



**आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"**  
**RAJKOT BENCH, RAJKOT**  
**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA No. 595/RJT/2025

(निर्धारणवर्ष/Assessment Year: (2017-18))

Sanjay Mohanbhai Molia Ma Krupa, Plot No, 44, Shree Gayatri Drilling Co, Patel Colony opp. Parivar Park, Mavdi Plot – Rajkot (Gujrat)- 360004	Vs.	The ITO Ward – 1(1)(1), Aayakar Bhawan, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AMHPM0130A</b>		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by : Shri Brijesh Parekh, Ld. AR  
Respondent by : Adjournment Application  
Date of Hearing : 22/10/2025  
Date of Pronouncement : 24/10/2025

**ORDER**

**Per.Dr. Arjun Lal Saini, Accountant Member:**

The present appeal has been filed by the Assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), Ahmedabad/ National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 22.09.2025 arising in the matter of assessment order passed u/s. 272A(1)(d) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2017-18.



2. At the outset itself, the Id. Counsel for the assessee assailed the impugned order by contending that the assessee could not represent his case before Ld. CIT(A) and the order being an *ex-parte* order, stood vitiated on account of violation of principle of natural justice. The Ld. Counsel for the assessee submitted that assessee could not appear before the Ld. CIT(A) as the notices were not served on the assessee, however, there was compliance before the assessing officer. The Ld. Counsel submitted that assessee's quantum appeal relating to this penalty appeal, has been remitted back by Ld. CIT(A) to the file of assessing officer for fresh adjudication, therefore, this penalty appeal may also be restored back to the file of assessing officer for fresh adjudication.

3. On the other hand, the Id. DR for the Revenue relied on the finding of the assessing officer.

4. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. I note that in the assessee's case under consideration, the penalty was imposed u/s. 272A(1)(d) of the Act, and the impugned order passed by the Id. CIT(A), is an *ex parte* order and non-speaking order, therefore, I do not wish to make any comments on the merits of the grounds raised by the assessee. I note that in assessee's case under consideration, the quantum appeal of the assessee, has been restored back to the file of assessing officer for fresh adjudication , vide order of CIT(A) dated 25.08.2025; wherein Ld. CIT(A) held as follows:

*"6.9 In the wake of the above discussion, the assessment order dated 28.06.2019 passed u/s 144(1)(b) of the Income-tax Act, 1961 is hereby set-aside to the file of the A.O. for fresh adjudication. The Assessing Officer is directed to make a fresh assessment after giving*



*adequate opportunities to the appellant and complying with all the extent rules and provisions and following principles of natural justice.*

*6.10 Needless to say that the assessee shall fully co-operate with the A.O in the timely completion of the set aside proceedings. The appellant may note that all the necessary compliances should be made at the earliest and within the time limit prescribed in the Notices issued by Ld. AO. It should be the endeavor of the Appellant to promptly submit necessary evidences in support of her Income tax return, suo-moto or as required by the Assessing Officer without causing undue delays leading to submissions towards the fag end of the limitation period. The assessment order is thus, set aside in accordance with the Proviso to Section 251(1)(a) with a direction to the AO to make a fresh assessment in accordance with the Rules and the timelines prescribed u/s 153(3) of the Act.*

*7. For statistical purposes, the appeal is allowed.”*

5. Since, the quantum appeal of the assessee has been restored back to the file of assessing officer, therefore, penalty imposed by the assessing officer does not have any leg to stand, however, the assessing officer may impose the penalty, if any, in de-novo proceedings, as per the provisions of the Act.

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

**Order is pronounced in the open court on 24/10/2025**

**Sd/-**

**(DR. A. L. SAINI)  
ACCOUNTANT MEMBER**

राजकोट/Rajkot  
दिनांक/ Date: 24/10/2025

**Copy of the order forwarded to:**

The assessee  
The Respondent  
CIT  
The CIT(A)  
DR, ITAT, RAJKOT  
Guard File

By order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot