

IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No. 7497/Mum/2025
(Assessment Year: 2018-19)

Zebra Networks Private Limited Unit No.4, Peninsula Corporate Park, Peninsula Chamber, G. K. Marg, Mumbai-400 013	Vs.	Income Tax Officer Assessment Unit, Income Tax Department, Mumbai – 400 020
PAN/GIR No. AABCI 6267 P		
(Appellant)	:	(Respondent)

Appellant by	:	Shri Ketan L Vajani
Respondent by	:	Shri Swapnil Choudhary – Sr.AR

Date of Hearing	:	28.01.2026
Date of Pronouncement	:	28.01.2026

ORDER

Per Saktijit Dey, Vice President:

This is an appeal by the assessee against order dated 19.09.2025, passed by National Faceless Appeal Centre (‘NFAC’ for short), Delhi for the assessment year (A.Y. for short) 2018-19, confirming the penalty imposed of Rs.76,45,696/- u/s. 271AAC(1) of the Income Tax Act, 1961 (‘the Act’ for short).

2. We have heard the parties and perused the materials on record. Briefly the facts are, the assessee is a resident corporate entity. For the assessment year under dispute, the assessee had filed its return of income on 30.10.2018, declaring loss of Rs.59,17,484/-. The return of income so filed by the assessee was selected for scrutiny.

3. In course of assessment proceeding, the Assessing Officer (A.O. for short) called for various details and after examining them completed the assessment u/s. 143(3) of the Act, making the following additions:

- a) Unexplained cash credit u/s. 68 of the Act – Rs.9,89,73,410/-
- b) Disallowance of expenses of Rs.12,64,743/-

4. Contesting the additions, the assessee preferred an appeal before Id. First appellate authority and being unsuccessful there, went in further appeal before the Income Tax Appellate Tribunal.

5. During the pendency of assessee's appeal, based on the additions made, the A.O. initiated proceedings for imposition of penalty u/s. 271AAC(1) of the Act and ultimately passed an order on 19.09.2025, imposing penalty of Rs.76,45,696/-. The penalty so imposed by the A.O. was also confirmed by the first appellate authority.

6. Before us, Id. Counsel appearing for the assessee submitted that while deciding the quantum appeal of the assessee, the Tribunal, in order dated 23.12.2025 passed in ITA No. 6469/Mum/2025, has set aside the issues relating to both the additions back to the A.O. for fresh adjudication. Thus, he submitted, as on date there is no surviving addition to impose penalty u/s. 271AAC(1) of the Act.

7. The Id. Departmental Representative (Id. DR for short) could not controvert the aforesaid factual position.

8. Having considered rival submissions and perused the materials on record, we find that the additions based on which the A.O. had imposed penalty u/s. 271AAC(1) of the

Act, in the meanwhile, have been set aside by the co-ordinate bench while deciding assessee's appeal in quantum proceeding with a direction to the A.O. to decide the issues afresh after providing due and reasonable opportunity of being heard to the assessee. Thus, by virtue of such decision of the co-ordinate bench, there is no surviving addition on which the penalty-imposed u/s. 271AAC(1) of the Act can be sustained. That being the factual position on record, we are inclined to set aside the impugned orders passed by the A.O. and the first appellate authority and restore the issue relating to the imposition of penalty to the A.O. It will be open to the A.O. to initiate proceedings u/s. 271AAC(1) of the Act afresh, if warranted, depending upon the outcome of the fresh assessment.

9. In the result, the appeal is allowed for statistical purpose.

Order pronounced in the open court on 28.01.2026

Sd/-

(Arun Khodpia)
Accountant Member

Mumbai; Dated : 28.01.2026
Roshani, Sr. PS

Sd/-

(Saktijit Dey)
Vice President

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai