

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA Nos.540 & 541/RPR/2025
निर्धारण वर्ष / Assessment Years : 2012-13 & 2013-14**

Sri Sai Baba Sansthan
Sai Mandir, Avenue-B, Civic Center,
Sector-6, Bhilai-490 006 (C.G.)
PAN: AADTS8938G

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer
Exemption-II, Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Yogesh Sethia, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 24.09.2025
घोषणा की तारीख / Date of Pronouncement : 24.09.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeals preferred by the assessee emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, Delhi dated 30.07.2025 for the assessment years 2012-13 and 2013-14 as per the grounds of appeal on record.

2. At the very outset, the Ld. Counsel for the assessee submitted that the assessee is a religious public charitable trust engaged in both public welfare activities as well as religious activities. The trust runs separately a temple of Lord Shirdi Sai Baba "Shraddha" "Saburi", and along with the religious activities, several charitable activities are also conducted as per the memorandum of association and bye-laws of the said trust.

3. Coming to the merits of the matter, the Ld. Counsel for the assessee submitted that these two cases pertain to A.Ys.2012-13 and 2013-14 regarding penalty levied u/s. 271(1)(c) of the Income Tax Act, 1961 (for short 'the Act'). It was submitted by the Ld. Counsel that quantum appeal for both the years i.e. A.Y.2012-13 and 2013-14 have been remanded to the file of the Ld. CIT(Appeals)/NFAC since the said orders on quantum were ex-parte. In this context, the Ld. Counsel submitted the copy of order

of the Tribunal in **ITA Nos.247 & 248/RPR/2025 for A.Ys.2012-13 & 2013-14, dated 03.06.2025.**

4. The Ld. Sr. DR conceded to these facts on record and submissions put forth by the Ld. Counsel for the assessee.

5. Having heard the parties herein, I am of the considered view that since quantum appeals of the assessee have been remanded back to the file of the Ld. CIT(Appeals)/NFAC, therefore, following the principles of consistency and for completeness of the matters, it would be all the more appropriate that the penalty appeals should also be restored to the file of the Ld. CIT(Appeals)/NFAC. My aforesaid view in restoring the penalty to the Ld. CIT(Appeals)/NFAC is fortified by the judgment of the **Hon'ble Supreme Court** in the case of **Mohd. Mohatram Farooqui vs. CIT (SC) 2010-TIOL-23-SC-IT** wherein it has been held that if addition is restored to the A.O, then penalty should also be restored. Also, the **Hon'ble High Court of Delhi** in the case of **Sanjay Gupta Vs. CIT (2014) 366 ITR 18 (Del)** has also held that where the quantum has been remanded to the A.O, the question of penalty on account of the said amount being treated as undisclosed income, should also be remanded to the A.O. In the present case before me the concerned authority however shall be Ld. CIT(Appeals)/NFAC since the quantum has been remanded back to its file for denovo adjudication.

6. In view of the aforesaid facts, I set-aside the respective orders of the Ld. CIT(Appeals)/NFAC and remand the matters back to its file for denovo adjudication. The Ld. CIT(Appeals)/NFAC shall first deal with quantum appeals and if the additions or part addition are sustained then only shall the penalty survive. In case, the substantive additions are deleted completely then penalty shall automatically have no legal sustainability separately and shall have to be quashed.

7. As per the above terms grounds of appeal raised by the assessee are allowed for statistical purposes.

8. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in open court on 24th day of September, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 24th September, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur