

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. Nos.175 to184/Asr/2023
Assessment Years: 2013-14 to 2017-18**

Sh. Barinderjit Singh Legal Heir of Late Smt. Ranjit Kaur, VPO Nangal Lubana, Bholath, Kapurthala, Punjab. [PAN:BZYPK2901C] (Appellant)	Vs.	Income Tax Officer, Ward-1, Kapurthala. (Respondent)
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Appellant by	Sh. Surinder Mahajan, CA.
Respondent by	Sh. S. M. Surendranath, Sr. DR

Date of Hearing	18.07.2023
Date of Pronouncement	26.07.2023

ORDER

Per., Bench:

A batch of ten appeals from the same assessee was filed against the order of the Id. Commissioner of Income Tax (Appeals), NFAC, Delhi, [in brevity the ‘CIT (A)’], order passed u/s 250 of the Income Tax Act 1961, [in brevity ‘the Act’] for A.Ys. 2013-14 to 2017-2018. The impugned orders were emanated from the orders

of the Id. Income Tax Officer, Ward-1, Kapurthala[in brevity ‘the AO’] order passed u/s 271F, 271(1)(b) and 272A(1)(d) of the Act.

2. In the outset, all the appeals arise out of the same nature of fact and related to penalty u/s 271F, 271(1)(b) and 272A(1)(d) of the Act. All the appeals are taken together, heard together and disposed of together. **ITA-175/Asr/2023** is taken as the lead case.

3. The assessee has taken the following grounds: -

ITA-175/Asr/2023

“1. That on facts and circumstances of the case, Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi has grossly erred in law in confirming penalty of Rs. 5,000/-imposed u/s 271F of the Act. Penalty confirmed is illegal and bad in law.

2. That on facts and circumstances of the case, penalty imposed u/s 271F of the Act is illegal and bad in law since neither notice u/s 148 of the Act nor notice u/s 142(1) of the Act have ever been served on the assessee.

3. That the Appellant requests for leave to add or amend the grounds of appeal before the appeal is heard or disposed of.”

4. Brief facts of the case are that the appellant is an individual. The appellant did not file his return of income. On the basis of information available under the AIMS module of the ITBA the appellant had received payments in the nature of interest to the tune of Rs. 1,02,04,924/- from various banks during the year under consideration. Subsequently, notice u/s. 148 of the Act was issued to the appellant after getting necessary approval from the appropriate authority. However, the said notice was not complied with by the appellant. Thereafter assessment was completed u/s. 144 r.w.s. 147 of the Act by making an addition of Rs. 1,02,04,924/- u/s. 56 of the Act under the head Income from Other Sources. During the assessment proceedings penalty proceedings u/s. 271F of the Act were initiated for failure to furnish Income Tax Return u/s. 139(1) of the Act. Accordingly, show cause notice u/s. 274 r.w.s. 271F of the Act dated 29.03.2022 was issued to the appellant which was also not complied with by the appellant. Thereafter another opportunity Notice/Letter dated 26.08.2022 was issued to the appellant and served upon the appellant. In reply to the above notice the appellant pleaded that the assessment in this case had been challenged before the Id.CIT(A) which was pending adjudication and under these circumstances' penalty proceedings might be

stayed till the disposal of appeal. Finally, Id. AO passed order u/s. 271F of the Act by imposing a penalty of Rs. 5,000/- for not filing Income Tax Return u/s. 139(1) of the Act. Aaggrieved assessee filed an appeal before the learned CIT(A). The learned CIT (A) upheld the order of the Id. AO. Being aggrieved the assessee filed an appeal before us.

5. The Id. AR vehemently argued and placed the submission before the bench. The Id. AR submitted that the quantum appeal is now before the Id. CIT(A) which is yet to be disposed of. The Id. AR has challenged the legal issue as well as the quantum the assessee submitted that the penalty imposed not levied to assessee after completion of the main petition before the Id. CIT(A). The Id. AR submitted a submission which is reproduced as below:

“1. That assessment proceedings in this case were initiated by issue of notice u/s 148 of the Act after recording reasons and assessment was framed at income Rs. 46,11,322/- u/s 56 of the Income Tax Act on account of interest income earned from banks i.e. income from other sources. Assessee on becoming aware of the fact that certain income tax proceedings have been initiated appointed Surinder Mahajan & Associates to look into the matter. M/s Surinder Mahajan & Associates vide their letter No. SMA/111/2022/4284 dated 27.04.2022 applied for

inspection of records. Records were inspected on 30.05.2022 and photocopy of assessment record was received on 03.06.2022.

2. *That based on photocopy of records, appeal has been filed on 11.06.2022 vide receipt no. 663799650110622*

3. *That assessment framed has been challenged as to assumption of valid jurisdiction, non-receipt of notices u/s 133(6), u/s 148, u/s 142(1) of the Act etc. Legal issues as well merits of the case will be presented before Ld. CIT(A).*

4. *While framing assessment, penalty proceedings u/s 271F and 272A(1)(d) of the Act were also initiated.*

5. *That on receipt of penalty notice, assessee vide our letter dated 27.08.2022 requested for stay of penalty proceedings till disposal of quantum appeal since assessment framed has been challenged as to assumption of valid jurisdiction, non-receipt of notices u/s 133(6), u/s 148, u/s 142(1) of the Act etc. However, a penalty has been imposed.*

6. *That before Ld. CIT(A) assessee requested that appeals be kept in abeyance till decision of appeals against order u/s 144 r.w.s. 147 of the Act.”*

6. The DR vehemently argued and placed that all the penalties are related to a separate jurisdiction so, he fully relied on the order of the revenue authorities.

7. We heard the rival submission and considered the documents available in the record. The Id. AO levied penalty u/s 271F, 271(1)(b) and 272A(1)(d) /274 of the Act. But the assessee claimed that the notice u/s 142(1) and 133(6) were not received during the time of assessment. Consequential, the quantum appeal was challenged with the legal issue. As per the Id. AR the quantum issue is still pending before the Id. CIT(A). The penalty issue should be adjudicated after the completion of quantum appeal. The adjudication of penalty before the finalisation of quantum appeal by the Id. CIT(A) is result of multiplicity of legal dispute. The Id. DR has not made any strong objection against the submission of the Id. AR. We are, therefore, of the opinion that interest of justice would be sub served if the impugned order is *set aside* and the matters are remitted back to the Id. CIT(A) for consideration thereof afresh. We are not expressing any views on the merits of the case so as to limit the appellate procedure before the Id. CIT(A). Needless to say, the assessee should get a reasonable opportunity of hearing for setting aside proceedings.

In the result, the appeal is allowed for statistical purposes.

8. The bench has noticed that the issue raised by the assessee in the above appeals are equally similar on set of facts; therefore, it is not imperative to repeat

the facts and various grounds raised by the assessee. Hence, the bench feels that the decision taken by us in **ITA No. 175/Asr/2023** shall apply mutatis mutandis in the above listed appeals.

9. In the result, all the appeals of the assessee bearing **ITA Nos. 175 to 184/Asr/2023** are allowed for statistical purposes.

Order pronounced in the open court on 26.07.2023

Sd/-

(Dr. M. L. Meena)
Accountant Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

Sd/-

(ANIKESH BANERJEE)
Judicial Member

True Copy
By order