

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

**BEFORE : SHRI S. RIFAUZ RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA Nos. 128 to 131/Agr/2021
Assessment Year: 2012-13**

Garrison Engineer (E.M), Air Force Station, Maharajpur, Gwalior (MP).	Vs.	Joint Commissioner of Income-tax (TDS), Bhopal (MP)
TAN : BPLG02895E		
(Appellant)		(Respondent)

And

**ITA Nos. 132 to 135/Agr/2021
Assessment Year: 2013-14**

Garrison Engineer (E.M), Air Force Station, Maharajpur, Gwalior (MP).	Vs.	Income-tax Officer (TDS), Gwalior (MP).
TAN : BPLG02895E		
(Appellant)		(Respondent)

Assessee by	Sh. Ashok Vijaywargia, C.A.
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	13.10.2025
Date of pronouncement	30.10.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

ITA Nos. 128 to 131/Agr/2021 have been preferred by assessee against separate impugned orders each dated 18.08.2021 passed in Appeal Nos. CIT (A), Gwalior/10337/2020-21, CIT (A),

Gwalior/10339/2020-21, CIT (A), Gwalior/10340/2020-21 and CIT (A), Gwalior/10338/2020-21 respectively, by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2012-13 (1st, 2nd, 3rd, and 4th Quarter), wherein the Id. CIT(Appeals) has dismissed assessee's first appeals, confirming penalty orders each dated 20.03.2020 passed u/s. 272A(2)(k) of the Act, levying penalty of Rs.80,600/-.

2. ITA Nos. 132 to 135/Agr/2021 have been preferred by assessee against separate impugned orders each dated 18.08.2021 passed in Appeal Nos. CIT (A), Gwalior/10377/2020-21, CIT (A), Gwalior/10378/2020-21, CIT (A), Gwalior/10379/2020-21 and CIT (A), Gwalior/10380/2020-21 respectively, by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2013-14 (1st, 2nd, 3rd, and 4th Quarter), wherein the Id. CIT(Appeals) has dismissed assessee's first appeals, confirming the orders each dated 26.08.2020 passed u/s. 154 of the Act.

3. Since, the issue involved in both the assessment years is almost identical, all these appeals are being disposed of by the consolidated

order. We, first, take up the appeals pertaining to assessment year 2012-13.

ITA Nos. 128 to 131/Agr/2021 (A.Y. 2012-13):

4. Brief facts state that the assessee appellant is a Central Government entity functioning under the administrative control of the Ministry of Defense. During the Financial Year 2011–12, relevant to assessment year 2012-13, the assessee appellant duly deducted tax at source (TDS) on various payments and remitted the same to the credit of the Central Government account well within the prescribed time. However, assessee appellant did not file the quarterly e-TDS statements prescribed u/s. 200(3) of the Act r/w rule 31A of the Income Tax Rules, 1962 in the prescribed Form 24Q by the due date for all the four quarters of the relevant financial year. The assessee was issued various notices u/s. 274 r/w section 272A(2)(k) of the Act and other show cause notice and reminders, but the assessee did not make any submission before the Assessing Officer. The Assessing Officer, therefore proceeded to complete the penalty proceedings and the total delay across all four quarters was reckoned to the extent of 806 days, for which the Assessing Officer levied penalty to a total of Rs. 80,600/- (i.e., Rs.100 per day) vide orders dated 20.03.2020 passed under Section 272A(2)(k) of the Act. The details of such penalties are as under :

Quarterly statement Form No.	Quarter	Due date of filing	Date of filing	TDS amount	Delay in days in filing	Penalty u/s. 272A @ Rs.100/ per day
24Q	Q1	15.07.2011	Not filed	231388	351	35100/-
24Q	Q2	15.10.2011	Not filed	311051	259	25900/-
24Q	Q3	31.01.2012	Not filed	632497	151	15100/-
24Q	Q4	15.05.2012	Not filed	1344447	45	4500/-
TOTAL						80,600/-

5. Aggrieved, assessee filed first appeals before Ld. CIT(A), which were dismissed ex parte.

6. The grounds raised by assessee in ITA No. 128/Agr/2021, which are common to all other appeals for A.Y. 2012-13 except the difference in quantum of penalty, read as under :

“1.That, on the facts and circumstances of the case and in law and in any view of the matter, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre has erred in passing the order u/s 250 of the Income Tax Act, 1961 on 18.08.2021 with the result "appeal is dismissed" stating that "the assessee filed no written submission", particularly in the situation when the request for adjournment application uploaded on 13.08.2021 i.e. the day of hearing fixed for 13.08.2021, which was not rejected prior to dismissing the appeal.

2.That, on the facts and circumstances of the case and in law, and in any view of the matter, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre has erred in dismissing the following grounds of appeal raised before him:

1. That, on the facts and circumstances of the case and in law, and in any view of the matter, the impugned penalty order dated 20.03.2020 levying a penalty of Rs. 35,100/- u/s 272A(2) (k) by the Ld. Joint Commissioner of Income Tax, (TDS) along with demand notice issued on 08.05.2020 by the Ld. Income Tax Officer (TDS) is unjustified, unwarranted and not according to law and deserve to be cancelled.

2. That, on the facts and circumstances of the case and in law, and in any view of the matter, the Ld. Joint Commissioner of Income Tax, (TDS) has erred in levying a penalty of Rs. 35,100/-

u/s 272A(2) (k) for not filing the statement in prescribed Form No. 24Q for first Quarter as provided in section 200(3) of the Income Tax Act, 1961, whereas, the appellant being Government office was not required to file the statement in prescribed Form 24Q as provided in section 200(3) of the Income Tax Act, 1961

3.That, on the facts and circumstances of the case and in law, and in any view of the matter. The Ld. Joint Commissioner of Income Tax, (TDS) has erred in levying a penalty of Rs. 35,100/- u/s.272A(2)(k) for merely a technical default of not filing the statement in prescribed Form No. 24Q for first Quarter as provided in section 200(3) of the Income Tax Act, 1961, whereas the appellant had deposited /remitted the amount of TDS to the credit of the Central Government.

4.That, the appellant craves leave to add, amend, alter, delete any ground(s) of appeal before and/or at the time of hearing.

3.That, on the facts and circumstances of the case and in law, and in any view of the matter, the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre has erred in not allowing reasonable and proper opportunity of hearing before passing the ex-parte order.”

7. Perused the records. Heard learned representative for appellant assessee and learned Sr. DR for Revenue.

8. Learned AR for assessee has submitted that the appellant assessee was not afforded reasonable opportunity to make his submissions before both the authorities below and the impugned penalty has wrongly been imposed by Assessing Officer and affirmed by Id. First appellate authority without considering the fact that the appellant is a Central Government body and that the TDS was deducted and remitted to the Central Government within time and further that the default was

purely technical and unintentional; and that there was no loss caused to the revenue.

9. Learned Sr. DR supported the impugned orders.

10. Perusal of the impugned orders shows that Id. CIT(Appeals) has affirmed the penalty orders, stating that the assessee has made no submission to the various notices issued. Similar is the position in the penalty proceedings before the Assessing Officer, wherein learned Assessing Officer has mentioned that the assessee has not filed any submission for the aforesaid default. It is, however, not in dispute that the appellant assessee is a Central Government body under administrative controls of the Ministry of Defense, Govt. of India. It is also not disputed that the appellant assessee deducted and remitted the tax to the credit of the Central Government. The default relates only to non- furnishing the quarterly TDS statements in Form 24Q. The penalty provision under Section 272A(2) is subject to the saving clause under Section 273B. Section 273B, which provides immunity from penalty if reasonable cause is established for such failure. In the instant case, the appellant assessee has contended that he was not afforded proper opportunity to make his submissions before the authorities below so as to demonstrate the reasonable cause for not filing the requisite statements in Form 24Q and the absence of mala fide intention when the tax has been deducted and

deposited in time. The appellant assessee, being a Central Govt. entity, the decisions relied by Id. CIT(Appeals) in the impugned order are distinguishable on facts.

11. That apart, it will be relevant to note that the law is nothing but an uncommon common sense. Any rule of procedure is only a tool for justice and if necessary, can be moulded to decide the real controversy. Procedural laws provide for natural way of doing things and do not bar even for adoption of additional procedure, as and when the situation may demand. There has to be a human approach in following the procedure prescribed so that it serves the ends of justice and it should not be applied in such a manner to kill the right/duty of any party. The sole object of procedural law is to promote justice. It is settled law that the object of prescribing procedure is to advance the cause of justice. Justice is the goal of jurisprudence. Procedural law is not to be tyrant but a servant not an obstruction but an aid to justice. A procedural prescription is the hand maid and not the mistress, lubricant, not a resistance in the administration of justice. Technical justice cannot take place of substantial justice.

12. In the totality of circumstances, we deem it just and appropriate to remit the cases back to the file of Assessing Officer for passing penalty orders afresh after considering the submissions of the assessee on the

issue involved, in accordance with law and after verifying the fact whether the assessee has deducted at source and deposited the same to the credit of Central Govt. within time or not. The assessee is also directed to be cooperative in attending the proceedings before the Assessing Officer and making submissions, explaining the default in question, for the expeditious and effective disposal. Needless to say, that learned Assessing Officer shall ensure the observance of the principles of natural justice. All these four appeals are, thus, liable to be allowed for statistical purposes.

ITA No. 132 to 135/Agr/2021(A.Y. 2013-14):

13. The facts and issue involved in these appeals are common to those of ITA Nos. 128 to 131/Agr/2021. The only difference is that these appeals emanate from the rectification orders dated 26.08.2020 passed by Assessing Officer u/s. 154 of the Act, against which the first appeals filed by assessee stood dismissed by Id. CIT(Appeals) on the ground that appellant assessee has not filed any submissions regarding any apparent mistakes in the original penalty orders, which should have been rectified by the Assessing Officer in the orders passed u/s. 154 of the Act. In this context, we note that where an order under section 154 has been passed by the Assessing Officer rejecting the rectification sought by

the assessee, the original order shall be deemed to have merged with the order under section 154 for all legal and procedural purposes.

14. Perusal of the impugned orders shows that assessee made his submissions, which are part of para 3 of the impugned orders, as under :

"That, the appellant is a Government office of Air force under Ministry of Defence. The appellant had made various payments during financial year 2012-13 relevant to assessment year 2013-14 subjected to Tax Deduction at source, it had deducted tax at source from payments made liable for TDS and deposited the same amount to the credit of the Central Government. After remitting the amount of TDS to the credit of Central Government, the appellant did not file the statement in form. no. 24Q for first quarter of financial year 2012-13 relevant to assessment year 2013-14 as stipulated under section 200(3) of the Income Tax Act, 1961. The Ld. Income Tax Officer, (TDS) has levied a penalty of Rs. 10,000/- u/s 271H for not filing/default or inaccurate furnishing of information the statement in prescribed form no: 24Q for first quarter as provided in section 200(3) of the Income Tax Act, 1961, whereas, it was not leviable in case of Government office. Alternatively, the penalty u/s 271H is not leviable merely on technical ground of not filing the statement in prescribed form no. 24Q in the cases, where tax was deducted and remitted to the Government. Since it is a Central Government Office and could not get the Penalty Notice as mentioned in the order and accordingly could not submitted the reply and the penalty was imposed thereon."

15. According to appellant's submissions before Id. CIT(Appeals), it transpires that the assessee had deducted required tax at source and deposited the same to the credit of Central Government on or before due date. The only non-compliance on the part of the appellant was that it did not file statement in Form No. 24Q for all the four quarters of F.Y. 2012-13 relevant to assessment year 2013-14. It also transpires that learned CIT(Appeals) has examined the issue on technicalities limited only to the

extent of section 154 of the Act only. In view of what has been held as here in above, we restore these matters back to the file of Assessing Officer for passing the orders afresh after considering the submissions of assessee. We direct the assessee to file submissions and all the details of the tax deducted at source and its deposits to the credit of Central Govt. for all the four quarters, as desired under the Act. Needless to say, that learned Assessing Officer shall ensure the observance of the principles of natural justice. All these four appeals are, thus, liable to be allowed for statistical purposes.

16. In the result, ITA Nos. 128 to 131/Agr/2021 and ITA Nos. 132 to 135/Agr/2021 are allowed for statistical purposes.

Order pronounced in the open court on 30.10.2025.

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 30.10.2025

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra