

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, MUMBAI

**BEFORE HON’BLE JUSTICE (RETD.) C.V. BHADANG, PRESIDENT &
SHRI ARUN KHODPIA, AM**

I.T.A. No. 7424/Mum/2025
(Assessment Year: 2018-19)

Nitin Ramchandra Kalambe, 603/604 B3, Meera Vatika Barkucha Pada, Near Shiv Mandir, Ambernath East, Thane-421506. PAN: APVPK8379L	Vs.	ITO, Ward-2(2), 2 nd Floor, Mohan Plaza, Wayle Nagar, Khadk Pada, Kalyan, Mumbai-421301
Assessee -अपीलार्थी / Appellant	:	Revenue - प्रत्यर्थी / Respondent

Assessee by : Shri Aakash Kumar, CA
(Virtually Appeared)

Revenue by : Shri Leyaqaat Ali Aafaqui, Sr. DR

Date of Hearing : 22.01.2026

Date of Pronouncement : 23.01.2026

ORDER

Per Arun Khodpia, AM:

The captioned appeal is preferred by assessee to assail the order of Commissioner of Income Tax (Appeals) / NFAC (for short “The Ld. CIT(A)”), dated 25.09.2025, for the Assessment Year (AY) 2018-19, arises from the penalty order passed u/s 272A(1) r.w.s. 274 of Income Tax Act, 1961 (for short “The Act”), dated 03/08/2023, by Assessment Unit, Income Tax Department, (for short “the Ld. AO”).

2. The grounds of appeal raised by the assessee are as under:

“The Commissioner of Income-tax (Appeals) at the National Faceless Appeal Centre, Delhi (hereinafter referred to as the CIT(A)) erred in upholding the action of the Officer at the Assessment Unit, Income-tax Department (hereinafter referred to as the Assessing Officer) in levying penalty of Rs 10,000 under section 272A(1)(d) of the Act on the fact that the appellant failed to comply with the notice under section 142(1) inasmuch as the appellant filed adjournment application belatedly.

The appellant contends that on the facts and in the circumstances of the case and in law, the CIT(A) ought not to have confirmed the levy of the impugned penalty by the Assessing Officer under section 272A(1)(d) of the Act inasmuch as the reasons assigned by the CIT(A) are not tenable in law.”

3. Briefly stated, the assessee filed his return of income showing total income at Rs. 8,85,460/-. Subsequently, the case of assessee was selected for scrutiny under section 147 of the Act, in pursuance to a search and seizure operation in the case of Middleman / Businessmen Group including Promoter Shri Girish Pawar and related entities (G.N.P), conducted by Investigation Wing, Mumbai. During the said search operation various incriminating material were seized amongst which a number of buyers as per “On-money Sheet” were found with unaccounted transactions not offered to tax. The present assessee is also one of the various entities/buyers, who had paid Rs. 1,03,70,000/- to G.N.P. Group for purchases of immovable property. Assessment under section 147 r.w.s. 144B was completed on 03.03.2023 with no variation in the income offered by the assessee in his return of income. However, a penalty under section 272A(1)(d) was initiated in non-compliance of notice under section 142(1) dated 13.09.2022. Subsequently an order under

section 272A(1)(d) passed on 03.08.2023 imposing a penalty of Rs. 10,000/- as initiated in the assessment order.

4. Assessee preferred an appeal to challenge the aforesaid penalty imposed, however before the Id. CIT(A), the assessee remained non-compliant towards all the five notices issued, therefore the appeal of assessee has been dismissed in absence of any reasonable cause for non-compliance before the Id. AO.

5. Before us the Id. AR representing the assessee submitted that the assessee has made certain response to the notice u/s 142(1), however it was not taken into cognizance by the AO and also not appreciated correctly by the First Appellate Authority (FAA), whereas the assessee has reasonable explanations to show that the compliance was made before the Id. AO and would be able to demonstrate the same with corroborative evidences. Therefore, the decision of Id. CIT(A) without appreciating the facts of the case property is liable to be set-aside and the penalty imposed by Id. AO may be deleted.

6. Ld. SR. DR on the other hand vehemently supported the orders of revenue authorities.

7. We have considered the rival submissions perused the material available on record and the decisions of authorities below. In the present case, Id. AR had explained that a response was furnished before the Id. AO towards the impugned notice u/s 142(1), that the assessee had sought adjournment on

27.09.2022 in response to the said notice, however the same was not taken into consideration, which could not be properly demonstrated before the Id. CIT(A). Be that as it may, since the issue is regarding levy of penalty for non-compliance by the assessee, whereas the assessee has certain material with him, to show that the assessee has attempted for the compliance, the issue needs proper verification and adjudication accordingly. Under such circumstances, it would be appropriate to restore this matter back to the file of Id. CIT(A), which is expressed in the hearing itself and fairly agreed by both the parties. Accordingly, the matter is restored back to the file of Id. CIT(A) for fresh adjudication after affording a reasonable opportunity of being heard to the assessee.

8. In result, the appeal of assessee is **allowed** for **statistical purposes**, in terms of our aforesaid observations.

Order pronounced in the open court on 23-01-2026.

Sd/-
(JUSTICE (RETD.) C.V. BHADANG)
President

Mumbai, Dated : 23-01-2026.

**SK, Sr. PS*

Sd/-
(ARUN KHODPIA)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent+
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai