

**IN THE INCOME TAX APPELLATE TRIBUNAL,
“SMC” RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos. 783 to 786/RJT/2025

(Assessment Year: 2018-19 & 2019-20)

(Hybrid Hearing)

Mithapur Nutan Bal Shikshan Sangh. Sangh Bal Mandir Zanda Chowk, Mithapur-361345 (Guj)	Vs.	The ITO, Ward-1, Dwarka
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAAAM0815C		
(अपीलार्थी/Assessee)		(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Assessee by

: Shri Vimal Desai, AR

राजस्वकीओरसे/Revenue by

: Shri Abhimanyu Singh Yadav, Sr. DR

सुनवाईकीतारीख/ Date of Hearing

: 04/12/2025

घोषणाकीतारीख/Date of Pronouncement

: 04/12/2025

आदेश/ORDER

This is the bunch of four appeals, filed by the same assessee, pertaining to assessment years 2018-19 and 2019-20, are directed against the separate orders passed by the CIT(A), which in turn arise out of separate penalty orders by the assessing officer u/s. 271AAC(1), and under section 270A of the Income Tax Act, 1961.

2. Since these four penalty appeals, pertain to same assessee, and identical facts are involved, therefore these appeals have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity. For the sake of convenience, the facts narrated in

ITA No.783/RJT/2025, for assessment year 2018-19, have been taken into consideration for deciding the above appeals *en masse*.

3. The Id. Counsel for the assessee submitted that these penalty appeals were dismissed by the Id. CIT(A), as these appeals filed by the assessee, were time barred, and learned CIT(A) did not condone the delay. The findings of the Id. CIT(A) in assessee's appeal in ITA No. 783/Rjt/2025, as a sample, is reproduced as follows:

“6.1 The assessee, in the present situation, appears to be guilty of negligence and does not take appropriate steps to peruse the remedy till about 503 days and thus does not take appropriate action in filing the appeal within the prescribed time. In the light of the above discussion and considering the facts and position of the law on this issue, I find that there is no sufficient cause for condoning the delay in the institution of appeal by the assessee and thus condonation of delay is hereby rejected.

6.2 Since the appeal is being dismissed on account of being filed beyond the period prescribed under the Act, therefore, I am not expressing any opinion on merit of the case.”

4. The Id. Counsel for the assessee further submitted that the same reasons were given by the Id. CIT(A) in other penalty appeals also and other penalty appeals were also dismissed by Id. CIT(A), on account of condonation of delay and there is no adjudication, on merit, by Id. CIT(A). The Id. Counsel, submitted that assessee has also submitted the reasons for late filing appeals, before the CIT(A), in the petition for condonation of delay, for each appeal, therefore, based on the strength of the reasons given in the affidavit for condonation of delay, the delay should be condoned, and these appeals, may be restored back to the file of the assessing officer.

5. Learned Counsel for the assessee also submitted that for assessment year (A.Y.) 2019-20, in the case of the assessee, the order was passed by the A.O. u/s. 144 of the Act, therefore, the quantum appeal of the assessee has been restored back to the file of the assessing officer, by the Id. CIT(A). Since, the quantum appeal of the assessee, for A.Y. 2019-20, has been restored back, by the Id. CIT(A), to the file of the A.O. for fresh adjudication, therefore, penalty imposed by the A.O. pertaining to A.Y. 2019-20, that is, in assessee's appeal in ITA No. 785/Rjt/2025 and in assessee's appeal in ITA 786/Rjt/2025, would not survive, hence these penalty appeals may also be restored back to the file of the assessing officer(AO). The A.O. may or may not impose penalty, in de-novo assessment proceedings, however, at present, the penalty appeals for A.Y. 2019-20 in ITA 785/Rjt/2025 and in ITA 786/Rjt/2025 become infructuous.

6. The Id. Counsel for the assessee further submitted that there are some penalty appeals for assessment year (A.Y.) 2018-19 viz: ITA 783/Rjt/2025 and ITA 784/Rjt/2025 for A.Y. 2018-19. However, since in A.Y. 2018-19 also there are *ex-parte* assessment orders of the assessing officer and therefore these penalties should also be restored back to the file of the A.O. for fresh adjudication, as the quantum appeal relating to A.Y. 2018-19 had been restored back to the file of the A.O.

7. On the other hand, the Id. D.R. for the Revenue submitted that all these four appeals may be restored back to the file of the A.O. after condonation of delay before the CIT(A). Therefore, the Id. D.R. for the Revenue did not raise any objection if these appeals are restored back to the

file of the A.O. for fresh adjudication. However, Id. D.R. stated that a cost should be imposed on the assessee, on account of non-compliance attitude of the assessee.

8. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. I note that assessee is a trust which runs a school for imparting pre-primary and primary education at Mithapur to the students of surrounding small villages. The school was having total strength of 1125 students from standard LKG to 5th Standard. There was re-assessment made u/s. 147 r.w.s 144 vide order dated 06.03.2023, determining total income at Rs. 59,52,383/-, which inter alia included addition of interest income of Rs. 7,85,993/-, as income from other sources. The A.O. had initiated penalty proceedings and subsequently levied penalty of Rs. 1,33,579/- u/s. 270A of the Act and other years u/s 271AAC(1) of the Act. The assessee had filed appeals against the re-assessment order u/s. 147 rws 144 and also against the aforesaid penalty order u/s. 270A/271AAC(1) of the Act, before the CIT(A). The Id.CIT(A) has restored the quantum appeal of the assessee, for assessment year 2019–20, to the file of the assessing officer for fresh adjudication.

9. I have also gone through the petition for condonation of delay and I find that the reasons explained in the petition for condonation of delay in each assessment year, before Id. CIT(A), were the sufficient reasons/ sufficient cause. I also find that while remitting this quantum appeal for A.Y. 2019-20,

to the file of the assessing officer, the ld. CIT(A) has himself condoned the delay in filing the appeal and restored the matter back to the file of the A.O. Therefore, I do not have any hesitation to condone the delay in these penalty appeals also. A perusal of the reasons and sufficient cause explained by the ld. Counsel for the assessee, gives me an impression of existence of mitigating circumstances to enable me to exercise my discretion in favour of the assessee. Accordingly, the delay is condoned in filing these four appeals before ld. CIT(A).

10. Since I have condoned the delay in filing the appeal before CIT(A) and I noted that ld. CIT(A) himself remitted the assessee's appeal for A.Y. 2019-20 in quantum proceedings, vide order dated 13-11-2025 of the Ld. CIT(A) wherein the ld. CIT(A) in the quantum proceedings held as follows:

“5.4 In accordance with the proviso to Section 251(1)(a) of the Income-tax Act, 1961, the assessment order under appeal is hereby set aside. The Assessing Officer is directed to frame a fresh assessment after providing the assessee with reasonable opportunity of being heard. The AO shall ensure strict adherence to the principles of natural justice and compliance with all applicable statutory provisions and procedural requirements.

5.5 Accordingly, the assessment order is set aside and the AO is directed to conduct a de novo assessment, after duly serving proper notice to the assessee, affording adequate opportunity of hearing, and complying with the statutory timelines prescribed under Section 153(3) of the Act. The assessee is advised to cooperate fully in the reassessment proceedings and furnish the requisite evidence in a timely manner, either suo-moto or as required by the AO. It shall be the responsibility of the assessee to avoid any delay or last-minute submission of evidence near the expiry of the limitation period. The fresh assessment must be conducted with due diligence and in accordance with law.”

11. From the above order of the ld. CIT(A) in quantum proceedings in the assessee's case for A.Y. 2019-20, it is abundantly clear that ld. CIT(A) has set aside the assessment order and directed the A.O. to frame the assessment

order, afresh, after providing the adequate opportunity to the assessee. Therefore, since quantum appeal has been restored back to the file of the A.O. by the Id. CIT(A) for A.Y. 2019-20, therefore penalty imposed by the A.O. under various sections, for A.Y. 2019-20, do not have any leg to stand. Therefore, we dismiss these penalty appeals. However, in de-novo assessment proceedings, the A.O. may initiate fresh penalty, if any, as per the provisions of the law. Considering the above facts, I restore all the penalty appeals to the file of the A.O. and the A.O. in de-novo assessment proceedings, may initiate fresh penalty proceedings, if any, in accordance with law.

12. In the result, the above penalty appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 04-12-2025

Sd/-
(Dr. A. L. SAINI)
ACCOUNTANT MEMBER

Rajkot

Dated: 04/12/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Rajkot
6. Guard file.

By order/आदेश से,

Assistant Registrar
ITAT, Rajkot