

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.328/Nag./2025**  
(Assessment Year : 2020-21)

Kirtikumar Haribhai Patel  
640, Chikkhali Layout  
Kalamna, Nagpur 440 008  
PAN – AQBPP2096E

..... Appellant

v/s

Income Tax Officer  
Ward-4(3), Nagpur

..... Respondent

Assessee by : Shri Hitesh P. Shah  
Revenue by : Shri Surjit Kumar Saha

Date of Hearing – 23/06/2025

Date of Order – 22/09/2025

**ORDER**

**PER K.M. ROY, A.M.**

The captioned appeal filed by the assessee challenging the impugned order dated 25/03/2025, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, ["*learned CIT(A)*"] for the assessment year 2020-21.

2. The assessee has raised following grounds of appeal:-

*"The Ld. A.O. and the Hon. CIT(A) ought to have appreciated the fact that the Appellant could not properly represent his case due to circumstances beyond his control.*

2. *The Hon. CIT(A) erred in confirming Penalty of Rs.11,79,772/- U/S. 270A levied by the Ld. A.O. without appreciating the facts and circumstances of the case."*

3. During the course of hearing, the learned Authorised Representative (for short "*the A.R.*") submitted that the assessment proceedings have been set aside in ITA no.44/Nag./2025, vide order dated 14/05/2025, by holding as follows:-

*"3. I have heard both the parties, perused the materials available on record and gone through orders of the authorities below. I find that though the learned CIT(A) granted opportunities to the assessee to substantiate its case, ultimately, the order passed by him is an ex-parte order. Therefore, I am of the opinion that in the interest of justice and following the principles of natural justice, one opportunity is hereby granted to the assessee to substantiate the case before the learned CIT(A).*

*4. Keeping in view the assessee's pattern of non-compliance and procedural delays, I deem it fit and appropriate to impose a cost on the assessee of ₹ 5,000 (Rupees Five Thousand Only) payable to the Maharashtra State Legal Services Authority and produce evidence of payment before the learned CIT(A). This cost underscores the importance of adhering to procedural requirements and timely compliance during assessment and appellate proceedings.*

*5. In view of the above, the impugned order passed by the learned CIT(A) for the assessment year under consideration is hereby set aside and restore the appeal to the file of the learned CIT(A) and direct him to adjudicate the appeal afresh on merit and in accordance with law after providing reasonable opportunity of being heard to the assessee, subject to the condition that the assessee produces evidence of making payment of cost as indicated above. It is also directed that the assessee should not seek adjournment without there being a justified reason.*

*6. In the result, assessee's appeal is allowed for statistical purposes."*

4. Since the assessment proceedings have been restored to the file of the learned CIT(A) for de novo adjudication, consequently, penalty

proceedings are also accordingly restored to the file of the learned CIT(A) to decide the issue afresh. He is directed to decide upon the imposition of penalty only after the appeal against the assessment proceedings is finalized keeping all legal issues wide open for adjudication.

5. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in the open Court on 22/09/2025

**Sd/-**  
**N.K. CHOUDHRY**  
**JUDICIAL MEMBER**

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**NAGPUR, DATED: 22/09/2025**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur