

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.5868/DEL/2024, A.Y. 2008-09
ITA No.5869/DEL/2024, A.Y. 2009-10
ITA No.5870/DEL/2024, A.Y. 2010-11
ITA No.5871/DEL/2024, A.Y. 2011-12
ITA No.5872/DEL/2024, A.Y. 2011-12
ITA No.5873/DEL/2024, A.Y. 2012-13
ITA No.5874/DEL/2024, A.Y. 2013-14**

AMQ Agro India Pvt. Ltd. C-134, Ground Floor Defence Colony New Delhi- 110024 PAN: AAECA0929M	Vs.	Assistant Commissioner of Income Tax, Central Circle-7, E-2, ARA Building, Jhandewalan Ext., New Delhi
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Shri Jitender Singh, CIT-DR

Date of Hearing	07/08/2025
Date of Pronouncement	13/08/2025

ORDER

PER BENCH

Common facts and similar grounds arise in all the above captioned appeals of the assessee; therefore, these appeals were heard together and are being disposed off by this common order.

2. These appeals of the assessee for Assessment Years ('AYs') 2008-09, 2009-10, 2010-11, 2011-12, 2011-12, 2012-13, & 2013-14 are directed against orders dated 18.10.2024 of the Commissioner of Income Tax (Appeals)-

24, New Delhi [‘CIT(A)’]. We are taking the ITA No. 5868/Del/2024 of AY 2008-09 as a lead case.

3. The sole substantive issue in the above captioned appeals revolve around the penalty levied under section 271(1)(c) of the Income Tax Act, 1961 (‘Act’) by the Assessing Officer (‘AO’) and upheld by the Ld. CIT(A).

4. The relevant facts giving rise to the Appeal; ITA No. 5868/Del/2024 of the AY 2008-09 are that the assessee company, promoted by Mr. Moin Akhtar Qureshi and Mrs. Nasreen Moin Qureshi, is engaged in 100% export of buffalo meat primarily called as Omasum and Offal to China, Vietnam and Hong Kong. The income derived from the export business of meat has been claimed exempt under section 10A of the Act. The assessee was searched under section 132(1) of the Act on 15th Feb, 2014 along with other assesseees of AMQ Group. The consequential assessments of the above mentioned AYs were completed under section 153A of the Act. Aggrieved with the assessment orders passed under section 153A of the Act in the above captioned AYs, the assessee filed appeals before the Ld. CIT(A), who partly allowed all appeals. Thereafter, the Revenue and assessee both challenged the impugned orders of the Ld. CIT(A) in the above captioned AYs before the Tribunal, who; vide its order dated 29.05.2020 and 22.01.2021 in ITA No.4287 to 4289, 1499, 4290 and 4408/Del/2018 (Revenue appeals) and in ITA No.2801 to 2803, 169, 2804 and 2805/Del/2018 (Assessee appeals) for AYs 2008-09 to 2012-13, decided the said appeals as under:

- i. Revenue appeals for AYs 2008-09 to 2011-12 and 2013-14 were dismissed.
- ii. Revenue appeal for AY 2012-13 was remitted back to the Ld. CIT(A) for deciding the matter afresh.
- iii. Assessee appeals for AY 2008-09 to 2012-13 were also allowed for statistical purpose.
- iv. Assessee appeal for AY 2013-14 was partly allowed.

5. In the remitted proceedings, the AO completed the assessments of AYs 2008-09 to 2012-13. After finalization of assessments in remitted proceedings, the AO levied penalty under section 271(1)(c) of the Act in all these cases. Aggrieved, the assessee filed appeals before the Ld. CIT(A) who dismissed the all appeals of relevant years due to non-prosecution. The relevant finding of the Ld. CIT(A) for AY 2008-09 is reproduced as under: -

“5.1.1 During the appellate proceedings, the appellant did not even respond to the statutory notices, which is a legal obligation caused on him. The details of which is mentioned hereunder:

.....

5.1.2 In these facts and circumstances, I do not find there was any plausible reasonable cause on behalf of appellant for non-responding of these notices. Sufficient opportunities have been granted to the appellant to present his case. This shows that the appellant is not interested in pursuing the appeal. The Hon'ble Supreme Court in the case of Shri B. N. Bhattachaterjee and another (118 ITR 461) has held that appeal does not mean only filing of Memo of appeal but also pursuing it effectively. In the absence of any further details or submissions made by the appellant, the appeal is being decided on merit on the basis of details on records.

5.2.1 Since Ground Nos. 1 to 4 of appeal are related to penalty of Rs. 33,32,608/- u/s 271(1)(c) of Income Tax Act, all the grounds of appeal are dealt together.

5.2.2. During the course of the appellate proceedings, the appellant did not provide any argument or documentary evidence in support of its grounds of appeal. In the absence of any argument/evidence from the appellant during the course of appellate proceedings, there is no justification to interfere with the order of the Assessing Officer. Thus, in my considered opinion the Assessing Officer have rightly imposed penalty for concealment of income and I do not find any reason to interfere with the order of the Assessing Officer. Accordingly, the plea of the appellant is rejected and the penalty levied by the AO u/s 271(1)(c) is hereby confirmed. Accordingly, Ground Nos. 1 to 4 of appeal are dismissed.”

5.1 The Ld. CIT(A) dismissed all appeals of relevant years due to non-prosecution only.

6. Before us, none appeared on behalf of the assessee. Therefore, we heard the Ld. Commissioner of Income Tax, Departmental Representative ('CIT- DR'). With the help of facts mentioned in orders of the Authorities below, the Ld. CIT-DR submitted that sufficient opportunities of being heard were provided to the appellant assessee by the Ld. CIT(A) but in vain. He submitted that the appellant assessee tactfully ensured noncompliance. Hence, he prayed for dismissal of all appeals.

7. We have heard Ld. CIT-DR and have perused the material available on records. We take note of the fact that the Ld. CIT(A) has dismissed all the above-mentioned appeals due to non-prosecution. The Ld. CIT(A) has not decided any of the appeal on merits. We take note of the fact that the Ld. CIT(A) has not decided each ground of appeal (in all the above-mentioned cases) after discussing the issues in details and his reasons for agreeing with penalty orders though he, as per provisions of section 250(6) of the Act, is obliged to

dispose of the appeal in writing with well-reasoned order on each point of determination arisen for his consideration. It is evident from the perusal of section 251(1)(a), 251(1)(b) and Explanation of section 251(2) of the Act that the CIT(A) is required to apply his mind to all the issues which arise from the impugned order before him/her, whether or not these issues have been raised by the assessee before him.

8. Section 251(1)(a) of the Act provides that while disposing of an appeal against an order imposing a penalty, the Ld. CIT(A) may confirm or cancel such orders or vary it so as to either to enhance or to reduce the penalty. On cumulative consideration of provisions of section 250(6) of the Act read with sections 250(4), 250(5), 251(1)(a), 251(1)(b) of the Act and Explanation of section 251(2) of the Act, it is concluded that the Ld. CIT(A) is not empowered to dismiss the appeal due to non-prosecution and he is obliged to dispose of the appeal on merits. In this regard, the finding of the coordinate bench in the case of MARC Laboratories Ltd. in ITA No.2731, 2732, 2733, 2730, 2734 & 2735/DEL/ 2022 is worth extracting as under:

“5. We straightway refer to Section 250(6) of the Act which enjoins that the CIT(A) shall state the points for determination before it and the decision shall be rendered on such points along with reasons for the decision. Thus, it is incumbent upon the CIT(A) to deal with the grounds on merits even in ex parte order. In view of Section 250(6) of the Act, the CIT(A) has no power to dismiss an appeal on account of non-prosecution. This view is also taken by the Hon'ble Bombay High Court in case of CIT vs. Premkumar Arjundas Luthra HUF, (2017) 291 CTR 614 (Bom.). A bare glance of the order of the CIT(A) shows that CIT(A) has not addressed itself on various points placed for its determination at all and dismissed the appeal of assessee for default in non-

appearance. Needless to say, the CIT(A) plays role of both adjudicating authority as well as appellate authority. Thus, the CIT(A) could not have shunned the appeal for non-compliance without addressing the issue on merits.

6. In the totality of the circumstances, we consider it just and expedient to restore the matter back to the CIT(A) in the larger interest of justice with a view to enable the assessee to avail proper opportunity for disposal of appeal by the CIT(A) on various points. The assessee is cautioned to extend full co-operation to the CIT(A) without any demur, failing which, the CIT(A) shall be at liberty to conclude the appellate proceedings in accordance with law. Hence, the order of the CIT(A) appealed against, is set aside and all the issues raised in the impugned appeal are restored back to the file of the CIT(A) for fresh adjudication in accordance with law after giving reasonable opportunity of hearing to the assessee.”

9. In view the above, without offering any comment on merit of the case, we deem it fit to set aside all the impugned orders and remit the matter back to the files of the CIT(A) for deciding all these cases afresh, in accordance with law, after providing adequate opportunity of being heard to the appellant assessee. Ordered accordingly. The appellant assessee, no doubt, shall cooperate in remitted appellate proceedings.

10. In the result, the assessee's appeals of the above mentioned AYs are allowed for statistical purposes.

Order pronounced in open Court on 13th August, 2025

Sd/-

**(C. N. PRASAD)
JUDICIAL MEMBER**

Sd/-

**(AVDRESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Dated: 13/08/2025
Binita, Sr. PS
Copy forwarded to:

ITA No.5868 to 5874/DEL/2024
M/s. AMQ Agro India P. Ltd.

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

ASSISTANT REGISTRAR
ITAT, New Delhi