

IN THE INCOME TAX APPELLATE TRIBUNAL

JODHPUR BENCH, JODHPUR

BEFORE DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER

AND SHRI SUDHIR PAREEK, HON'BLE JUDICIAL MEMBER

ITA Nos. 766 to 769/Jodh/2024

(Assessment Year – 2017-18)

Hemendra Kumar Menaria C/o Vishal Menaria & Associates 308-309, Krishna plaza Behind DP Jewelers' Hajareswar Colony Udaipur - 313001 PAN No. AYTPM 7260 R	Vs.	ITO Ward 2(1) Udaipur - 313001
Assessee by	Shri Yogesh Pokharna, C.A. (Physical)	
Revenue by	Shri K.C. Meena, Addl. CIT-DR (Virtual)	
Date of Hearing	13.01.2026.	
Date of Pronouncement	28.01.2026.	

ORDER

PER BENCH:

These appeals are filed by the assessee against the separate order of National Faceless Appeal Centre, NFAC, Delhi [hereinafter referred to as “the NFAC/CIT appeal”] dated 21.08.2024 with respect to assessment year 2017-18 challenging therein penalty levied u/s 271A(1), 270A(1)(d) and 271F of the Income Tax Act.

2. At the outset, the Ld. Counsel for the assessee has submitted that the quantum appeal of the present assessee has been set aside and restore to the

file of the Ld. CIT(A) to adjudicate the appeal on merits of the case. Accordingly, he prayed that these appeals may also be set aside to the Ld. CIT(A) to be decided along with the quantum appeal.

3. Ld. DR stands by impugned order.

4. Having heard both the sides and perusal of record, we find that the quantum appeal of the assessee in ITA No. 46/Jodh/2024 with respect to Assessment Year 2017-18 vide order dated 10.02.2025 has been restored back to the file of the Ld. CIT(A) by observing vide para 8 as under:

“In the present case, the assessee had not only before the Tribunal but had also stated before the Commissioner (Appeals) that he had no taxable income, therefore, in absence of any obligation cast upon the assessee to compute/pay ‘advance tax’ under sections 208 and 209 for the subject year, the first appellate authority could not have held that he had failed to comply with the statutory conditions contemplated in section 249(4)(b). Meaning thereby that the order of the NFAC is liable to be set aside and accordingly, it is restored to the file of CIT(A)/NFAC with a direction to dispose off the appeal after considering the merits of the case. Further, the Commissioner (Appeals) shall in course of the set aside proceedings afford a reasonable opportunity of being heard to the assessee.”

5. Since in the quantum appeal, the order of the Ld. CIT(A) has been set aside and restored back for afresh adjudication and hence all these four

penalty appeals would also be set aside and restored back to the file of the Ld. CIT(A) to be decided along with the quantum appeal after granting adequate opportunity of being heard and considering the written submissions of the assessee.

6. Accordingly, these instant appeals in ITA Nos. 766,767,768 and 769/Jodh/2024 are restored to the file of the Ld. CIT(A) to adjudicate afresh in accordance with law.

7. All these captioned appeals are allowed for statistical purpose.

Order pronounced in the open court on 28/01/2026.

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Sd/-

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

Dated : 28/01/2026.

True Copy

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

**BY ORDER,
(Asstt. Registrar),
ITAT, Jodhpur**