filed any

applications for condonation of delay. The ld. CIT(A) accordingly dismissed all the appeals of the assessee considering the same to be time barred.

3. I have heard the assessee in person as well as ld. DR and perused the material on record.

4. The assessee pointed out that he has moved application under RTI Act seeking copies of the penalty orders from the department because these were not served upon him. The same was replied by the department vide letter dated 27.05.2015, copy of which is filed at page 20 of the appeal in which the department has intimated to the assessee that the penalty orders u/s 271(1)(c) of the Act dated 26.03.2015 have been sent to the assessee through Speed Post which returned unserved. Copy of the penalty orders for all the assessment years under appeals were accordingly provided to the assessee. Assessee, therefore, submitted that the appeals of the assessee were not time barred. The ld. DR, accordingly, submitted that matter may be remanded back to the ld. CIT(A) for deciding the appeals afresh on merit.

5. Considering the submissions of the parties, in the light of the reply of the department under RTI Act dated 27.05.2015, it is clear that penalty orders passed by the AO have not been served upon the assessee. Therefore, the same were supplied to the assessee through the letter of the department dated 27.05.2015. The assessee, thereafter, filed the

appeals before the ld. CIT(A) on 05.06.2015. The same are therefore, filed within the period of limitation. There was no need for the assessee to move any application for condonation of delay before the ld. CIT(A). The impugned orders of the ld. CIT(A), thus, cannot be sustained in law. There is no justification for ld. CIT(A) to hold that appeals of the assessee are time barred.

6. In view of the above discussion, I set aside all the impugned orders and restore all the appeals of the assessee to the file of ld. CIT(A) with direction to re-decide appeals of the assessee on merits by giving reasonable, sufficient opportunities of being heard to the assessee.

7. In the result, the appeals of the assessee are allowed for statistical purposes.

(Order Pronounced in the Court on 30/10/2017)

**Sd/-**  
**(Bhavnesb Saini)**  
**JUDICIAL MEMBER**

**Dated: 30/10/2017**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**