

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “C” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.302/Ahd/2025
Assessment Year: 2018-19**

Dineshji Pratapji Thakor, Thakor Vas, Opp. Panjarapol, Unjha, Gujarat – 384 170. [PAN – ALWPT 7339 Q]	Vs.	Income Tax Officer Ward-1, Patan, Chinmay Corporate House, Paan, Gujarat – 384 265
(Appellant)		(Respondent)
Assessee by	Shri Divya Agarwal, AR	
Revenue by	Shri S.K. Agal, Sr. DR	
Date of Hearing	12.06.2025	
Date of Pronouncement	19.06.2025	

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal has been preferred by the assessee against the order of National Faceless Appeal Centre (NFAC) [hereinafter referred as ‘the CIT(A)’] dated 23.07.2024 for the Assessment Year (A.Y.) 2018-19 in the proceedings under Section 271A of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’).

2. There was a delay of 131 days in filing of this appeal. The assessee has filed an affidavit explaining the reason for the delay. It is stated that the assessee is residing in remote village having no electronic gadgets and no internet connection. As a result, the notices and order issued by the Ld. CIT(A) were not accessible to him. The Ld. AR explained that all the notices were sent on email id “krishnaplus12@gmail.com” which belonged

to the previous Consultant with whom the assessee was having some dispute about the professional fee. As a result, no compliance was made by the previous Consultant either in the course of assessment proceeding or in the course of penalty proceeding. It was only on initiation of recovery proceedings by the Assessing Officer that the assessee came to know about the present order of Ld. CIT(A). Considering the explanation of the assessee, the delay in filing the present appeal is condoned.

3. The brief facts of the case are that no return of income was filed by the assessee for the A.Y. 2018-19. The Assessing Officer had initiated proceedings under Section 147 of the Act on the basis of an information that there was cash deposit of Rs.22,18,38,772/- in the current account of the assessee and there was also credit of Rs.1,05,057/- in respect of sale of equity shares. Accordingly, notice under Section 148 of the Act was issued on 31.03.2022 to which there was no compliance. The Assessing Officer had issued notice under Section 142(1) of the Act and allowed as many as six opportunities to the assessee but no compliance was made on any of the occasions. In the absence of any return of income as well as any explanation for the cash deposits and other credits, the Assessing Officer had estimated the profit @ 7% of total credits in the current account of the assessee and made addition of Rs.1,57,88,000/-. Further, the sale proceeds of equity shares of Rs.1,05,057/- was also added to the income of the assessee. The assessment was completed under Section 147 read with Section 144 of the Act on 11.03.2023 at a total income of Rs.1,58,93,390/-. The Assessing Officer had also initiated penalty proceedings under Section 271A of the Act for the failure to maintain the books of accounts. Thereafter, a separate penalty order under Section

271A of the Act was passed on 24.08.2023 imposing penalty of Rs.25,000/- on the assessee.

4. Aggrieved with the penalty order of the Assessing Officer, the assessee had filed appeal before the First Appellate Authority which was decided vide the impugned order and the appeal of the assessee was dismissed.

5. Now the assessee is in second appeal before us. The following grounds have been taken by the assessee in this appeal: -

- "1. Ld. CIT(A) NFAC has erred in confirming the penalty of Rs.25,000/- u/s.271A of the Act for non-maintenance of books of accounts in as much as,*
- i Assessee has regularly maintained the books of accounts. Ld. A.O. had not asked to produce books of accounts in Notices issued u/s.142(1).*
 - ii Assessee did not receive show cause notices u/s.271A, since he stays in remote village and did not have computer and internet facilities during the year under consideration.*
 - iii The mail Id was of Ex. A.R. (krishnaplus12@gmail.com) and all the notices were served on that mail id. The Ex. A.R. did not give notices to assessee due to dispute between them on account of fees."*

6. Shri Divya Agarwal, Ld. AR of the assessee submitted that no compliance could be made before the Assessing Officer in the assessment as well as in the penalty proceedings due to the fault of previous Tax Consultant of the assessee. Before the Ld. CIT(A), however, the assessee had submitted that he was maintaining the books of account and, therefore, no penalty under Section 271A of the Act was called for. The Ld. AR submitted that the assessee had filed copy of Balance Sheet as on 31.03.2018, Profit & Loss Account for the year, Cash Book and Bank Book before the Ld. CIT(A) as additional evidences. However, the Ld. CIT(A) did not consider the evidences filed by the

assessee and had merely confirmed the penalty as imposed by the Assessing Officer under Section 271A of the Act.

7. Per Contra, Shri S.K. Agal, Ld. Sr. DR supported the orders of the lower authorities.

8. We have considered the rival submissions. Undisputedly, there was no compliance by the assessee before the Assessing Officer either in the assessment proceedings or in the course of penalty proceeding under Section 271A of the Act. In the absence of any compliance, the Assessing Officer had imposed penalty under Section 271A of the Act on the presumption that the no books of account were maintained by the assessee. However, the assessee had filed copy of Balance Sheet, Profit & Loss Account, Cash Book and Bank Book before the Ld. CIT(A). It is found that the Ld. CIT(A) did not consider the additional evidences filed before him and he has not given any comment on the evidences as brought on record in the course of appeal proceeding. When the copies of Balance Sheet, Profit & Loss Account, Cash Book and Bank Book were filed before the Ld. CIT(A), veracity of the same as well as the underlying records based on which the accounts were prepared, should have been examined by calling for a remand report from the Assessing Officer. The Ld. CIT(A) has also not given any reason in his order for rejecting the additional evidences filed by the assessee in the course of appeal proceeding. We, therefore, in the interest of justice, deem it proper to **set aside the matter to the file of the Jurisdictional Assessing Officer with a direction to allow another opportunity to the assessee to produce the books of accounts and thereafter re-adjudicate the penalty under Section 271A of the Act.** The assessee is also directed to make compliance before the Assessing Officer and produce the books

of accounts and other evidences as required in the course of set aside proceeding.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on this 19th June, 2025.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

Ahmedabad, the 19th June, 2025

PBN/*

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *The PCIT*
(4) *The CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

TRUE COPY

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad