

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI**

**BEFORE SHRI OM PRAKASH KANT, AM  
AND  
MS. KAVITHA RAJAGOPAL, JM**

ITA Nos.5529 & 5530/Mum/2025  
(Assessment Year: 2020-21)

<b>Mr. Nayan Rajendra Kshatriya,</b> 404 Hinal Residency, Dahanukar Wadi, Kandivali West, Mumbai - 400067	Vs.	<b>Income Tax Officer,</b> C41-43, g Block BKC, Gilban Area, Bandra Kurla Complex, Bandra, Mumbai – 400 051
<b>PAN:AWQPK9318M</b>		
<b>(Appellant)</b>	:	<b>(Respondent)</b>

<b>Assessee by</b>	:	None
<b>Respondent by</b>	:	Shri Leyaqt Ali Aafaqui, Sr. AR

<b>Date of Hearing</b>	:	23.12.2025
<b>Date of Pronouncement</b>	:	30.01.2026

**ORDER**

**Per Kavitha Rajagopal, JM:**

The captioned appeals have been filed by the assessee, challenging the order of the Learned Commissioner of Income Tax (Appeals) [‘Ld. CIT(A)’ for short], National Faceless Appeal Centre (‘NFAC’ for short) passed u/s. 250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2020-21. In both the appeals, the assessee has challenged the penalty levied by the Learned Assessing Officer (‘Ld. AO’ for short) and upheld by the Ld. CIT(A) u/s 271AAC(1) and 270A of the Act. As the facts are identical in both these appeals, we hereby pass a consolidated order by taking ITA No.5529/M/2025 as the lead case.

**2.** The assessee has raised the following grounds of appeal:



*“1. The CIT Appeal, National E-Assessment Center Delhi, erred in not considering the contents laid down in grounds of appeal and confirmed the penalty order passed by the learned Assessing Officer who has not proved the purchase of securities to the tune of Rs.1163000/- being security purchase in F.Y. 2019-20 and Levied Penalty U/s. 271AAC(1) Without giving proper opportunity and levied penalty of Rs.90,714/- Being 10% of the Tax on the purchase of securities.*

*2. Cognizance was not given to the Documents and evidences submitted alongwith the written submissions. An Opportunity of being heard was also not given after submission of all required documents along with written submission and evidences. Your Appellant therefore submits that the relief sought in the aforesaid grounds of appeal may please be allowed in full. Your appellant craves leave to add, to amend and / or to alter the Grounds of Appeal.”*

3. Brief facts of the case are that the assessee is an individual and had filed his return of income for the year under consideration declaring total income at Rs.28,78,640/- and the same was processed u/s. 143(1) of the Act. Subsequently, the assessee filed a revised return dated 31.03.2021 declaring total income at Rs.20,96,060/- and had claimed refund of Rs.2,44,170/-. The assessee’s case was selected for complete scrutiny under CASS for verifying the reason for the reduced taxable income in the revised return. Notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The assessee had not complied with the assessment proceedings completely and on the basis of the partial submission made by the assessee the Ld. AO passed the assessment order dated 30.08.2022 u/s 143(3) r.w.s. 144B of the Act determining the total income at Rs.50,34,946/- after making various additions/disallowances. The Ld. AO also initiated penalty proceedings u/s 270A and 271AAC(1) of the Act. The Ld. AO then passed the penalty order u/s 271AAC(1) of the Act dated 09.03.2023 on the ground that the assessee has been non-compliant to the show cause notices issued u/s 271AAC of the Act thereby levying a penalty amounting to Rs.90,714/-.



4. Aggrieved, the assessee was in appeal before the first appellate authority, who vide an *ex-parte* order dated 04.07.2025 upheld the penalty levied by the Ld. AO.
5. Aggrieved, the assessee is in appeal before us, challenging the order of the Ld. CIT(A).
6. We have heard the Learned Departmental Representative (“Ld. D.R.” for short) and perused the materials available on record. It is observed that the Ld. AO during the assessment proceedings had sought for details as to the assessee’s investments in securities and purchase value amounting to Rs.11,63,000/-. In spite of several opportunities, the assessee failed to substantiate the nature and source of the investment thereby resulting in an addition of Rs.11,63,000/- u/s 69 of the Act as unexplained investment and penalty proceeding u/s 271AAC(1) of the Act was also initiated. It is further observed that the assessee was also non-compliant during the penalty proceeding and has failed to offer any explanation as to the unexplained credit/money in the form of cash deposits appearing in the bank accounts neither during the assessment proceedings nor during the penalty proceedings thereby attracting penalty u/s 271AAC of the Act. Even during the appellate proceeding, the assessee has been non-compliant before the Ld. CIT(A) who then upheld the penalty levied by the Ld. AO. Notably even before us neither the assessee nor any of his authorized representative appeared nor was any adjournment application filed by the assessee. On perusal of the acknowledgment of notice of hearing, it is evident that notice has been served upon the assessee. We, therefore, infer that the assessee has no explanation to offer nor has he any cogent evidences in support of his contention. Even on the merits of the case, penalty u/s 271AAC of the Act may be levied by the Ld. AO in a case where



income determined u/s 68, 69, 69A, 69B, 69C or 69D in addition to the tax payable u/s 115BBE of the Act @ 10% of the tax payable u/s 115BBE(1) of the Act has not been paid on or before the end of the relevant previous year. Further, the assessee has also not corroborated the nature and source of the unexplained credit/money assessed during the course of the assessment proceeding before the lower authorities. Further, it is observed that the assessee has been recalcitrant and unwilling to comply with the notices during the assessment proceeding, penalty proceeding and even during appellate proceeding. In the absence of any contrary contentions raised by the assessee, we deem it fit to hold that there is no infirmity in the finding of the Ld. CIT(A) which warrants no interference. We, therefore, dismiss the grounds of appeal raised by the assessee on the above observation.

7. In the result, the appeal filed by the assessee is dismissed on above terms.
8. The finding given in this appeal i.e. ITA No.5529/M/2025 will apply mutatis mutandis to ITA No.5530/M/2025 as well. Accordingly, both the appeals filed by the assessee are hereby dismissed.

*Order pronounced in the open court on 30.01.2026*

**Sd/-**  
**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(KAVITHA RAJAGOPAL)**  
**JUDICIAL MEMBER**

Mumbai; Dated: 30.01.2026

\* Kishore, Sr. P.S.

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent
3. CIT- concerned



4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai

