

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

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 2/Asr/2025
Assessment Year: 2018-19

Sh. Gurdev Singh
VPO Behramke,
Moga, 142001 Punjab
[PAN: GREPS2180G]
(Appellant)

Vs.

Income Tax Officer,
Ward-1, Moga

(Respondent)

Appellant by : Sh. Rupender Kansal, Adv.
Respondent by : Sh. Charan Dass, Sr. D. R.
Date of Hearing : 16.07.2025
Date of Pronouncement : 07.08.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the Id. CIT(A) NFAC, Delhi dated 25.11.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the penalty order passed by the Assessment Unit, (ITD) u/s 271AAC (1) of the Act, dated 10.01.2024.

2. Grounds of appeal taken by the assessee in Form No. 36 are as follows:

- “1. That the worthy Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in law and on facts while confirming the action of the Learned Assessing Officer in imposing a penalty of Rs. 16,99,887/- under section 271AAC(1) of the IT Act, 1961, when the original order of Assessment on quantum is under Juridical scrutiny with the Hon'ble Punjab and Haryana High Court.
2. That the worthy Commissioner of Income Tax (Appeals), NFAC, Delhi has erred in the eyes of law as well as on the facts of case in dismissing the appeal *ex parte* which is against the powers given under section 250 of the IT Act, 1961.
3. That the Appellant craves leave for permission to add, amend or alter any ground of appeal at the time of hearing.”

3. Brief facts emerging from record are that the assessee is a *Business Correspondent Agent (BCA) of Punjab & Sind Bank, Kote- Ise- Khan, Distt. Moga* and working on a contractual salary of around Rs.10,000/- per month (*approx.*) (*as stated in the SOF*), and since his taxable income is below the *maximum marginal limit not chargeable to tax*, no return of income has been filed for the year under appeal. The assessee maintains a current account with the same bank (*being A/c No. xxxxx21178*), which is solely used for customer's service and the said bank account has been opened as per direction of *Bank Circular 01/2017-18* which are issued as *per the guidelines of the RBI*.

4. The case of the assessee is that whatever bank transfer entries, cash deposits and corresponding withdrawals are reflected in the said bank account are related to and connected with investments and deposits of the customers (*clients*) of the bank and the assessee is simply *handling and managing the financial transactions* as an agent of the bank, and these transactions does not relate to the assessee personally and the assessment proceedings has been completed ex-parte and the first appeal has also been dismissed without admission due to delay in filing of the appeal without adjudication of the case.

5. In course of hearing before the tribunal , the Ld AR of the assessee stated that the *e-mail id and the contact number* as recorded in the departments portal belongs to the part time accountant of the assessee, and as such, he was not at all aware of any penalty proceedings initiated against him u/s 271AAC(1) because no notice has been served on him.

6. He further submitted that the assessment has been completed by the AO on a total income of *Rs.2.20 crores u/s 147 r.w.s. 144* of the Act on 27.09.2023 due to non-compliance on the part of the assessee and subsequently penalty u/s 271AAC(1) has also been imposed *amounting to Rs. 16.99 lakhs* ,because of non compliance to various notices issued from the department and unfortunately , none of the notices

has been received and the assessee was totally unaware of any such ongoing penalty proceedings.

7. *He further submitted that the assessee has met with an accident a few years back, resulting in serious brain injury and he tends to forget and is suffering from occasional memory loss.*

8. He further stated that the assessee has approached the Hon'ble jurisdictional *Punjab & Haryana High Court* praying for a *writ of mandamus (or certiorari)*, filed on 17.08.2024 (*C.W.P. No. 22172 of 2024*), praying for quashing of the assessment order dated 27/09/2023 and appellate order dated 23/07/2024.

9. He lastly submitted that notices from the office of the Id. first appellate authority in course of penalty appeal has not been received but the submissions were enclosed in the memo of appeal in form 35 and the Ld first appellate authority has dismissed the appeal without considering the submissions and without going into the merits of the case and has also not considered the prayer of keeping the penalty in abeyance till final disposal of the quantum.

10. He prayed for at least one more opportunity before the Ld first appellate authority to explain his case with materials on record , more so considering the fact that *exparte* orders has been passed at every stage on mistaken assumption of facts and on the basis of materials gathered from banks, (behind the back of the assessee)

which does not relate to the assessee himself, and assessee never had the opportunity of explain his case in absence of any notices of hearing, being actually received by him.

11. The Id. DR relied on the order of the Id. CIT(A), but has no objection, if the appeal is remanded back to the files of the Id. first appellate authority for fresh consideration after allowing a proper and reasonable opportunity of hearing to the assessee.

12. We have heard the rival submissions and considered the materials on record and we find that the penalty order u/s 271AAC(1) of the Act has been passed *ex parte* and the said penalty has been sustained by the Id. first appellate authority without hearing the assessee, and it is also seen from records that notices issued from the office of the Id. CIT(A) has not been responded to , even though, we consider that the *last notice dated 13.11.2024* has allowed only *9 (nine) days time* for the assessee to reply by *22/11/2024*, which is not as per standard operating procedure.

13. As such, as requested by the Id. AR of the assessee, and also taking into consideration the medical issue of the assessee, (*as pointed out by the Ld AR*) and in the interest of justice, we allow the assessee one more opportunity to explain his case along with all documentary evidences to be filed before the Ld. first appellate authority with necessary explanations and submission in support of his contention.

14. As such, the matter is remanded back to the first appellate authority for allowing an opportunity to the assessee to explain his case with documentary evidences.

15. We have not expressed any opinion on merits.

16. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 07.08.2025.

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order