

**IN THE INCOME TAX APPELLATE TRIBUNAL "PATNA BENCH", PATNA**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI SONJOY SARMA, JUDICIAL MEMBER**  
**SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No. 190/PAT/2025**  
**(Assessment Year 2017-18)**

**&**

**I.T.A. No. 191/PAT/2025**  
**(Assessment Year 2017-18)**

**Rajeev Kumar,**  
37, Taraiya, Marhowra Saran,  
Bihar – 841424, Chhapra  
[PAN: BLVPK5968C]

..... **Appellant**  
**vs.**

**ITO Ward 2(2),**  
Chhapra (Bihar) – 841424

..... **Respondent**

**Appearances by:**

Assessee represented by : Shri Abhi Sarkar, Adv.

Department represented by : Shri Rajat Datta, CIT-DR

Date of concluding the hearing : 16.09.2025

Date of pronouncing the order : 17.09.2025

**ORDER**

**PER SONJOY SARMA, JUDICIAL MEMBER**

These two appeals are filed by the assessee against the penalty orders passed under section 271 AAC(1)&/270A of the Income-tax Act, 1961, which were confirmed by the learned Commissioner of Income Tax (Appeals).

2. At the outset, the registry has informed that there is a delay of 15 days in filing the appeals. The assessee has filed two separate applications explaining the reasons for such delay in filing the appeals. Upon considering the applications and reasons stated therein, we are satisfied that there was sufficient cause for delay. Accordingly, delay of 15 days in

filing the appeals are hereby condoned. The appeals are admitted for adjudication.

3. The brief facts are that the Assessing Officer, pursuant to the assessment order dated 23.12.2019, levied penalty under section 271AAC(1) dated 04.08.2021 and another penalty order under section 270A of the Act dated 02.08.2021. The assessee carried the matter in appeal before the learned CIT(A), where Ld. CIT(A) confirmed the penalty. Aggrieved, by the order of the Ld. CIT(A) the assessee is in appeal before this Tribunal.

4. At the time of hearing, the learned counsel for the assessee submitted that the very assessment order, based on which penalty was levied, has already been set aside by this Tribunal vide order dated 26.08.2025 in ITA No. 142/Patna/2025. Consequently, the penalty order has no independent existence in the eyes of law. He therefore submitted that the penalty cannot survive once the quantum assessment order itself does not stand.

5. The learned DR fairly agreed that in view of the Tribunal's order setting aside the assessment, the penalty would not survive at this stage.

6. We have considered the rival submissions and perused material available on the record. It is well-settled law that penalty proceedings are corollary to assessment proceedings. Once the assessment order, which is the very foundation for initiation of penalty, is set aside, the penalty order cannot survive. It is settled law that when the additions on which penalty is imposed are set aside, the penalty cannot be sustained.

7. In the present case, since the Tribunal has already set aside the assessment order dated 23.12.2019 in assessee's own case (supra). Accordingly, the impugned penalty order are rendered infructuous and

without jurisdiction. Accordingly, we hold that the penalty orders are liable to be quashed.

8. However, it is clarified that in the event the Assessing officer passes a fresh assessment order in pursuance of the Tribunal's earlier direction, it shall be open to the Revenue to initiate penalty proceedings afresh in accordance with law.

9. In the result, both the appeals of the assessee are allowed in terms indicated above.

Order pronounced on 17.09.2025

Sd/-  
**(Rakesh Mishra)**  
**Accountant Member**

Sd/-  
**(Sonjoy Sarma)**  
**Judicial Member**

Dated: 17.09.2025  
AK, Sr. P.S.

*Copy of the order forwarded to:*

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Sr. Private Secretary, Patna Bench