

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

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND  
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
(Hybrid Hearing)**

**I.T.A. No. 191/Asr/2025  
Assessment Year: 2017-18**

Suman Chhabra, Ward No. 06, House No. 38, R.S. Pura, Jammu and Kashmir. [PAN:-ALDPC6995Q] <b>(Appellant)</b>	Vs.	ITO, Ward-1(1) Jammu.  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. Rohit Kapoor, CA. & Sh. V. S. Aggarwal, ITP
<b>Respondent by</b>	Sh. Charan Dass, Sr. DR

<b>Date of Hearing</b>	08.09.2025
<b>Date of Pronouncement</b>	26.09.2025

**ORDER**

**Per: Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of ld. CIT (A), passed u/s 250 of the Act, 1961 vide order dated 21.11.2024 which has emanated from the penalty imposed by the AO Ward 1(1), Jammu passed u/s 270A of the Act, vide order dated 25.08.2022.

2. Condonation of delay:

It is pointed out by the Registry that this appeal is filed belatedly by 29 days. The assessee has filed an application for condonation of delay where it has been submitted that penalty order has been passed on 21.11.2024, and the appeal before the Hon'ble Tribunal was supposed to have been filed by 20<sup>th</sup> January, 2024. However, on account of medical issues the Id. CA of the assessee *Mr. Gunjan* could not handover the relevant appeal documents to the present counsel *Mr. V.S. Aggrawal* and an affidavit has also been filed by the said CA expressing his inability to handover the documents within time, resulting in delay because of medical issue. The Id. DR has no objection. Considering the reasons, we condone the delay of 29 days and admit the appeal to be heard on merits.

3. The grounds of appeal taken by the assessee in Form No. 36 are as below:

*“1. The CIT(A) NFAC has erred in law and in facts in confirming the penalty order passed by the AO u/s 270A in imposing a penalty of Rs. 1232082/- and dismissing the appeal in limine without adjudicating the case on merits.*

*2. That on the facts and circumstances of the case, the Ld. CIT(A) erred in law by not condoning the delay of 169 days, despite the assessee's mental distress during the period.*

*3. The Ld. CIT(A) erred in deciding the appeal by passing order under section 250 without considering that the appeal related to the quantum, on which the penalty was imposed, is still pending before the CIT.*

4. *The Ld. CIT(A) erred in confirming the AO's action, as the AO failed to record specific satisfaction at the conclusion of the assessment proceedings regarding the intention to levy penalty for misreporting or underreporting, as required under section 270A.*

5. *That the appellant craves leave to add, alter or amend any ground of appeal at any time before or at the time of hearing.”*

4. The brief facts emerging from records are that the assessee has filed his return declaring a total income of Rs. 3,40,490/- and on the basis of information gathered by the AO that the assessee has made an investment in purchase of immovable property amounting to Rs.9 (Nine) lakhs during the financial year 2016-17 (*relevant to the year under appeal*) and in absence of proper representation before the AO to various notices issued by the department the assessment was completed *ex parte u/s 147 r.w.s. 144 on 07.02.2022* on a total income of Rs.25.90 lakhs.

4.1 Penalty u/s 270A has been initiated for misreporting of income leading to concealment of income and in absence of any representation or explanation in response to such penalty, notices issued on four different dates 07.02.2022, 04.04.2022, 08.08.2022 and lastly 16.08.2022 the AO has imposed *penalty amounting to Rs.12.32 lakhs* for misreporting of income (*@ 200% of the tax amount*).

5. The penalty matter carried in appeal before the first appellate authority has been dismissed without admitting the said appeal for adjudication on merits, refusing to condone the delay of nearly six months in filing the appeal.

6. In course of hearing before the tribunal, the Id. AR of the assessee submitted that in the instant case, the delay in filing the appeal before the first appellate authority amounting to 169 (One Hundreded Sixty Nine) days has been explained in form no. 35 itself and assessee has prayed for condonation of delay on the ground that during that period of time the daughter of the assessee was facing divorce proceedings and as a result, the assessee was passing through a very stressful phase and was mentally disturbed, and could not contact his lawyers for filing of the appeal in time. He further submitted that the delay in filing the appeal was not intentional and there was no wilful default on the part of the assessee and the assessee has not gain anything by filing the appeal late.

6.1 He further stated that the appellant has also deposited 20% (Twenty) of tax demand arising out of quantum addition and the order against the quantum addition is also pending in appeal before the Id. first appellate authority and the Id. CIT(A) was informed to please keep the penalty proceedings in abeyance till the disposal of the appeal in quantum which however has not been done.

6.2 Similar prayer was also made before the AO to keep the penalty proceedings in abeyance till disposal of quantum appeal but the AO has not heeded to the said prayer. As such, he submits that since the question of under reporting and mis representing of income is directly linked to the quantum proceedings which is pending before the Id. CIT(A) this particular penalty appeal may also be remanded back to the files of the Id. CIT(A) to be considered and decided together with the quantum appeal. Before concluding, he submits that since the assessee was prevented by sufficient cause from filing the appeal before the Id. first appellate authority within time and the delay being not intentional the delay of 169 days may please be condoned and the matter may be remanded back to the files of the Id. first appellate authority for adjudication on merits.

6.3 The Id. DR relied on the order of the Id. CIT(A) but has no objection if the matter is remanded back to the file of the Id. CIT(A) for considering the penalty matter along with the quantum appellate proceedings in tandem which should be decided together, to render proper justice.

7. We have heard the rival submissions and considered the materials on record and we find that the delay of *169 days* has been satisfactorily explain with sufficient reasons and we condone the said delay in filing the appeal before the first appellate authority. Since the first appeal against quantum is pending before the Id. CIT(A),

we remand this penalty matter back to the file of the ld. CIT(A) to be taken up for hearing together with the quantum appeal which is pending before the same authority for decision on merits. As such, the appeal of the assessee is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced on 26.09.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.**

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**  
**Accountant Member**

**Sd/-**

**(UDAYAN DASGUPTA)**  
**Judicial Member**

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order