

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' A ' Bench, Hyderabad**

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य  
**SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER**  
**AND**  
**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

आयकर अपील सं./I.T.A.No.1312/Hyd/2025  
(निर्धारण वर्ष/ Assessment Year: 2016-17)

Kanaka Chalam Volety, C/o.M/s. Nitin J Shetty & Co., Chartered Accountants, Karnataka.  PAN : ADZPV1375M	Vs.	The Income Tax Officer, Ward-12(1), Hyderabad.
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri Sriram V. Rao, C.A. (Appeared through Hybrid Mode)
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Gurpreet Singh, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	14.10.2025
घोषणा की तारीख/ Date of Pronouncement	:	17.10.2025

**ORDER**

**PER MANJUNATHA G., A.M :**

This appeal filed by the assessee is directed against the order of  
the learned Commissioner of Income Tax (Appeals), National

Faceless Appeal Centre [in short “NFAC”], Delhi, relating to the assessment year 2016-17.

2. The brief facts of the case are that the assessee has not filed his return of income for the A.Y. 2016-17. As per the information available on record, no regular assessment u/s 143(3) or reassessment proceedings u/s 147 of the Income Tax Act, 1961 had been carried out in the case of the assessee for the said assessment year. Therefore, the Assessing Officer initiated proceedings u/s 147 of the Act, and issued notice u/s 148 of the Act, on 24.03.2023 requesting the assessee to furnish his return of income within thirty days. However, the assessee neither furnished the return of income nor filed any reply in response to the notice issued u/s 148 of the Act. Subsequently, statutory notices u/s 142(1) of the Income Tax Act, 1961 were issued on various dates calling upon the assessee to furnish the required details and documents for verification of the issues involved. However, the assessee failed to comply with the same and did not furnish any explanation or evidence during the course of assessment proceedings. In view of these facts, the Assessing Officer completed the assessment u/s 147 r.w.s. 144 r.w.s. 144B

of the Income Tax Act, 1961, determining the total income of the assessee at Rs.74,04,115/- vide order dated 11.01.2024. Further, penalty proceedings u/s 271(1)(b) of the Act, were initiated for non-compliance with the notices issued u/s 142(1) of the Act dated 23.08.2023 and 25.09.2023. Accordingly, show cause notice u/s 274 r.w.s. 271(1)(b) of the Act was issued to the assessee on 11.01.2024, followed by another notice on 10.04.2024, providing opportunities to furnish an explanation. However, the assessee failed to respond to both the notices within the stipulated time. In the absence of any explanation from the assessee, the Assessing Officer concluded that the assessee had committed default within the meaning of section 271(1)(b) of the Income Tax Act, 1961 and accordingly levied the penalty for non-compliance.

3. On being aggrieved, the assessee filed an appeal before the Ld. CIT(A) against the penalty order passed by the A.O. u/s 271(1)(b) of the Act. The Ld. CIT(A) vide order dated 25.07.2025, passed an *ex parte* order and upheld the penalty levied by the A.O., in the absence of any explanation or evidence furnished by the assessee.

4. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal.

5. The learned counsel for the assessee Shri Sriram V Rao, C.A. referring to the paper book filed by the assessee, submitted that the Ld. CIT(A) passed an ex parte appellate order and upheld the penalty levied by the A.O., even though the assessee submitted that the A.O. had sent notices to a different email ID, which is not at all belonged to the assessee. The learned counsel for the assessee further submitted that the assessee had changed his email ID while linking Aadhaar to PAN No. and had intimated the same to the A.O. However, the A.O. continued to serve notices through the old email ID, which was unnoticed by the assessee and because of this, the assessee could not represent before the A.O. during the assessment proceedings and penalty proceedings. Further, the additions made by the A.O. in the assessment proceedings has been challenged by filing an appeal before the Ld. CIT(A) and the same is pending for disposal and this fact was also informed to the A.O. during the penalty proceedings in light of the provisions of Section 275 of the Act, but the A.O. levied penalty. This fact was also brought to the notice of the Ld. CIT(A), but the

Ld. CIT(A) without considering the relevant facts, simply upheld the penalty levied by the A.O. Therefore, he submitted that the penalty levied by the A.O. should be deleted.

6. The Learned Senior A.R. for the Revenue Shri Gurpreet Singh, on the other hand, submitted that since the assessee could not respond to the notice issued by the A.O. and also not appeared before the Ld. CIT(A), the CIT(A) passed an ex parte appellate order and upheld the penalty levied by the A.O. Since the assessee pleads that the appeal filed against the additions made by the A.O., which is pending for adjudication, and the assessee further requested the A.O. to keep the penalty proceedings in abeyance in light of the provisions of Section 271 of the Act., the issue may be remanded back to the file of the A.O. to decide the issue of levy of penalty after the outcome of the appeal filed by the assessee before the CIT(A). Therefore, he submitted that the matter may be remanded back to the file of A.O.

7. We have heard both parties, perused the material available on record, and had gone through the orders of the authorities below. There is no dispute with regard to the fact that, the assessment

proceedings and the consequent penalty proceedings under Section 271D of the Act were ex parte before the A.O. because the notices issued by the A.O. were not served on the assessee. Further, the assessee claims that the appeal filed against the assessment order passed by the A.O. under Section 143(3) r.w.s. 147 of the Act, is pending for disposal, and this fact has been informed to the A.O. with a request to keep the penalty proceedings in abeyance till the disposal of the appeal filed before the Ld. CIT(A), as per the provisions of Section 275 of the Income Tax Act. Although the assessee requested the A.O. to keep in abeyance the penalty proceedings, but the A.O. rejected the request of the assessee and levied penalty under Section 271D of the Act, even though the appeal filed by the assessee is still pending for disposal.

8. The Ld. CIT(A) once again had not considered the relevant facts and has simply passed an ex parte order for non-prosecution and upheld the penalty levied by the A.O. Since the appeal filed by the assessee against the assessment order is pending for disposal, and as per the provisions of Section 275 of the Act, the A.O. can very well levy the penalty after receipt of the

appellate order from the First Appellate Authority. In our considered view, the A.O. ought to have kept the penalty proceedings in abeyance as requested by the assessee in terms of Section 275 of the Income Tax Act, 1961. The Ld. CIT(A), without considering the relevant facts, simply passed an ex parte order and upheld the penalty levied by the A.O. Thus, we set aside the order passed by the Ld. CIT(A) and restore the issue back to the file of A.O. The A.O. is directed to reconsider the issue of penalty under Section 271(1)(b) of the Act for non-compliance to the notice issued under Section 142(1) of the Act, after the outcome of the appeal filed by the assessee before the First Appellate Authority.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 17<sup>th</sup> October, 2025.

<b>Sd/-</b> (श्री रवीश सूद) <b>(RAVISH SOOD)</b> न्यायिक सदस्य/JUDICIAL MEMBER	<b>Sd/-</b> (मंजूनाथ जी) <b>(MANJUNATHA G.)</b> लेखा सदस्य/ACCOUNTANT MEMBER
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Hyderabad, dated 17.10.2025.  
**TYNN/sps**

**आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Kanaka Chalam Volety, C/o.M/s. Nitin J Shetty & Co., Chartered Accountants, Volet Complex, S. Karnataka.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward 6(4), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Hyderabad