आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1855/PUN/2025
निर्धारण वर्ष / Assessment Year : 2011-12

Mr. Mohan Madan Bhoite, Gulmohar, Plot No. 227, Sector No. 27/A, Pradhikaran, Nigdi, Pune-411044 PAN : AAOPB4275A	**Vs.**	The Income Tax Officer, Ward – 9(1), Pune
अपीलार्थी / Appellant		**प्रत्यर्थी / Respondent**

Assessee by :	Shri Abhay A Avchat
Department by :	Shri Vidya Ratna Kishore
Date of hearing :	17-12-2025
Date of Pronouncement :	27-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 31.05.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi **["CIT(A)"]** wherein he confirmed the penalty of Rs.48,80,108/- levied by the Ld. Assessing Officer **("AO"**) u/s 271(1)(c) of the Income Tax Act, 1961 (**the "Act"**) pertaining to Assessment Year **("AY")** 2011-12.

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

"On facts and circumstances and in law,

1. *The learned AO has erred in imposing penalty of Rs.48,80,108/- under section 271(1)(c) and the Id. CIT A erred in confirming the same.*

2. *The learned AO has erred in invoking the incorrect limb/charge of penalty, while recording satisfaction in respect of other limb / charge. Thus, to that extent, the penalty order passed by the AO suffers from infirmity and is bad in law.*

3. *For want of specific limb / charge of penalty being considered, the penalty proceedings are void and cannot be acted upon. So the same needs to be set aside or cancelled.*

4. *The learned CIT Appeals has erred in dismissing assessee's appeal without affording opportunity of being heard and without considering merits of the case.*

5. *The Ld CIT A. NFAC erred in sustaining and confirming penalty levied by the AO despite quantum appeal was pending for adjudication before him. In such scenario, kindly restore the matter before the CIT A for re-adjudication.*

6. *The Assessee prays before your honour to afford and allow him an opportunity of being heard on merits of the case before the lower authorities and/or to allow any other relief under income tax law.*

7. *The appellant craves leave to add, revise, amend or alter any of the grounds of appeal.*

3. At the outset, the Ld. AR submitted that the quantum appeal of the assessee for AY 2011-12 is pending for adjudication before the Ld. CIT(A)/NFAC. He, therefore, urged that the matter may be sent back to the file of the Ld. CIT(A)/NFAC for adjudication once the quantum appeal of the assessee is decided by him.

4. The Ld. DR had no objection to the above request of the Ld. AR.

5. We have heard the Ld. Representatives of the parties and perused the material available on record. We find that the Ld. AO completed the assessment ex-parte qua the assessee for AY 2011-12 u/s 144 of the Act vide his order dated 14.02.2014 thereby making an addition of Rs.69,30,392/- u/s 69 of the Act and Rs.93,77,500/- on account of Long Term Capital Gain on sale of property. Thereafter, the Ld. AO initiated penalty proceedings u/s 271(1)(c) of the Act. During the penalty proceedings, the notice(s) issued by the Ld. AO from time to time remained un-complied with by the assessee which resulted in levy of penalty of Rs.48,80,108/- by the Ld. AO vide his ex-parte order dated 14.08.2014. Even before the Ld. CIT(A), there was non-compliance to the notice(s) issued by his office. Perusal of the Ld. CIT(A)'s order reveals that he has confirmed the penalty levied by the Ld. AO and dismissed the appeal of the assessee for non-prosecution by applying the decision of the Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukoji Rao Holker Vs. CWT (1997) reported in 223-ITR-480 and the decision of the ITAT, Delhi Bench in the case of CIT Vs. Multiplan India Ltd. reported in 38-ITD-320. Before us, the Ld. Counsel for the assessee has submitted that the quantum appeal filed by the assessee for the relevant AY 2011-12 is still pending before the Ld. CIT(A)/NFAC and has therefore requested that the matter may be restored to

the file of the Ld. CIT(A)/NFAC to decide the issue afresh once the quantum appeal of the assessee is adjudicated by him. In this view of the matter, we deem it fit, in the interest of justice and fair play, to set aside the impugned penalty order and restore the matter back to the file of the Ld. CIT(A) for adjudication afresh once the quantum appeal is decided by him. We hold and direct accordingly. The effective grounds raised by the assessee are accordingly allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 27th January, 2026.

Sd/-	Sd/-
(R.K. Panda)	(Astha Chandra)
VICE PRESIDENT	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 27th January, 2026.
रवि

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

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

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune