



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.2163 and 2164/PUN/2025
Assessment Year : 2016-17

Tahir Eliyas Kacchi Memon, A/P 309, Uchagaon, Kolhapur-416005 Maharashtra PAN : ALZPK3015D	Vs.	Income Tax Officer, Ward-2(1), Kolhapur
Appellant		Respondent

Assessee by	:	Shri Pramod S Shingte
Revenue by	:	Shri Vishwajit Shinde
Date of hearing	:	20.01.2026
Date of pronouncement	:	30.01.2026

आदेश / ORDER

The captioned appeals at the instance of assessee pertaining to the Assessment Year 2016-17 are directed against the separate orders dated 22.07.2025 and 17.06.2025 of National Faceless Appeal Centre, Delhi (NFAC) passed u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') arising out of the Penalty Orders dated 15.03.2024 passed u/s.271(1)(c) and 271B of the Income Tax Act, 1961 (in short 'the Act').

2. At the outset, ld. Counsel for the assessee submitted that the appeal against the quantum appeal is still pending for adjudication before ld.CIT(A) and that the penalty has been levied u/s.271(1)(c) on the income estimated by the Assessing Officer and u/s.271B of the Act for not getting the books of accounts audited inspite of the fact that assessee has not maintained any books of account u/s.44AB of the Act



and has offered the income on Presumptive Taxation basis. He however raised no objection that considering the fact that the quantum addition is still pending before ld.CIT(A) the issues raised in the instant two penalty appeals may also be restored to the file of ld.CIT(A) for necessary adjudication.

3. On the other hand, ld. DR supported the orders of ld.CIT(A).

4. I have heard the rival contentions and perused the record placed before me. I observe that the assessee is an individual and assessment for A.Y. 2016-17 has been completed u/s.147 r.w.s.144 of the Act and against the income of ₹2,95,530 declared by the assessee, ld. Assessing Officer has estimated profit @12% of the business receipts of ₹1,14,56,810 and has made addition of ₹13,14,817. Assessee has challenged the addition before ld.CIT(A) but the same is still pending to be adjudicated. However, the penalty proceedings which were initiated by the ld. Assessing Officer has finally passed through ld.CIT(A) and has reached before this Tribunal.

5. I find that the levy of penalty is dependent upon the quantum addition to be sustained in the hands of assessee which itself is pending before ld.CIT(A) for adjudication. Therefore, I deem it appropriate to restore the penalty levied u/s.271(1)(c) to the file of ld.CIT(A) for disposing of the same after adjudication of quantum addition appeal pending before him.

6. Similarly, the issue of penalty u/s.271B of the Act even though has passed through the ld.CIT(A), however, during the



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course of appellate proceedings there was no compliance resulting into affirmation of penalty by ld.CIT(A).

7. Considering the prayer made by ld. Counsel for the assessee and since I have restored the issue of levy of penalty u/s.271(1)(c) to the file of ld.CIT(A), I deem it fit to restore issues of levy of penalty u/s.271B of the Act as well to the file of ld.CIT(A). Needless to mention that ld.CIT(A) in the set aside proceedings shall afford reasonable opportunity to the assessee. Assessee is directed to provide updated email id and contact detail to the department for receiving the notices from ITBA portal. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause. Impugned orders are set aside and the effective grounds raised by the assessee are allowed for statistical purposes.

8. In the result, both the appeals of the assessee are allowed for statistical purposes as per terms indicated hereinabove.

Order pronounced on this 30th day of January, 2026.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30th January, 2026.

Satish



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आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “**SMC**” बेंच,
पुणे / DR, ITAT, “**SMC**” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune