

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 486 & 487/RPR/2025

(निर्धारण वर्ष Assessment Year: 2015-16)

Ashap Kumar Shantiel Bara, M/s. Jindal Power Limited, Post:-Tamnar, Raigarh- 496107, C.G.	v s	Income Tax Officer, Ward-1, (Through NFAC, Delhi), Income Tax Office, Raigarh- 496001, C.G.
PAN: AIWPB4321R		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri S. R. Rao, Adv.
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	12.11.2025
घोषणा की तारीख / Date of Pronouncement	:	13.11.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned two appeals are filed by the assessee against the orders of Commissioner of Income Tax Appeals, NFAC, Delhi, [in short "Ld. CIT(A)"] passed under section 250 of the Income Tax Act, 1961 (in short "the Act"), dated 10.06.2025 & 13.06.2025 for the Assessment Year 2015-16, which in turn arises from the assessment order u/s 147 r.w.s. 144 r.w.s. 144B of the Act dated 02.03.2023 and penalty order 271(1)(c) of the Act, dated 26.09.2023 passed by Assessment Unit, Income Tax Department (in short "Ld. AO").

2. The grounds of appeal raised by the assessee in **ITA No. 486/RPR/2025** (against impugned order u/s 147 r.w.s. 144 r.w.s. 144B) are as under:

1. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in dismissing the appeal on ground of delay without allowing opportunity and arriving at a conclusion that the appellant has failed to justify the delay in filing appeal by invoking provisions of section 249(3) of the Income-tax Act, 1961.
2. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in confirming initiation of re- assessment proceedings under section 147 of the Income-tax Act, 1961 which was initiated without fulfilling the stipulated conditions u/s.148, 149 and 151A of the Income-tax Act, 1961.
3. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in upholding the notice under section 148A(b), order passed under section 148A(d) and notice under section 148 of the Income-tax Act, 1961 which were issued without obtaining approval of the authority specified in section 151 of the Act, being illegal and without jurisdiction and accordingly all proceedings following such non-est notices are illegal and without jurisdiction.
4. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in upholding the notice u/s.148 of the Income-tax Act, 1961 which was issued in violation of provisions of section 151A read with CBDT's Notification dated 29/03/2022 being illegal and without jurisdiction.
5. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in upholding addition of Rs.77,96,000/- as Income from Other Sources.
6. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in upholding the assessment which was completed without referring the case to Valuation Officer u/s. 50C of the Income-tax Act, 1961.
7. The impugned order is bad in law and on facts.

8. The appellant reserves the right to add, alter, omit all or any of the grounds of appeal with the permission of the Hon'ble appellate authority.

ITA No. 487/RPR/2025 [against penalty order 271(1)(c)]

1. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in dismissing the appeal on ground of delay without allowing opportunity and arriving at a conclusion that the appellant has failed to justify the delay in filing appeal by invoking provisions of section 249(3) of the Income-tax Act, 1961.
2. In the facts and circumstances of the case and in law, the Ld. Commissioner of Income-tax (Appeals), NFAC has erred in upholding imposition of penalty of Rs.44,16,434/- u/s. 271(1)(c) of the Income-tax Act, 1961.
3. The impugned order is bad in law and on facts.
4. The appellant reserves the right to add, alter, omit all or any of the grounds of appeal with the permission of the Hon'ble appellate authority.

3. Since the aforesaid two appeals pertains to the same assessee having interconnected facts, circumstances and issues, therefore they are taken up for hearing together and are disposed under this common order.

4. The brief facts of the case are that the assessee is an individual, who did not file his Return of Income for the year under consideration, however, it is noticed by the department that assessee has sold immovable property value at Rs. 30,00,000/-. Whereas information value of property as per Sub Registrar Office, Panvel-1 was recognized at Rs.77,96,000/-. The case of assessee was accordingly selected for scrutiny invoking the provisions of Section 147 r.w.s. 144B. Various notices were issued to the assessee by the

Ld. AO, however, the assessee remain non-compliant. Accordingly, the assessment was framed in accordance with the provisions of section 144 of the Act and an addition of Rs. 77,96,000/- was made u/s 69A of the Act. Consequently, the penalty proceedings u/s 271(1)(c) are also initiated and a penalty order was passed.

5. Aggrieved with the aforesaid addition and the penalty imposed, assessee preferred appeals before the Ld. CIT(A), however, the appeals of assessee has been dismissed *in limine* on account of delay in filing of the respective appeals, as the reasons submitted by the assessee for delay are not found to “the sufficient cause” within the meaning of section 249 of the Act, by the Ld. CIT(A).

6. Aggrieved again, assessee preferred an appeal before the Tribunal raising the issues as per grounds of appeal in matters before us, against the impugned orders of Ld. CIT(A).

7. At the outset, Shri S. R. Rao, Learned. Authorized Representative (in short “Ld. AR”) representing the assessee have submitted that the reasons for delay were explained and furnished before the Ld. CIT(A) to which Ld. CIT(A) has issued one more notice stating that the assessee is required to

furnish any evidence in support of such reasons leading to delay in filing of appeal, and that the merits will be looked into only if the delay has been condoned. Such notice was issued by the Ld. CIT(A) on 26.05.2025 allowing the assessee to furnish written submission by 06.06.2025, however, the assessee could not make necessary submissions. However, Ld. AR on behalf of the assessee before us stated at bar that the assessee is willing to furnish all the necessary evidence to substantiate that there were sufficient cause on account of which the assessee was prevented and unable to respond before the Ld. AO as well as delayed in filing of the appeal before the Ld. CIT(A) within the stipulated time limits.

In terms of aforesaid submissions, it was the prayer by Ld. AR that one more opportunity may be granted to the assessee to substantiate the delay that occurred in filing of the appeal before the First Appellate Authority, therefore, the matter may be remanded back to the file of Ld. CIT(A).

8. Per contra, Dr. Priyanka Patel, (in short Ld. Sr. DR) had submitted that the assessee was allowed sufficient opportunities, however, the assessee has chosen not to respond towards the opportunity last provided by the Ld. CIT(A), therefore, the order of Ld. CIT(A) is just and proper order and the same deserved to be sustained.

9. Ld. Sr. DR further furnished a written submission dated 12.01.2025 along with a report dated 06.11.2025 from the Ld. AO in rebuttal to the submissions of the assessee, stating that the assessee was in constant knowledge of the notices issued by Ld. CIT(A). Also, the assessee has accepted the receipt of Assessment order, he cannot deny that the notices u/s 142(1) were not received. In fact, centralized communication were also sent to the assessee, to which he chose to be non-responsive. Thus, there was a willful non-compliance by the assessee, and the Ld. CIT(A) has correctly pointed out that the assessee failed to establish sufficient cause for delayed filing of appeal, for which he dismissed the appeal. It was the submission that no further opportunity should be given to the assessee and the appeal of assessee be dismissed accordingly.

10. We have considered the rival submissions, perused the material available on record and submissions made by both the parties. On perusal of the last notice issued by the Ld. CIT(A), wherein it is categorically requested for the assessee to substantiate the reasons for delay by way of furnishing the necessary evidence, which the assessee was unable to place before him, however, Ld. AR conceded before us on behalf of the assessee, that if the assessee is allowed to furnish all the necessary evidence so as to suffice the satisfaction of Ld. CIT(A) to establish that there were sufficient

reasons beyond the control of assessee due to which the assessee was unable to file the appeal in time. It was, therefore, the request that the matter may be restored back to the file of Ld. CIT(A) with one more opportunity to the assessee. We find substance in the contentions raised by Ld. AR that the opportunity may be provided to furnish the necessary evidence before Ld. CIT(A) to substantiate the sufficient cause for delay in filing of appeal.

11. In backdrop of aforesaid facts and circumstances, following the principle of natural justice it would be apposite to restore this matter back to the file of Ld. CIT(A) with one last and final opportunity to the assessee to substantiate the reasons for delay in filing of appeal for *denovo* adjudication qua the condonation of delay. Consequently, we are restoring the matter to the file of Ld. CIT(A) to decide the issue of condonation of delay afresh and if the delay would be condoned then the remaining issues in appeal of assessee on merits in terms of the provisions of law.

12. Needless to say, the assessee shall be afforded with reasonable opportunity of being heard in the set aside appellate proceedings. The assessee is also directed to cooperate and assist proactively in the set aside proceedings, failing which the Ld. CIT (A) would be at liberty to decide the case in accordance with the mandate of law.

13. Accordingly, the appeal of assessee in **ITA No. 486/RPR/2025** as well as in **ITA No. 487/RPR/2025**, both are restored back to the file of Ld. CIT(A) for fresh adjudication in terms of our observations.

14. In result, the aforesaid two appeals of the assessee are **allowed for statistical purpose.**

Order pronounced in the open court on 13/11/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 13/11/2025
Vaibhav Shrivastav, Steno

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- Ashap Kumar Shantiel Bara
2. प्रत्यर्थी/ The Respondent- ITO, Ward-1, Raigarh
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur