

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'G': NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

**ITA Nos.2094, 2095 and 2096/Del/2025
[Assessment Years: 2005-06, 2006-07 and 2007-08]**

Mohan Sambaji Jacthap, 2995, Sector-23, Haryana-122001	Vs.	The Assistant Commissioner of Income Tax, Central Circle-3, Jhandewala Ext. New Delhi-110055
PAN :ACJPJ3988R		
(Appellant)		(Respondent)

Appellant by	Shr Anu Pant, Advocate
Respondent by	Shri Manish Gupta, Sr. DR

Date of Hearing	11.11.2025
Date of Pronouncement	11.11.2025

ORDER

PER KRINWANT SAHAY, AM:

Appeals in these cases have been filed against the orders of the Ld. Commissioner of Income Tax(Appeals)-23, Delhi, all dated 30.01.2025 for Assessment Years 2005-06, 2006-07 and 2007-08 respectively.

2. Since, the issues are common and connected, hence, the appeals were heard together and they are being disposed of by this common order for the sake of convenience.

3. First, we shall take up the appeal in ITA No.2094/Del/2025 for Assessment year 2005-06 as a lead case. The assessee has raised following grounds of appeal in this case:-

1. *Opportunity not granted to assessee to make any submission against the penalty proceedings*
2. *That the order passed by AO u/s 271(1)(c) is incorrect and CIT, bad in law and have been passed without giving proper opportunity to appellant. The penalty imposed is illegal, unjust and unlawful.*
3. *No opportunity was granted to provide any explanation, evidence and material to place & make available which could have been considered and judicially interpreted by the Ld. CIT.*
4. *Imposition of penalty is based on mere surmises and conjectures and the same cannot be justified by any material on record.*
5. *Ld. CIT has erred in not following the judgements in favour of the assessee.*
6. *The appellant craves the leave to add, amend or delete any of the grounds of appeal at or before the time of hearing.*
7. *No proper opportunity of being heard is given to assessee & the Ld. CIT has erred in law and on the facts & penalty order passed is against the principle of natural justice*

4. The ld. Counsel for the assessee has filed a brief synopsis along with Form -36, which is reproduced as under:-

“These appeals arise out of penalty orders passed under Section 271(1)(c) of the Income Tax Act, 1961, for three consecutive assessment years - 2005-06, 2006-07, and 2007-08. The penalties were imposed based on a fundamentally flawed presumption that the money received in Miss Pooja's account constituted concealed income of the appellant, Mr. Mohan Sambhaji Jagthap.

The entire penalty proceedings were carried out without granting any proper opportunity to the appellant to explain his case or to present relevant evidence. The Assessing Officer (AO) proceeded on mere assumptions and surmises, disregarding multiple explanations, affidavits, and documents submitted during assessment and appellate stages.

The impugned orders are contrary to natural justice, as no reasonable opportunity was afforded, no verification of facts was done, and key evidences were deliberately ignored.

Miss Pooja's company, registered in Canada, had independent business dealings with a Kazakh client.

The funds received were business receipts of the company, duly taxed in Canada. Gifts later made by Miss Pooja to her brother-in-law (the appellant) were family gifts made out of love and affection, as per family custom, and not related to any service rendered or business connection with the appellant.

Despite this, the Department continues to proceed mechanically on a repeated unproven theory for nearly two decades, disregarding documentary proofs, foreign declarations, and natural justice. The appellant has suffered undue hardship and injustice due to repeated proceedings on the same baseless grounds.”

5. From the grounds of appeal, it is clear that the ld. CIT(A) has confirmed the order of the Assessing Officer without giving adequate opportunity to the assessee to bring submissions of the case on record, which is contrary to principle of natural justice..

6. Per Contra, the Ld. DR relied upon the orders of the authorities below.

7. During proceedings before us, the ld. Counsel for the assessee argued that the penalty order u/s 271(1)(c) was passed by the Assessing Officer without giving proper opportunity to the assessee to bring the relevant facts on record of the Assessing Officer. We have considered the arguments and written submissions filed by the ld. Counsel for the assessee as well as the arguments of the ld. DR during proceedings before us. We find that ld. CIT(A) has confirmed the penalty imposed on the assessee without taking on record the assessee's submission. Therefore,

keeping in view of element of natural justice, we are of the considered view that the matter may be remanded back to the file of the Ld. CIT(A) for giving fresh and adequate opportunity as required by law to the assessee of being heard and then decide the issue on merit.

8. In the result, the appeal of the assessee for AY 2005-06 is allowed for statistical purposes.

9. Grounds raised by the assessee for AY 2005-06 are identical as those raised in AYs 2006-07 and 2007-08 and hence, the decision rendered hereinabove for AY 2005-06 shall apply *mutatis mutandis* for all the Assessment years also except with variance in figures.

10. Finally, all these three appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 11TH November, 2025.

Sd/-
[MAHAVIR SINGH]
VICE PRESIDENT
Dated 11.11.2025

Shekhar

Copy forwarded to:

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

Sd/-
[KRINWANT SAHAYA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi,