

**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. 157/GTY/2025**  
**Assessment Year: 2015-16**

**Sandeep Jalan,**

Jalan House, H.No.-19,  
Janapath, Nabin Nagar,  
Guwahati - 781024  
[PAN: AFCPJ0414J]

.....**Appellant**

**vs.**

**DCIT/ACIT,**

**Cir-1, Guwahati,**

Aayakar Bhawan, Christian Basti,  
GS Road, Guwahati - 781005

..... **Respondent**

**Appearances by:**

Assessee represented by : Vishal Maskara, FCA  
Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 06.11.2025  
Date of pronouncing the order : 19.11.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. In this case, the ITAT Registry has reported a delay of 470 days in filing of the said appeal. The assessee has requested for condoning the same as under:

*“I, Sandeep Jalan, Appellant, respectfully submit this application seeking condonation of delay in filing the appeal before the Hon’ble Tribunal against the order passed by the CIT(A), dated 08.12.2023, under the Income Tax Act, 1961.*

*1. Period of Delay:*

*There is a delay of 494 days in filing the said appeal*

*2. Reason for Delay:*

*The delay in filing the appeal is neither intentional nor due to negligence or inaction. The same occurred due to unavoidable and genuine circumstances. Our Authorized Representative, FCA Vishal Maskara, who has been handling our tax matters, has been suffering from severe medical conditions, namely*

*Pilonidal Sinus, and Hidradenitis Suppurativa*

*These chronic conditions have afflicted him for over one and a half years, resulting in prolonged periods of discomfort, pain, restricted mobility, and medical treatments including minor surgical interventions and recovery time. Consequently, he was unable to attend to professional commitments effectively during this period, including the preparation and filing of the present appeal.*

*3. Bona Fide Intention to Appeal:*

*We have always had the intention to pursue the matter and challenge the impugned order. The delay is solely due to the above unavoidable medical circumstances and not due to any deliberate act or inaction on our part*

*4. Prayer for Condonation:*

*In view of the above facts and in the interest of justice, it is humbly prayed that the Hon'ble Tribunal may kindly condone the delay in filing the appeal and allow the same to be heard on merits. We are enclosing medical prescription along with affidavit for your kind consideration.*

*We request your kind indulgence and seek a sympathetic consideration of this application.”*

1.1 Considering the reasons given in the said delay, the delay is hereby condoned and the appeal is admitted for adjudication.

2. The present appeal arises from the order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), dated 08.12.2023, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)].

2.1 Brief facts of the case are that the assessee filed return of income for AY 2015-16 in ITR-1 u/s 139(4) of the Act on 30.11.2015 declaring total income at Rs. 29,58,250/-. Subsequently, the case of the assessee was selected for scrutiny under CASS and statutory notices u/s 143(2)/ 142(1)

were issued. During the assessment proceedings, it was noted by the AO that the assessee had earned long term capital gains (LTCG) of Rs. 24,10,000/- from sale of shares of M/s Sulabh Engineers & Services Ltd. On the basis of the discussions made by the AO in the assessment order and assessee's own admission, it was held by the AO that the assessee had routed his unaccounted income in the guise of bogus LTCG and therefore, an amount of Rs. 24,10,000/- was added u/s 68 of the Act. Further, a sum of Rs. 48,200/- (being 2% of Rs. 24,10,000/-) was added u/s 69C as unexplained expenditure on account of charges paid to earn accommodation entry and an amount of Rs. 1,16,400/- was also added u/s 69 of the Act. In the assessment order, the AO initiated penalty proceedings u/s 271(1)(c) of the Act for concealment of particulars of income to the extent as discussed above. Thereafter show cause notice was issued to the assessee on various dates calling for his explanation as to why an order imposing penalty u/s 271(1)(c) as discussed should not be levied upon him for concealment of particulars of income. In response, the assessee filed his submission laying major emphasis on the fact that he voluntarily declared the income and paid taxes thereon. The AO did not find the explanation plausible and noted that the assessee did commit a default within the meaning of section 271(1)(c) without any reasonable cause and has wilfully committed the default of concealing the particulars of income. Accordingly, the AO passed the impugned penalty order dated 25.03.2022 imposing a minimum penalty of Rs. 9,07,500/-, @ 100% of tax sought to be evaded for concealing particulars of income. Aggrieved by the order, the appellant has filed this appeal.

2.2 The assessee could not succeed at first appellate stage also as the Ld. CIT(A) supported the action of Ld. AO by emphasizing the point that the assessee allegedly always had the intention of booking LTCG by trading in penny stock.

2.3 Aggrieved with this action, the assessee has approached the ITAT with the following grounds:

*“1. For that the penalty proceedings having been initiated for alleged furnishing of inaccurate particulars of income, the action of the Ld. AO in imposing penalty for concealment of income, proves that the Ld. AO was not sure about the penalty to be imposed and the action of the Ld. AO in passing the penalty order u/s 271(1)(c) is arbitrary, unjustified, unwarranted and illegal.*

*2. For that the Ld CIT (Appeals) is not justified in dismissing the appeal of the appellant since the Ld CIT (Appeals) has passed a favorable order in a similar matter and that the opinion cannot differ on similar matters*

*3. For that on the facts and circumstances of the case, the action of the Ld. AO in imposing penalty of Rs. 9,07,500/- u/s 271 (1)(c) towards alleged concealment of income simply on the basis of the additions made during the course of original assessment proceedings is arbitrary, unjustified, unwarranted and illegal.*

*4. For that the appellant having voluntarily offered the amount of Rs Rs. 24,24,519/- as income by way of revised computation much before the issuance of notice u/s 143(2)/ 142(1) of the Income-tax Act, 1961 and paid the applicable taxes with interest thereon, the action of the Ld. AO in alleging concealment of income ignoring such revised computation is arbitrary, unjustified, unwarranted and illegal.*

*5. For that the penalty u/s 271(1)(c) of the Income-tax Act, 1961 can only be levied when the explanation offered by the appellant is found to be false and there being no such allegation, in view of the Suo moto revised computation having been filed by the appellant, the action of the Ld. AO in imposing the penalty u/s 271(1)(c) is arbitrary, unjustified, unwarranted and illegal.*

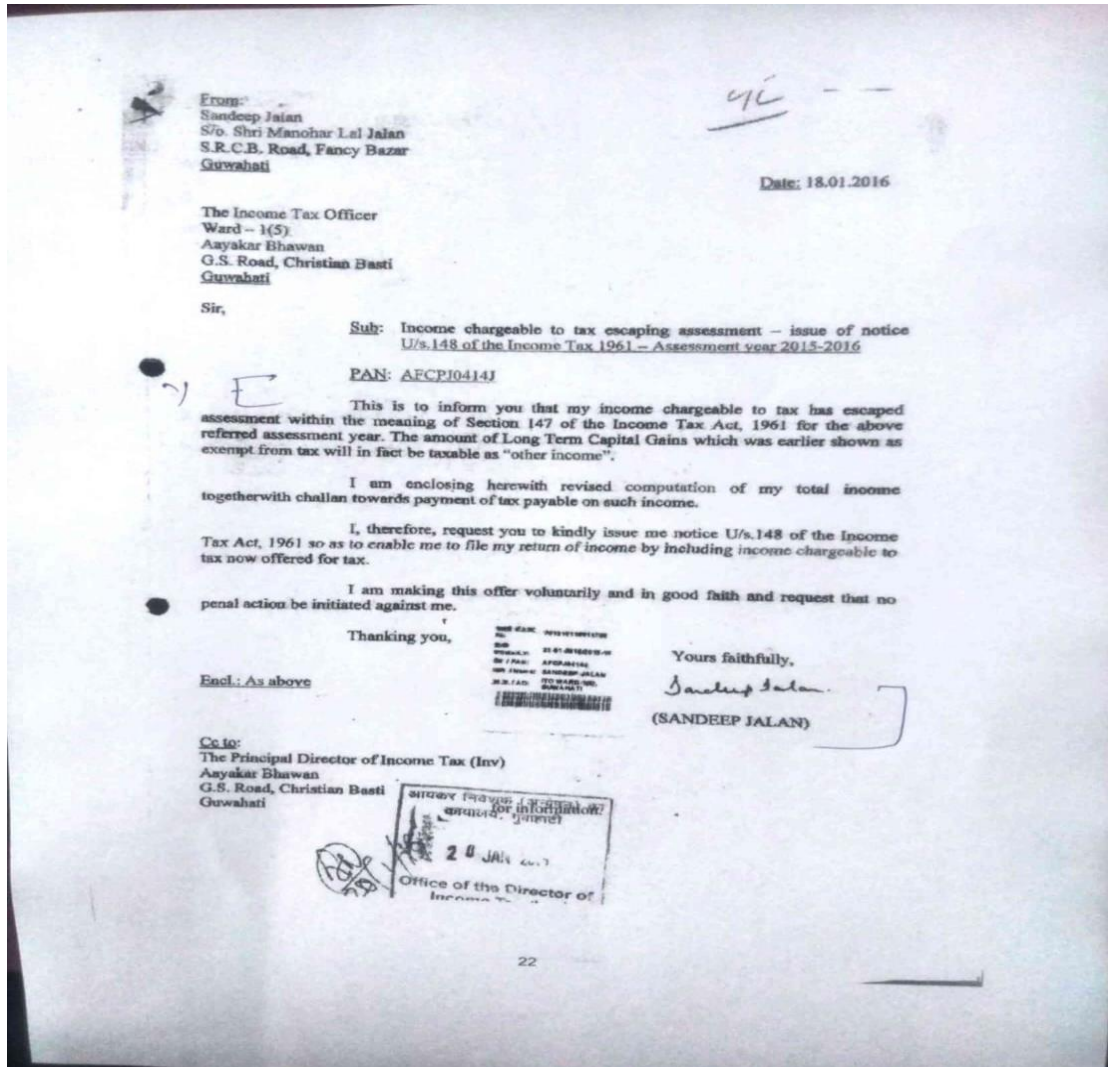
*6. For that the addition during the course of original assessment proceedings having been made on the basis of probabilities, surmises and conjectures, the same cannot be a ground for levy of penalty u/s 271(1)(c) of the Income-tax Act, 1961.*

*7. For that the assessment proceedings and penalty proceedings stand on different footing and the reasonings for the purpose of the making addition cannot be a ground for imposition of penalty.*

*8. For that the penalty equal to 100% of the tax alleged to have been evaded amounting to Rs 9,07,500/- needs to be deleted.*

*9. For that the appellant craves indulgence to add, amend, alter, modify the grounds on or before the hearing of this appeal.”*

3. Before us, the Ld. AR argued that whatever may be the intention of the assessee in trading in penny stock but had requested as earlier as 18.01.2016 through letter to the AO as under:



3.1 It was the further submission that the earliest notice issued by the Ld. AO in this regard was dated 26.07.2016. This particular notice was pointed out at page 28 of the paper book. In light of this, the Ld. AR averred that there was no intention whatsoever to conceal any particulars of income by the assessee and the assessee wanted to make a full disclosure much before the Revenue authorities had taken any adverse notice of any item of his income. It was a further submission that on identical grounds

in the brother's case, the Ld. CIT(A) had given relief on a similar penalty. This particular order was placed at pages 261 to 279 of the paper book and the same was placed before us for perusal [the case of Mantulal Jalan, PAN : ACRPJ7747A, order dated 26.07.2024].

3.2 The Ld. DR relied on the orders of authorities below.

4. We have carefully considered the rival submissions and have gone through the documents before us, including the contents of the paper book filed of our perusal. It is an undisputed fact that the assessee had desired to surrender the income claimed from trading in penny stock through letter dated 18.01.2016 (supra). The first notice issued by the revenue authorities is dated 26.07.2017. Thus, there is considerable strength in the Ld. AR's contention that there was no intention to conceal any particulars of income from the revenue and such intention was duly expressed through the assessee's letter dated 18.01.2016. At this stage, we need to refer to the headnotes to the case of Suresh Chandra Mittal reported in 251 ITR 9 (SC) in which the head notes are relevant:

*"Section 271(1)(c) of the Income-tax Act, 1961 – Penalty – For concealment of income- Tribunal; cancelled penalty levied under section 271(1)(c) on the ground that department had not discharged its burden of proving concealment and had simply rested its conclusion on assessee's act of voluntary surrender in good faith – High Court, on reference, upheld Tribunal's findings, whether any interference was called for – Held, no."*

Furthermore, we are persuaded by the findings of Ld. CIT(A) in the case of the assessee's brother (supra), where on similar set of facts relief has been given to the assessee. Considering the totality of facts and circumstances of the case, it is clear that no penalty is exigible in this case and accordingly the penalty is directed to be deleted.

5. In result, this appeal is allowed.

Order pronounced on 19.11.2025

Sd/-  
**[Manomohan Das]**  
**Judicial Member**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 19.11.2025  
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