

आयकरअपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES, "B" JAIPUR  
(Virtual Hearing)

डा० एस. सीतालक्ष्मी, न्यायिकसदस्य एवं श्रीराठोडकमलेशजयन्तभाई, लेखा सदस्य के समक्ष  
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकरअपीलसं. / ITA Nos.07/JP/2025,06/JP/2025,1554, 1560 & 1561 /JP/2024  
निर्धारणवर्ष / Assessment Years : 2011-12, 2012-13, 2014-15, 2015-16 & 2016-17  
(Quantum Appeals)

Shri Shailendra Garg Chak 5 M, Kesrisinghpur, Ganganagar – 335 027	बनाम Vs.	The ACIT Circle-6 Jaipur
स्थायीलेखा सं./ जीआईआर सं./ PAN/GIR No.: ACQPG 4440 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकरअपीलसं. / ITA Nos.08/JP/2025, 1555, 1559 & 1563 /JP/2024  
निर्धारणवर्ष / Assessment Years : 2011-12, 2014-15, 2015-16 & 2016-17  
(Penalty Appeals u/s 271(1)© of the Act)

Shri Shailendra Garg Chak 5 M, Kesrisinghpur, Ganganagar – 335 027	बनाम Vs.	The ACIT Circle-6 Jaipur
स्थायीलेखा सं./ जीआईआर सं./ PAN/GIR No.: ACQPG 4440 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकरअपीलसं. / ITA Nos. 1556 & 1562 /JP/2024  
निर्धारणवर्ष / Assessment Years : 2015-16 & 2016-17  
(Penalty Appeals u/s 271F of the Act)

Shri Shailendra Garg Chak 5 M, Kesrisinghpur, Ganganagar – 335 027	बनाम Vs.	The ACIT Circle-6 Jaipur
स्थायीलेखा सं./ जीआईआर सं./ PAN/GIR No.: ACQPG 4440 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

ITA NO. 7/JP/2024 AND ANOTHER  
SHAILENDRA GARG VS ACIT, CIRCLE-6, JAIPUR

आयकरअपीलसं./ITA Nos. 1557 & 1564 /JP/2024  
निर्धारणवर्ष/AssessmentYears : 2015-16 & 2016-17  
(Penalty Appeals u/s 271(1)(b) of the Act)

Shri Shailendra Garg Chak 5 M, Kesrisinghpur, Ganganagar – 335 027	बनाम Vs.	The ACIT Circle-6 Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ACQPG 4440 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकरअपीलसं./ITA Nos. 1558 /JP/2024  
निर्धारणवर्ष/AssessmentYears : 2015-16  
(Penalty Appeal u/s 271B of the Act)

Shri Shailendra Garg Chak 5 M, Kesrisinghpur, Ganganagar – 335 027	बनाम Vs.	The ACIT Circle-6 Jaipur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ACQPG 4440 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Prasant Daga, CA  
राजस्व की ओरसे / Revenue by: Smt. Runi Pal, CIT-DR

सुनवाई की तारीख / Date of Hearing : 18/02/2025  
उदघोषणा की तारीख / Date of Pronouncement: : 07/03/2025

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

These 14 appeals have been filed by the assessee against different orders of the Id. CIT(A) detailing it as under:-

ITA NO. 7/JP/2024 AND ANOTHER  
SHAIENDRA GARG VS ACIT, CIRCLE-6, JAIPUR

ITA Nos.	A.Y.	CIT(A) order dated	Decision by CIT(A)	Delay made in filing the appeal before ITAT
7/JP/2025	2011-12	CIT(A)-2, Jaipur dated 22-03-2016 Upheld the disallowance of Rs.10,02,378/- and confirmed the disallowance to the extent of 10% as made by the AO relating to telephone expenses and business promotion expenses	Dismissed the grounds and mentioned ad at Para 7.3 ...that <i>"the assessee is facing certain legal proceedings and is in judicial custody. Further no justification for these amounts have been produced in the present proceedings also</i>	3140 days
6/JP/2025	2012-13	CIT(A)-2, Jaipur dated 16-03-2017 passed an ex-parte order holding that <i>"I have no alternative though to decide the appeal on the basis of documents on record</i>	Partly allowed and confirmed the addition of Rs.79,97,113/-u/s 2(22)(e), professional charges Rs.73,000/-u/s 40(a)(ia), Rs.7,44,333/- towards untraced receipt lying in suspense a/c of Mahka Bharat , Rs.s24,12,930/-, sales tax demand of Rs.4,078, telephone expenses 24,535, business promotion expenses Rs.15,015 & vehicle expenses Rs.1,47,989/- and disallowance of deduction u/s 80C Rs.1.00 lac	2775 days
1554/JP/24	2014-15	NFAC Delhi, dated 31-08-2023 condonation of delay of 727 days not allowed and dismissed the appeal	Dismissed the appeal holding that delay in filing of appeal is not condoned, appeal dismissed	426 days
1560/JP/2024	2015-16	NFAC Delhi, dated 30-05-2024 condonation of delay of 551 days not allowed and dismissed the appeal	Dismissed the appeal holding that delay in filing of appeal is not condoned, appeal dismissed	152 days
1561/JP/2024	2016-17	NFAC Delhi, dated 30-05-	Dismissed the appeal	1561 days

ITA NO. 7/JP/2024 AND ANOTHER  
SHAILENDRA GARG VS ACIT, CIRCLE-6, JAIPUR

		2024 condonation of delay of 541 days not allowed and dismissed the appeal	holding that delay in filing of appeal is not condoned, appeal dismissed	
8/JP/2025 Appeal 271(1)©	u/s 2011-12	NFAC Delhi, dated 27-09-2023, Ex-parte order in spite of providing sufficient opportunities to the assessee to explain the issue	Dismissed the appeal confirming the action of the AO who invoked provision of section 271(1)©of the Act	401 days
1555/JP/2024 Appeal 271(1)©	u/s 2014-15	NFAC Delhi, dated 28-03-2024, Ex-parte order in spite of providing sufficient opportunities to the assessee to explain the issue	Dismissed the appeal confirming the action of the AO who invoked provision of section 271(1)©of the Act and delay of 610 not condoned	213 days
1559/JP/2024 Appeal 271(1)©	u/s 2015-16	NFAC Delhi, dated 30-05-2024, Ex-parte order holding that the appellant failed to furnish documentary evidence in support of his claim for delay in filing the appeal	Dismissed the appeal on the ground of delay of 377 days in not timely filing the appeal and delay not condoned	152 days
1563/JP/2024 Appeal 271(1)©	u/s 2016-17	NFAC Delhi, dated 30-05-2024, Ex-parte order holding that the appellant failed to furnish documentary evidence in support of his claim for delay in filing the appeal	Dismissed the appeal on the ground of delay of 376 days in not timely filing the appeal and delay not condoned	152 days
1556/JP/2024 Appeal u/s 271F	2015-16	NFAC Delhi, dated 28-05-2024, Ex-parte order holding that the appellant failed to furnish documentary evidence in support of his claim for delay in filing the appeal	Dismissed the appeal on the ground of delay of 382 days in not timely filing the appeal and delay not condoned	152 days
1562/JP/2024 Appeal u/s 271F	2016-17	NFAC Delhi, dated 28-05-2024, Ex-parte order holding that the appellant failed to furnish documentary evidence in support of his claim for delay in filing the appeal	Dismissed the appeal on the ground of delay of 382 days in not timely filing the appeal and delay not condoned	152 days
1557/JP/2024 Appeal 271(1)(b)	u/s 2015-16	NFAC Delhi, dated 28-05-2024, Ex-parte order holding that the appellant failed to furnish documentary evidence in support of his claim for delay in filing the appeal	Dismissed the appeal on the ground of delay of 382 days in not timely filing the appeal and delay not condoned	152 days
1564/JP/2024 Appeal 271(1)(b)	u/s 2016-17	NFAC Delhi, dated 28-05-2024, Ex-parte order holding that the appellant	Dismissed the appeal on the ground of delay of 386 days in not	152 days

ITA NO. 7/JP/2024 AND ANOTHER  
SHAILENDRA GARG VS ACIT, CIRCLE-6, JAIPUR

		failed to furnish documentary evidence in support of his claim for delay in filing the appeal	timely filing the appeal and delay not condoned	
1558/JP/2024 Appeal 271(1)(b)	u/s 2015-16	NFAC Delhi, dated 28-05-2024, Ex-parte order holding that the appellant failed to furnish documentary evidence in support of his claim for delay in filing the appeal	Dismissed the appeal on the ground of delay of 376 days in not timely filing the appeal and delay not condoned	152 days

2.1 It is pertinent to mention that during the course of hearing, the Id. AR of the assessee has filed application for condonation in respective appeals before the Bench with the prayer that the delay so made in filing the appeal may be condoned for the reason that the assessee had been engaged in family disputes and ongoing litigation including judicial custody and other civil / criminal litigations. The assessee is the sole bread earner for this family and was burdened with the responsibility of managing his affairs and businesses after the demise of his father on 4-10-2008. The assessee was in jail for a substantial period from 2015-2022. It is also submitted that on account of his bail condition imposed by the Hon'ble Supreme Court of India, he was outside the state of Rajasthan for a couple of years. The assessee was fully dependent upon the advice of the Id AR – M/s. Singhal Jain & Co. to resolve all tax matters and compliance thereof and thus the delay took place in filing the appeals due to negligence and lack of advice by the advice of the earlier Id. AR. Thus he prayed to condone the delay so

made in the above mentioned appeals (supra). It is worthwhile to mention that the assessee has filed applications for condonation of delay in each appeals, however, for the sake of convenience, we reproduce the application for condonation of the assessee in ITA No.7/JP/2024 for the assessment year 2011-12.

**APPLICATION FOR CONDONATION OF DELAY IN FILING OF THE APPEAL**

**MOST RESPECTFULLY SHOWETH:-**

The humble appellant/assessee, Shri Shailendra Garg, submits the captioned application as under:-

1. That the appellant has filed the appeal against the impugned order dated 16-03-2017 (became aware on 25-09-2024), passed by the Ld. CIT(A), whereby the appeal under Section 250 of the Income Tax Act against the assessment order dated 02-03-2015 was dismissed.
2. That the appellant submits that there has been a delay of 35 days in filing the present appeal before this Hon'ble Tribunal. The appellant submits, as explained in detail hereinafter, Assessee has been diligent in pursuing his case and the delay is only bonafide. For the reasons mentioned in this application, the Assessee submits the Assessee has sufficient reason for the delay in approaching this Hon'ble Tribunal.
3. That the assessee submits that the aforesaid delay in filing the appeal is due to the fact that the impugned order was never served on the assessee. The impugned order is dated 16.03.2017, during that time, the assessee was in judicial custody in connection with the FIR No. 422/2014 PS CBI/ACD filed for offences u/s 13(2) read with section 13(1)(C)(D) of the Prevention of Corruption Act, 1988 and 120B, 420, 467, 468 and 471 IPC.
4. That the assessee submits that during 2015-2017, the assessee was in judicial custody in the year 2015 in connection with FIR No.422/2014 and was granted bail for the FIR No. 422/2014 by Hon'ble Supreme Court vide order dated 02-05-2017 with the condition that assessee could not enter the state of Rajasthan.
5. That during the aforesaid period, the assessee was re-arrested in connection with a different FIR No.172/2017 PS motidungri on 24-05-2019 and was in judicial custody from 25-05-2019 till the grant of the bail by the Hon'ble High Court on 20-05-2020.
6. That the Assessee submits that from 2017-2022, the Assessee was out of the state of Rajasthan on account of the condition imposed by the Hon'ble Supreme Court of India vide its order dated 02-05-2017 and the said condition was lifted in

November'2022 vide order dated 09-11-2022 passed by the Hon'ble Supreme Court.

7. That the assessee from 2020-2022, was also prevented on account of the COVID-19 pandemic to approach this Hon'ble Authority.
8. That the Assessee realising his responsibility and diligence has appointed professionals from time to time to manage his tax matter/compliances. When the assessee was in Delhi (on account of the condition imposed by the Hon'ble Supreme Court), the assessee engaged one Jyotish Singh CA for carrying out his tax compliances. When his CA did not act professionally, especially when the period he was in the outside state of Rajasthan, the assessee filed a complaint against the Delhi police on 13-01-2021 against the CA. Thereafter, he engaged M/s Singhal & Co in February 2021. The aforesaid facts were in knowledge of his AR despite thereof his authorised person did not act diligently and communicated these facts to CIT(A), nor to the assessee about the steps to be taken against the impugned order. The entire file including certified copy of the assessment order (which was available with erstwhile AR) was handed over to M/s Singhal & Co in 2021 however, assessee was not aware that no action on the same has been taken so far.
9. However, on receipt of a notice dated 25-09-2024 from Tax Recovery Officer, for deposit of outstanding demand and requisition with respect to pending appeals against the mentioned demand, the assessee contacted his authorised representative in relation to these outstanding demands. Only at this point of time, the authorized representative informed the assessee that the appeals filed by the assessee before CIT(A) which have been dismissed no appeals thereof has been filed by him. Realizing that the authorized representative has been acting negligently, and has failed to sufficiently and effectively represent the interests of the assessee, the assessee immediately requested for handover of all the records from the authorized representative and initiated the process to change his authorized representative.
10. That on 09-12-2024, the authorized representative (CA M/s Singhal & Co) handed over the entire records to the assessee, and immediately thereafter, the assessee contacted the office of the present authorised representative Shri Prashant Daga, Advocate for adequate actions to be taken in relation to the pending tax assessments. Despite voluminous and scattered records on account of multiple ongoing litigations, the present authorized representative has filed the present appeal within reasonable period from the date of receipt of documents.
11. In view of the above, it is evident that the delay in filing the present appeal is attributable to the erstwhile authorized representative of the assessee, and not to the assessee itself. In fact, the assessee has acted prudently and proactively in changing his authorized representative and ensuring that the required actions are taken at the earliest.
12. That the assessee submits that the assessee has been going through the bad phase due to family disputes and ongoing litigation including judicial custody and other civil /criminal litigation. The assessee is the sole bread earner for his family

- and was burdened with the responsibility of managing his affairs and businesses after the sad demise of his father on 04-10-2008. Thereafter, the assessee has been engaged in several litigations including criminal prosecutions, and retention in judicial custody, and jail time for a substantial period from 2015-2022. Additionally, on account of his bail condition imposed by the Hon'ble Supreme Court of India, he was outside the state of Rajasthan for a couple of years. The details of the litigation pending, faced by the assessee are being separately produced and form part of the paper book of the appeal. Therefore, the assessee is highly dependent on his authorised representative and chartered accountant for necessary advice and prompt action.
13. Being unfamiliar with the tax laws, the assessee appointed experts or AR M/s Singhal & Coto resolve all tax compliance-related issues. Thus, during the relevant period, the assessee having engaged the AR/experts/professionals was solely dependent on their advice and suggestions for resolving the tax compliances. Thus, delay due to negligence or delay or lack of proper advice by the authorised person/CA is liable to be condoned and the assessee cannot be made to suffer on account of the same;
  14. The Assessee submits that the deficiency or delay or negligence on the part of the authorised representative in bringing into Assessee's notice the fact that the CIT(A) has dismissed the appeal, and also on ground of lack of advice from the authorized representative about filing of appeal before this Hon'ble Tribunal. The assessee had appointed the authorized representative with the task of carrying out all his regulatory and taxation compliances (including filing of appropriate replies / appeals in relation to tax assessments), and therefore, assessee was under reasonable presumption that his tax matters are duly taken care of.
  15. That the assessee submits that in the event the delay is not condoned the assessee would suffer substantial injustice and would be deprived of the opportunity to contest the case on merits, *inter alia* due to the negligence of his authorised representative.
  16. The delay in filing the present appeal is attributed to the gross negligence of the ARs, who failed to represent the assessee diligently and did not communicate the impugned order promptly. Despite receiving notices from the department, the ARs neither supplied the necessary documents nor responded to the notices, leaving the assessee uninformed and disadvantaged.
  17. It is a settled proposition of law that the disputes should be decided on merits and court should take a lenient view on the matter of condonation of delay provided the explanation and reasons for delay are bonafide and not merely a device to cover an ulterior purpose or an attempt to save limitation in an underhand way. While construing the sufficient cause, a liberal view should be taken, and the court should lean in favour of the party as explaining the reasons for delay as bonafide. Whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice deserves to be preferred.
  18. That the assessee was passing through a bad phase for such a long time on the business front as well as on the family front and facing various problems even with the CA and has been fighting to set things right in his life, the assessee shall be granted an opportunity to present its case on the merits.

19. In addition to the above, the assessee in the present case has carried out a best judgment assessment and the major addition pertains to an amount which inherently is not taxable, and which was never even received by the assessee.
20. The application is bona fide and in the interest of justice

### **PRAYER**

In view of the above facts and circumstances, it is most humbly prayed that this Hon'ble Tribunal may be pleased to condone the delay in filing the present appeal and admit the appeal for hearing and decide the same on merits in the interest of justice and equity.

Any other/further orders which this Hon'ble Tribunal seems just and proper may also be passed in favour of the Assessee/appellant in the interest of justice, equity and good conscience.

2.2 To this effect, the assessee has filed affidavits in respect of each appeal deposing the contents mentioned in the application for condonation of delay.

2.3 It is also pertinent to mention here that in respect of each appeals the assessee has filed the grounds of appeal which are mentioned at Form 36 of the appeals and they are not required to repeat it.

2.4 On the other hand, the Id. DR supported the orders of the Id. CIT(A).

2.5 We have heard both the parties and perused the materials available on record. We take reference of the appeal of the assessee for the assessment year 2011-12 wherein the Id.CIT(A) at para 7.3 has observed as under:-

"7.3. I have perused the facts of the case, the assessment order and the submissions of the appellant. An amount of Rs. 10,02,378/- was appearing in the

balance sheet of M/s Garment Craft as liability payable under suspense account. The appellant explained these as untraced receipts/payment outstanding for adjustment in appropriate accounting heads kept in suspense liability and grouped under the outstanding liabilities as shown in Schedule-6 of the audited balance sheet. Since, the assessee could not furnish details of these amounts even during assessment proceedings by when substantial time had elapsed after the audit and could not even give details as to whether these liabilities actually existed, treated the same as unexplained credit and added the same under section 68 of the I.T. Act, 1961.

In the proceedings before me, the Authorized Representative submitted that the assessee is facing certain legal proceedings and is in judicial custody. Even in the present proceedings no details of these receipts are furnished. The appellant submitted that Assessing Officer has not made proper investigation and added the amounts. In the absence of any details furnished by the assessee, Assessing Officer possibly cannot conduct any enquiries or investigations. Further, no justification for these amounts have been produced in the present proceedings also. In view of the discussion as above, the addition made under section 68 of the I.T Act, 1961 is confirmed. The ground of appeal is dismissed.”

We further take reference of the appeal of the assessee for the assessment year 2012-13 wherein the Id.CIT(A) at para 13.2 has observed as under:-

“13.2 I have perused the facts of the case and assessment order. As per assessment order assessee has claimed deduction u/s 80C of Rs.1,00,000/- on account of LIC premium paid by him. The assessee was asked to furnish necessary evidence in support of paid of LIC Premium. The assessee has not furnished required documents during the assessment proceedings before the assessing officer nor during appellate proceedings before me, therefore, the addition made by the assessing officer, is confirmed. This ground of appeal is dismissed.”

We further take reference of the appeals of the assessee for the assessment year 2014-15, 2015-16 and 2016-17 wherein the Id. CIT(A) has dismissed the appeals of the assessee on the ground of not condoning the delay by observing as under:

Assessment year 2014-15

“5.7 In view of facts discussed above, in the present case, appellant has failed to prove beyond doubt that it had acted diligently and was not guilty of negligence. Appellant failed to produce documentary evidence substantiating his claim. Simply making a statement that appellant came to know about the assessment order only after receiving information from department in his case, cannot constitute a sufficient or good reason for condoning inordinate delay of 727 days for the appeal under consideration. Under these circumstances, as the appeal is filed beyond the due date prescribed under law and sufficiency of the reasons for the delay are not established. Therefore delay in filing of appeal is not condoned In the result, appeal stands dismissed.

In view of the fact that appeal has been dismissed on the ground of rejection of petition for condonation of delay, merit of the case is not being discussed.

6. In the result, the appeal of the appellant is dismissed.”

Assessment year – 2015-16

6. In view of facts discussed above, in the present case, appellant has failed to prove beyond doubt that it had acted diligently and was not guilty of negligence. Appellant failed to produce documentary evidence substantiating his claim for delay in filing the appeal. Simply making a claim that CA did not communicate him about the proceeding. cannot constitute a sufficient or good reason for condoning inordinate delay of 551 days for the appeal under consideration. Under these circumstances, as the appeal is filed beyond the due date prescribed under law and sufficiency of the reasons for the delay are not established. Therefore, delay in filing of appeal is not condoned. In the result, appeal stands dismissed

7 In view of the fact that appeal has been dismissed on the ground of rejection of petition for condonation of delay, merit of the case is not being discussed.

8. In result, the appeal is dismissed.”

Assessment year – 2016-17

“6. In the present case, appellant has failed to prove beyond doubt that it had acted diligently and was not guilty of negligence. Appellant failed to furnish documentary evidence in support of his claim for delay in filing the appeal. Simply making a claim that appellant was facing certain legal proceedings, cannot constitute a sufficient or good reason for condoning inordinate delay of 541 days in filing the appeal under consideration. Under these circumstances, as the appeal is filed beyond the due date prescribed under law and sufficiency of the reasons for the delay are not established. Therefore, delay in filing of appeal is not condoned in the result, appeal stands dismissed.

7. In view of the fact that appeal has been dismissed on the ground of rejection of petition for condonation of delay, merit of the case is not being discussed.

8. In result, the appeal is dismissed.”

From the entire conspectus of the case, the Bench noticed that the assessee during the year 2015—2017 was in judicial custody in connection with FIR No 422/2014 and was granted bail for the FIR No. 422/2014 by Hon’ble Supreme Court vide order dated 02-05-2017 with the condition that assessee could not enter the state of Rajasthan. Further the assessee was re-arrested in connection with different FIR No. 172/2017 Police Station Motidungri on 24-05-2019 and was in judicial custody from 25-05-2019 till the grant of the bail by the Hon’ble High Court on 20-05-2020. It is also submitted by the assessee that from 2017-2022, he was out of the State of Rajasthan on account of the condition imposed by the Hon’ble Supreme Court of India vide its order dated 02-05-2017 and the said condition was lifted in November 2022 vide order dated 09-11-2022 passed by the Hon’ble Supreme Court. The assessee submitted that he was prevented by COVID 19 pandemic to approach the Court during the year 2020-2022. The grievance of the assessee was that the impugned order 16-03-2017 was not received during that time as he was in Judicial custody in connection with the FIR No. 42/2014 PS CBI/ACD filed for

offences u/s 13(2) read with section 13(1)(D) of the Prevention of Corruption Act, 1988, and 120B, 420, 467, 468 and 471IPC. He further submitted that there was a lack of advice of his counsel M/s. Singhal Jain & Co. who engaged to solve all the tax matters and for this reason the assessee had to suffer a lot. The Bench can understand the agony when one has to suffer for one reason and the others. Since the assessee was in Jail/ Police Custody or out of Rajasthan as narrated above, therefore, it was difficult for him to look into the matters relating to income tax and pursue the appeals before the Income Tax Authorities to substantiate his case. Hence, in this view of the matter, the delays made by the assessee in filing the appeals are condoned. Further, it is also noteworthy to mention that in quantum appeals the assessee was not in a position to file the reply to the queries of the AO during assessment proceedings, these appeals are restored to the file of the AO to decide it afresh but by providing adequate opportunity of being heard to the assessee and also taking into consideration the mental agony of the assessee. Thus, the quantum appeals of the assessee are restored to the file of the AO for afresh adjudication.

2.6 Be that as it may since it is an admitted fact that the assessee is ex-parte before the AO and also before the Id. CIT(A). Therefore, he could not

put forth his defence. It was the bounded duty of the assessee to appear before the statutory authorities as and when called for. It is noticed that various opportunities were provided to the assessee for settling the issue but the assessee could not pursue the cases for the reasons mentioned hereinabove. However, we are of the view that lis between the parties has to be decided on merits so that nobody's rights could be scuttled down without providing opportunity of being heard to the assessee. Hence, the matter is restored to the file of the AO to decide it afresh by providing one more opportunity of hearing, however, the assessee will not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings. Thus the appeals of the assessee are allowed for statistical purposes.

2.7 Before parting, the Bench makes it clear that its decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by AO independently in accordance with law.

3.1 As regards the penalty appeals of the assessee relating to Section 271(1) ©, 271F, 271(1)(b) and 271B of the Act, the Bench feels that since the quantum appeals of the assessee have been restored to the file of the AO for afresh adjudication, therefore the fate of penalty appeals will be in

accordance with decision of quantum appeals. Hence, the same is restored to the file of AO to act in accordance with law.

4.0. In the result, the appeals of the assessee are allowed for statistical purposes as indicated hereinabove.

Order pronounced in the Open Court on 07-03-2025.

Sd/-

(डा० एस. सीतालक्ष्मी )  
(Dr. S. Seethalakshmi)  
न्यायिकसदस्य / Judicial Member

जयपुर / Jaipur

Sd/-

(राठोडकमलेशजयन्तभाई )  
(Rathod Kamlesh Jayantbhai)  
लेखासदस्य / Accountant Member

दिनांक / Dated:- 07/03/2025

\*Mishra

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant-Shri Shailendra Garg, Jaipur
2. प्रत्यर्थी / The Respondent- The ACIT, Circle-6, Jaipur
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File (ITA No. 7/JP/2025)

आदेशानुसार / By order,

सहायकपंजीकार / Asst. Registrar