

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

**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT
&
MRS. RENU JAUHRI, HON'BLE ACCOUNTANT MEMBER**

ITA No. 6276/DEL/2025; Assessment Year: 2015-16

Sh. Niripraj Singh Sohal Plot No. 1402, PBTB Park Tower E Garunda Sector 82 Faridabad- 121004 Haryana	Vs	ITO Ward 6(1) Ludhiana
(APPELLANT)		(RESPONDENT)
PAN No. AKAPS5316D		

Assessee by : Sh. Vinod Kumar, CA
Sh. Ujjwal Jain, Advocate

Revenue/Department by : Shri Jitender Singh, CIT DR

Date of Hearing: 19.01.2026	Date of Pronouncement: 19.01.2026
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ORDER

PER RENU JAUHRI :

The above captioned appeal is preferred by the Revenue against the order dated 19.09.2025, passed by Ld. CIT/NFAC, Delhi u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as, "Act") in Appeal No. NFAC/2014-15/10399619.

2. The assessee has raised following grounds of appeal which are reproduced as under:

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1. That on the facts and circumstances of the case and in law, the order dated 19.09.2025 passed by the Ld. Commissioner of

Income Tax (Appeals) (CIT(A)) under section 250 of the Income Tax Act, 1961 (the Act) is patently illegal, erroneous and bad in law and on facts.

2. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in sustaining the penalty of Rs. 8,56,794 made by the Ld. Assessing Officer (AO) under section 271(1)(c) of the Act for concealment of income.*
3. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that once the returned of income is accepted without any variation and no demand is raised against, and there is no concealment on the part of the Appellant and penalty imposed under section 271(1)(c) is nonest.*
4. *That on the facts and circumstance of the case and in law, the Ld. CIT(A) has failed to appreciate that the present case if squarely covered by the decision of the Hon'ble Delhi High Court in the case of SAS Pharmaceuticals 335 ITR 259 (Del), wherein it was held that no penalty is maintainable when there is no variation in the return of income and assessed income.*
5. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that once the return of income in response to notice under section 148 is filed it replaces the original return and the latter one is treated as the return filed under section 139 of the Act.*
6. *That on the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that Ld. AO has not given any finding in the assessment order that Appellant has concealed any income and accepted the retuned of income filed in response to notice under section 148 of the Act.*
7. *That on the facts and circumstances if the case and in law, the impugned order passed by the Ld. AO is not in accordance with the principles of natural justice.*
8. *That the grounds of appeal are independent and without prejudice to each other.*
9. *The appellant craves leave to add, amend, alter, remove, rescind, forgo OR withdraw any of the above grounds of appeal, which are without prejudice to one another, before or at the time of hearing of the appeal in the interest of natural justice. ”*

3. Although multiple grounds have been raised, the sole substantive issue relates to levy of penalty of Rs. 8,56,794/- u/s 271(1)(c) of the Act.

4. Brief facts are that the assessee had not filed his return for A.Y. 2015-16 despite having salary income, interest income and other transactions reflected on the Insight portal of the department. Accordingly, Ld. AO issued a notice u/s 148 of the Act in response to which return declaring income of Rs. 33,56,127/- was filed. Subsequently assessment was completed at the same income and penalty u/s 271(1)(c) was initiated. Vide order dated 21.08.2024, Ld. AO imposed penalty for concealment of income u/s 271(1)(c) of Rs. 8,56,794/- computed @100% of the tax sought to be evaded. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A). The assessee's appeal was dismissed by the Ld. CIT(A) holding that the income of Rs. 33,56,127/- would have escaped assessment if the case was not reopened and that the return was filed only in response to the notice u/s 148 issued by the Ld. AO. Aggrieved further, the assessee has filed the present appeal before the Tribunal.

5. Before us, Ld. AR has submitted that the reassessment was completed at returned income and, therefore, penalty u/s 271(1)(c) could not be levied as held in various judicial pronouncements. Further, the assessee had already paid substantial tax in the form of advance tax, TDS and self-assessment tax before the issuance of notice u/s 148 of the Act. The details of the same are as under:

Particulars	Amount
Total Tax Payable by the Appellant	8,56,794
Less: Tax deducted at source as per Form 26-AS	(7,09,902)
Less: Self-assessment tax paid on 25.01.2018	(60,900)
Tax paid after issuance of notice under section 148 as per clause (c) of explanation 4.	85,992

In view of the above, Ld. AR made an alternate plea that since the tax sought to be evaded was only Rs. 85,992/- and, therefore, the penalty should be reduced from Rs. 8,56,794/- to Rs. 85,992/- in view of provisions of clause (c) of Explanation 4 to section 271 of the Act. Ld. DR, on the other hand, had strongly relied on the orders of the lower authorities.

6. We have heard the rival submissions and perused the material available on record. We note that the assessee, despite hearing substantial income, did not file his return for A.Y. 2015-16. It was only after a notice u/s 148 was issued on 06.04.2022 that the return in response was filed on 05.05.2022, declaring total income of Rs. 33,56,130/-. Hence, Ld. AO has rightly held that the income would have escaped assessment if the re-assessment proceedings had not been initiated and therefore, the assessee's argument that since assessed income in the same as returned income and therefore no penalty u/s 271(1)(c) can be levied is without any basis. In this regard, various judicial citations relied upon by the assessee are clearly distinguishable. We note that the assessee's case is squarely covered by

the provisions of Explanation 3 to section 271 as per which a case of non-filing of return of income is deemed to be a case of concealment notwithstanding that such person furnishes return of his income in pursuance to notice u/s 148.

6.1 However, the alternative plea of the assessee that the tax sought to be evaded has to be computed after excluding the taxes paid by way of TDS, advance tax and self-assessment tax has merit. In this regard, the relevant provisions of Explanation 4 clause (c) are reproduced below:

Section 271(1)

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Explanation 4.- For the purposes of clause (iii) of this sub-section,-

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(c) where in any case to which Explanation 3 applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by an amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.

6.2 We note that in the assessee's case, TDS of Rs. 7,09,902/- has been deducted as per Form 26AS and this amount is eligible for exclusion while computing the tax sought to be evaded in view of above Explanation. Further, the assessee has paid a sum of Rs. 60,900/- by way of self-assessment tax on 25.01.2018 even though no return was filed. We are of the considered view that the penalty has to be levied on the amount of tax sought to be evaded which is to

be computed after reducing the TDS of Rs. 7,09,902/- and self-assessment tax of Rs. 60,900/-. Accordingly, Ld. AO is directed to reduce the penalty levied to Rs.85,992/-.

7. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 19-01-2026.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Dated: 27.01.2026

Pooja Mittal

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi