

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

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. Nos. 597, 598 and 101 to 103/Asr/2024 & 2025

Assessment Years: 2015-16 & 2017-18

Amarjot Singh
S/o Sh. Gurbachan Singh
Vill. Babehali, Distt.
Gurdaspur-143530, Punjab
[PAN: BALPS 1060A]

(Appellant)

Vs.

Income Tax Officer,
Ward Gurdaspur,
Income Tax Office,
G.T. Road, Distt. Gurdaspur
Punjab 143521

(Respondent)

Appellant by : Sh. P. N. Arora, Adv.
Respondent by : Sh. Charan Dass, Sr. D.R.
Date of Hearing : 09.09.2025
Date of Pronouncement : 07.10.2025

ORDER

Per Udayan Dasgupta, J.M.:

ITA No. 597/Asr/2024:

This appeal is filed by the assessee against the order of the Id. CIT(A) NFAC, Delhi dated 14.08.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, NFAC, Delhi passed u/s 147 r.w.s. 144 of the Act, 1961 dated 14.03.2022.

2. **Condonation of delay:** This appeal is filed belatedly by twenty-four days (24 days), and an application is filed by assessee praying for condonation of delay on medical grounds that the assessee was under treatment for *Radiculopathy* during the months of *September and October 2024*, and has furnished medical documents from one Dr. Nitin Sharma (*Sharma Clinic*). Subsequently on recovery this appeal is filed on 6th November, 2024, belated by 24 days. The Ld. D.R. has no objection. Considering the medical issues the delay is condoned.

3. Brief facts of this case are that the assessee is engaged in agricultural activity and has filed his regular return declaring an income of Rs. 2.31 lakhs from other source and agricultural income of Rs. 22.70 lakhs, which has been assessed u/s 143(3) of the Act 61.

4. Subsequently, on information from investigation wing and verification of his Axis Bank statement (A/c No xxxxxx89190) it was observed that an amount of Rs 1.70 crores has been invested by the assessee in *M/s AGM Mall Pvt. Ltd., Gurudaspur*, during the financial year under appeal, through bank channel from the said bank A/c which has been funded by various credit entries (*deposits*) in the said bank, which the assessee explained to have been sourced by his relatives, friends, loan lenders, and also a part out of earlier savings.

5. In response to notice *u/s 148 dated 31st March, 2021*, duly served, there was no compliance from the assessee and no representation to subsequent notices issued *u/s 142(1)* on various dates. Subsequently, in response to the final SCN (*after receipt of copy of draft order*) dated 14th February, 2022, the assessee filed his return *u/s 148* on 12th March, 2022, and the assessment was completed on 14th March, 2022 on a total income of Rs. 1.72 crores (*with an addition of Rs. 1.70 crores u/s 69 of the Act*).
6. The matter was carried in appeal and the Id. first appellate authority has dismissed the appeal on the grounds of non-compliance on the part of the assessee to various notices issued from the office of the Id. CIT(A) on various dates of hearing as evident from page 4 of the appeal order by observing as under:

“3.10 From the aforementioned discussion, it is clear that no written submissions have been made. Therefore, it is stated that no useful purpose would be served by keeping the appeal pending and therefore the appeal is decided on the basis of documents available on record. There may be various reasons with the appellant to remain absent at the time of hearing. One of the reasons may also be a desire or absence of need to prosecute the appeal or inability to assist in the appellate proceeding in a proper manner or to take benefit of vagaries of law. However, the exact reasons for non-attendance/non-submission are only known to the appellant. The CIT (Appeal) can under such-circumstances, invoke the inherent powers vested therein. These powers are embedded with certain inherent obligations also. One of such obligations is that the appellant must not be deprived of being heard. Therefore, the easiest way for appellant in this case was to furnish the written submission in support of grounds of appeal and attend the hearing. But instead, the appellant in this case not only chose to ignore the date of hearing but even did not furnish any submissions.

3.11 Considering the above discussion and facts, appeal filed by the appellant is dismissed as not maintainable.

In effect, the appeal is dismissed.”

7. Now, the assessee is in appeal before the Tribunal on various grounds contained in Form No. 36. The assessee has taken seven grounds of appeal on facts as well as on law and his main agitation is that no opportunity has been allowed by the Assessing Officer and also by the Id. first appellate authority to represent his case. He submitted that no notice of hearing has been issued in the e-mail id as stated in Form No. 35 as agmmallgsp@gmail.com and all notices from the office of the Id. first appellate authority has been issued in the *ITBA portal*, resulting in no proper service of notice on the assessee and as such the assessee could not represent the hearing. Apart from this objection various other legal ground has been taken up by the assessee regarding non issue of notice u/s 143(2) in response to return submitted u/s 148, even though, we find that the return has been filed by the assessee after receipt of the *draft assessment order* and the same has been filed after 11 (eleven) months from the date of service of notice u/s 148.

8. Moreover, on merits he submitted that the credit entries relating to bank deposits in *Axis Bank* are sourced out of funds obtained on loans from various friends and relatives, the creditworthiness of which has not been proved to the satisfaction of the

Assessing Officer. As such, he prayed for an opportunity of hearing, in order to explain the source of Axis Bank deposits which in turn has been utilized for the purpose of investment in AGM Mall as reflected in the bank statement.

9. The Id. D.R. submitted that in the instant case, return of income has not been filed within due time in response to notice u/s 148 of the Act, and there has not been any response from the assessee in respect of various notices issued, and the assessee has filed the return after receipt of the draft assessment order, which means the assessee was already in knowledge of the entire concealment and details of escaped income before filing the return which has been filed after 11 (eleven) months, on the verge of *time barring* and for all practical purposes, the law laid down by the Hon'ble Apex Court in the case of *G.K.N. Driveshaft v. ITO* [2002] 125 Taxman 963 (Supreme Court) has not been followed in letter and spirit. However, he has no objection if the matter is remanded back to the files of the Id. first appellate authority, considering the ground that notice of hearing has not been issued in the *e-mail id mentioned* in Form No. 35.

10. We have heard the rival submissions and considered the materials on record and we find that in the instant case, the notice from the office of the Id. first appellate authority has not been issued in the *e-mail id mentioned in Form No. 35*, as a result of which the assessee could not make any representation and we are also of the opinion that the source of deposits in the assessee's bank account needs to be explained with

proper documentary evidences and as such, in the interest of justice, we set aside the matter back to the files of the Id. first appellate authority for adjudication on all the grounds contained in Form No. 35 on merits of the case and we also direct the assessee to file all documentary evidences and to fully co-operate in the appellate proceedings.

11. Since, we have remanded the matter for fresh adjudication before the Id. first appellate authority, the legal grounds and grounds on merits are not adjudicated by us and all issues are left open.

12. The assessee will be allowed reasonable opportunity of being heard and notices to be served on e-mail id mentioned in Form No. 35.

13. In the result, the appeal filed by the assessee is allowed for statistical purpose.

I.T.A. No. 101/Asr/2025 for A.Y. 2015-16:

14. This appeal is filed by the assessee against the order of the Id. CIT(A) NFAC, Delhi dated 27.01.2024 passed u/s 250 of the Income Tax Act, 1961 sustaining the penalty order passed u/s 271B of the Act by imposing the penalty of Rs.85,000/- being the half percent of *turnover of Rs.1.70 crores*.

15. The Id. AR of the assessee submitted before us that in the instant case, the AO has considered the investment of Rs. 1.70 crores made by the assessee in *AGM Mall*

Pvt. Ltd. as turnover of the assessee. In fact, the assessee is engaged in agriculture and has got income from agricultural activities and other sources and is in no way engaged in any business activity. As such, the determination of turnover at Rs.1.70 cores is legally and factually incorrect and the imposition of penalty u/s 271B for non-audited of account is also incorrect because the assessee is not hit by the provisions of section 44AB of the Act, 1961.

16. The ld. D.R. relies on the order of the ld. CIT(A).

17. We have heard the rival submission and considered the material on record and we find that imposition of penalty u/s 271B of the Act will not be legally justified in absence of any *business turnover* and non-applicability of section 44AB of the Act, 1961. However, since we have remanded the quantum appeal back to the files of the ld. first appellate authority for adjudication on merits of the case, we also deem it fit and proper to remand this penalty appeal u/s 271B back to the ld. first appellate authority to decide the matter in tandem with the quantum appeal.

18. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

ITA No. 598/Asr/2024:

19. This appeal is filed by the assessee against the order of the Id. CIT(A) NFAC, Delhi dated 31.07.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, NFAC, Delhi passed u/s 144 r.w.s. 147 of the Act, 1961 dated 14.03.2022.

20. **Condonation of delay:** This appeal is filed belatedly by thirty-seven days (37 days), and an application is filed by assessee praying for condonation of delay on medical grounds that the assessee was under treatment for *Radiculopathy* during the months of *September and October 2024*, and has furnished medical documents from one Dr. Nitin Sharma (*Sharma Clinic*). Subsequently on recovery this appeal is filed on 6th November, 2024, belated by 37 days. The Ld. D.R. has no objection. Considering the medical issues the delay is condoned.

21. The facts of the case are identical to the facts as narrated by us in I.T.A No. 597/Asr/2024 relating to the same assessee.

22. The main dispute in this case relates to the addition of *Rs.1.31 crores* u/s 69 of the Act on account of investment made by the assessee in *AGM Mall Pvt. Ltd.*, Gurdaspur, through his Axis Bank where the credits in such bank account has not been explained to the satisfaction of the Assessing Officer.

23. The matter carried in appeal has been dismissed in absence of any compliance to various notices issued by the Id. first appellate authority, but from the appeal order is not ascertainable whether any notice of hearing has been issued in the *e-mail id stated* in Form No. 35.

24. The Id. AR of the assessee in course of hearing before the Tribunal has relied on almost identical grounds as discussed by us in ITA No. 597/Asr/2024 in the assessee's own case for the Asstt. Year 2015-16 and as such, in the interest of justice, we also set aside this matter back to the files of the Id. first appellate authority for adjudication on merits on all the grounds contained in Form No. 35 and the assessee is also directed to furnish documentary evidences and submissions in support of his contention and to fully cooperate in appellate proceedings.

25. The Id. DR present in the court has no objection if the matter is remanded back to the Id. first appellate authority.

26. Our observation in ITA No. 597/Asr/2024, will apply *mutatis mutandis* to this appeal of the assessee.

27. The assessee will be allowed reasonable opportunity of being heard and notices to be issued as per e-mail id stated in Form No. 35.

28. We have not adjudicated on the merits of the case and all legal grounds taken by the assessee are left open.

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

I.T.A. No. 102/Asr/2025 for A.Y. 2017-18:

30. This appeal is filed by the assessee against the penalty of Rs.5000/- u/s 271F imposed by the AO and sustained by the Id. CIT(A) u/s 271F of the Act, 1961.

31. Since, we have remanded the quantum appeal back to the files of the Id. CIT(A), we remand this penalty matter also to be decided in tandem of the quantum appeal.

I.T.A. No. 103/Asr/2025 for A.Y. 2017-18:

32. This appeal is filed by the assessee against the order of the Id. CIT(A) sustaining the penalty imposed by the AO u/s 272A(1)(d) for non-compliance to notices issued u/s 142(1) for two separate defaults, whereby penalty of Rs. 20,000/- has been imposed @ Rs. 10,000/-, for each default.

33. The matter in first appeal has been dismissed by the Id. first appellate authority u/s 249(2) of the Act, refusing to condone the delay in filing the first appeal by 23 (twenty-three) days where no application for condonation of delay has been filed and in absence of any reasons put-forth by the assessee for this delay.

34. The Id. AR of the assessee in course of hearing relied on the same medical certificate which is already considered by us and submitted that the assessee was under medical treatment as a result of which, there was a delay of 23 days in filing the appeal before the Id. first appellate authority. We find that this appeal before the Id. first appellate authority has been filed on 2nd November, 2024 which is during the period when the assessee was undergoing treatment.

35. As such, we are of the opinion that the delay of 23 days in filing the appeal before the first appellate authority is sufficiently explained and we condone the said delay and remand the matter back to the files of the Id. first appellate authority for decision on merits in tandem with the quantum appeal.

36. The assessee will be allowed reasonable opportunity of being heard.

37. In the result, all the five appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 07.10.2025

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order