

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI“D” BENCH, MUMBAI
BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
ITA No. 7156/MUM/2025(Ay: 2017-18)**

RishirajHitendra Bhandari 224/234, Tower B, Kalpataru Horizon, Worli, Mumbai-400018.	vs.	Income Tax Officer, Ward 24(3)(1) Piramal Chamber, Lalbaug, Parel, Mumbai-400012.
PAN/GIR No:AOCPB2452H		
(Appellant)		(Respondent)

Appellant by	Shri Fenil Bhatt-Advocate
Respondent by	Shri AnnavaramKosuri, Sr. AR
Date of Hearing	14.01.2026
Date of Pronouncement	19.01.2026

ORDER

PER VIKRAM SINGH YADAV, AM:

This appeal filed by the assessee emanates from the order passed under Section 250 of the Income-tax Act, 1961 (in short, 'Act') by the learned Commissioner of Income-Tax, National Faceless Appeal Centre[in short, 'CIT(A), NFAC'], Delhi, dated 22.09.2025 for the Assessment Year 2017-18, wherein the assessee has challenged the sustenance of levy of penalty u/s. 271AAC of the Act.

2. During the course of hearing, the Id. AR submitted that the addition has been made by the AO u/s. 69 of the Act in respect of investment made in an immovable property primarily in the name of the assessee's father and the assessee name was also added as a joint owner of the said property. It was submitted that in the quantum proceedings, the addition so made u/s. 69 of the

Act have been deleted by the Id. CIT(A) and in this regard, our reference was drawn to the order passed u/s. 250 of the Act dated 21.07.2025 which is available as part of the assessee's paper book at pages 63-103. It was accordingly submitted that where the addition so made u/s. 69 of the Act no more survives in light of the order in the quantum proceedings and against which, the Revenue is not in appeal, there is no basis for levy of penalty u/s. 271AAC of the Act.

3. The Id. DR has been heard who has relied on the penalty order so passed by the AO.

4. We have heard the rival contentions and perused the material available on record. It is a case where the penalty has been levied u/s. 271AAC of the Act. Sub-section (1) of 271AAC of the Act provides that the AO may, notwithstanding anything contained in this Act other than the provisions of section 271AAB, direct that in a case where the income determined includes any income referred to *inter-alia* section 69 for any previous year, the assessee shall pay by way of penalty, in addition of tax payable u/s. 115BBE of the Act, computed @10% of the tax payable under clause (i) of sub-section (1) of section 115BBE of the Act. The penalty is thus consequential to income determined u/s 69 of the Act. In the instant case, where the addition so made by the AO u/s. 69 stand deleted by virtue of the order passed by the Id. CIT(A) in the quantum proceedings, we find merit in the contention advanced by the Id. AR that the very foundation for levy of penalty no more survives and there is thus no basis left for sustenance of levy of penalty u/s. 271AAC of the Act. In view of the same, the penalty so levied and sustained by the Id. CIT(A) is hereby deleted.

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

Order is pronounced on 19.01.2026

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Anandi.Nambi(Steno)
MUMBAI
Date: 19.01.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar
ITAT, MUMBAI