

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 60/GTY/2025
Assessment Year: 2017-18

Jamir Ali,

Sukanta Nagar Rail Colony,
Kumarghat, Unakoti,
Tripura - 799264
[PAN: AVYPA5406B]

.....**Appellant**

vs.

Commissioner of Income Tax (Appeals),
New Delhi - 110001

..... **Respondent**

Appearances by:

Assessee represented by : None
Department represented by : Soumendu Sekhar Das, JCIT

Date of concluding the hearing : 06.11.2025
Date of pronouncing the order : 17.11.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal arises from the order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), dated 14.02.2025, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)].

1.1 In this case, an assessment order was passed by the Ld. AO, through which an amount of Rs. 1,47,30,000/- found deposited in cash was added u/s 69A of the Act. Thereafter, a penalty u/s 271AAC(1) of the Act was levied of Rs. 8,83,800/-. Aggrieved with this penalty, the assessee

approached the Ld. CIT(A), where also he could not succeed on account of non-persuasion before him. The Ld. CIT(A) has given the following findings:

“In my view, since the assessee did not provide any explanation for the deposits, the AO imposed a penalty of 8,83,800 under Section 271AAC(1) with prior approval from the competent authority. A demand notice was issued accordingly. This confirms that the penalty was imposed correctly as per the provisions of the Income Tax Act, 1961. The assessee had multiple opportunities to present his case but remained non-compliant during assessment and appeal, leading to the inevitable penalty under statutory provisions. There was no valid explanations during assessment proceedings and appeal proceeding.

1.2 Further aggrieved, the assessee has approached the ITAT with the following grounds:

“1. That, Sir, the assessment order bearing DIN and Order No. ITBA/NFAC/S/250/2024-25/1073274513(1), dated 14/02/2025, for Assessment Year 2017-18, PAN No. AVYPA5406B, is unlawful, unjust, and arbitrary. 2. That the Jurisdictional Assessing Officer (JAO) issued multiple show-cause notices dated 05-08-2022, 24-08-2022, and 02-09-2022, which were sent via email and post. However, the assessee was suffering from a serious illness and was bedridden during that period, making it impossible for him to respond or cooperate with the department. (Medical certificate enclosed.) Despite this, the Assessing Officer (A.O.) failed to provide the assessee with a further opportunity to present his case.

2. That, Sir, the Commissioner of Income Tax (Appeals) has committed a serious error in imposing a penalty under Section 271AAC(1) of the Income Tax Act, 1961. As per a simplified explanation of Section 271AAC(1), an Assessing Officer can impose a penalty only if the taxpayer's income includes certain unexplained money or investments falling under Sections 69A, 2 698, 69C, or 68 of the Act. In this case, the Ld. Commissioner R (Appeals) passed his order under Section 250 of the Act, showing the assessed income/loss as Rs. 0.00 (zero). Despite this, a penalty/tax/fine/interest/demand of Rs.8,83,800.00 has been levied, which is legally incorrect and contradictory. If the assessed income is Rs. 0.00, the tax payable should also be Rs. 0.00, and consequently, the penalty should also be Rs. 0.00.

4. That, Sir, as per the order of the Commissioner (Appeals), the penalty calculation was as follows: Total Income added under Section 69A: 11,47,30,000.00 Tax payable under Section 115BBE (including surcharge & cess @ 60%): 788,38,000.00 Penalty under Section 271AAC(1) @ 10% of tax payable. 8,83,800.00 However, in the eyes of the law, if the assessed income and tax payable are both Rs. 0.00, imposing a penalty is unjust and erroneous.

PRAYER

In light of the above facts, the assessee humbly prays for the following reliefs.

1. *That the penalty order passed by the Commissioner (Appeals), Income Tax Department, be set aside.*
2. *That the assessee be granted justice.”*

2. On the last date of hearing, none attended on behalf of the assessee, but it was decided to proceed ahead with the adjudication with the help of Ld. DR, since on several previous hearings also there has been no attendance from the assessee’s side.

2.1 The Ld. DR pointed out that the assessee has not cooperated at any stage of the proceedings before the authorities below and the cash deposits remained unexplained. The Ld. DR argued that this matter deserves to be held against the assessee.

3. We have heard the Ld. DR and perused the records. It is clear that the assessee has not cooperated before any of the authorities below at any point. However, in the interests of substantive justice, we set aside the impugned order and remand this matter back to the file of Ld. CIT(A) for fresh adjudication. The assessee is expected to attend before the Ld. CIT(A) and in case he does not do so then the Ld. CIT(A) would be free to take an adverse view in this matter.

4. In result, this appeal is allowed for statistical purposes.

Order pronounced on 17.11.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 17.11.2025
AK, Sr. PS

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches