

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

**BEFORE SHRI C.N. PRASAD, JUDICIAL MEMBER**

**&**

**SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.2428/Del/2025**

**[Assessment Year: 2016-17]**

<b>Vamana Batteries Private Limited C/o IPSO Legal, H-35, 1<sup>st</sup> Floor, Jangpura Extension New Delhi-110014 PAN No.AAECV5736D</b>	<b>Vs</b>	<b>ITO Ward- 2 (3) Faridabad</b>
Appellant		Respondent

Assessee by	Sh. Shyam Sundar, Advocate
Revenue by	Sh. Ajay Kumar Arora, Sr. DR

<b>Date of Hearing</b>	<b>18.09.2025</b>
<b>Date of Pronouncement</b>	<b>28.11.2025</b>

**ORDER**

**PER C.N. PRASAD, JM,**

This appeal is filed by the assessee against the order of the CIT(A) / NFAC, Delhi vide order dated 29.03.2025 for the A.Y. 2016-17 for not condoning the delay and admitting the appeal and not deciding the appeal on merits i.e. levy of penalty of Rs.10,000/- for non compliance to notice u/s. 142(1) dated 05.09.2018 before the Assessing Officer.

2. The Ld. Counsel for the assessee made submissions as under :-

*“The captioned appeal relates penalty levied of Rs. 10,000/- u/s 271(1)(b) of the Income Tax Act, 1961 against the non-compliance of notice dated 05.09.2018, issued u/s 142(1) of the Act during the course of assessment proceeding u/s 143(3) of the Act, 1961.*

*2. That the instant appeal was filed by assessee before this Hon'ble Tribunal on 12.04.2025, against the order dated 29.03.2025 passed under section 250 of the Income Tax Act, 1961 by CIT(A), NFAC Delhi. Ld. CIT(A) while dismissing the appeal, did not adjudicate the merits of the case and simply rejected the appeal of assessee as not admitted by observing at Para 7.1 of its Order that the "The appellant has not given any reasons for the delay in filing the appeal nor has the appellant sought condonation for the delay in filing the appeal".*

*3. It is submitted that the during the course of appellate proceeding before the Ld. CIT(A), the appellant had filed written submissions along with the application for condonation of delay along-with affidavit, in response to the notice issued u/s. 250 of the Act. Copy of written submissions and COD along with the affidavit filed before the Ld. CIT(A) are placed at PB Pages 18-26 and 27-33, respectively.*

*4. It is submitted that the penalty order u/s 271(1)(b) was issued on 31.03.2019 and appeal against the same was filed by the assessee during the covid pandemic on 24.02.2022 i.e., just after couple of days when it came to knowledge of the assessee the penalty order has been passed in the captioned case. However, to avoid any controversy with respect to the date of*

service of order, assessee mentioned the date of order as the date of service, while filing the Form 35. Further with regard to delay in filing of appeal before the Ld. CIT(A), assessee in a bonafide manner stated that yes there was a delay in filing of appeal and in the column provided for reason for delay assessee mentioned "shall be filed at the time of hearing". Thereafter during the course of appellate proceeding before the Ld. CIT(A) assessee filed detailed reasons for condonation of delay along with the affidavit in support and moreover on merits written submissions was also filed. However, Ld. CIT(A) did not appreciate the same and dismissed the appeal of assessee without adjudicating the merits of the case. Brief reasons against the delay in filing of appeal before the Ld. CIT(A) are as under:

- i. New E-filing system-2018/2019 being the transitional year from physical assessment to e-proceeding, the order was not served physically on the registered address.
- ii. Illness of the AR- The order which was available on the E-filing portal could not be looked into due to illness of the AR and hence no action could be taken within the prescribed time.
- iii. Covid Pandemie- Thereafter due to covid pandemic in the year 2020-2022 the business of assessee and routine nature of work came to a standstill.

5 It is submitted that as far as the merits of the case, during the course of assessment/quantum proceeding u/s 143(3) of the Act, notice u/s 142(1) of the Act was

issued on 15.06.2018 and 27.08.2018. Against this notice assessee has filed the reply on 27.08.2018 along with the supporting documentary evidences, Subsequently again Notices u/s 142(1) were issued to the assessee and in response to these notices assessee again filed the reply on 23.10.2018. Thus, it is necessary to submit that those notices were duly complied by the assessee and on the basis of this only assessment was made u/s 143(3) of the Act and it is not a case where no compliance has been made at all by the assessee. Copy of screenshot of reply filed by assessee during the course of assessment proceeding is placed at pages 3 and copy of assessment order passed u/s 143(3) is placed at pages 4-15. It is further necessary to state that during the course of penalty proceeding u/s 271(1)(b) of the Act show cause notice was issued on 21.09.2018 and not on 05.02.2019, as evident from the screenshot of penalty proceedings placed at pages 16-17, and thereafter no notice was issued. However, without considering the reply of assessee, Ld. AO observed that no reply was filed by the assessee and impugned penalty order was passed.

6. Therefore, in the light of above facts and circumstances it is submitted that there was a reasonable cause as explained above due to which the penalty appeal could not be filed within the prescribed time. Further as far as merits is concerned due compliance was made during the assessment proceeding on the basis of which assessment order was

*passed u/s 143(3) of the Act and not u/s 144 of the Act 1961.*

*It is thus most humbly prayed that the penalty so imposed may kindly be deleted and appeal of the appellant be allowed.”*

3. Heard rival contentions. Considering the submissions of the learned Counsel for the assessee and taking totality of the facts and circumstances into consideration we condone the delay in filing the appeal before the Ld. CIT(A) and direct the Assessing Officer to delete the penalty of Rs.10,000/- levied under Section 271 (1)(b) of the Act.

4. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 28.11.2025

Sd/-

Sd/-

**[M. BALAGANESH]**  
**ACCOUNTNANT MEMBER**

**[C.N. PRASAD]**  
**JUDICIAL MEMBER**

**Dated:** 28.11.2025

*MESH, S.P.O.\**

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi