

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE MS. PADMAVATHY S., ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1474/Bang/2025
Assessment Year: 2015-16

Jairam Kethamaranahalli Ramachandra #17/1, 1 st Block, 11 th Cross Rajajinagar Bangalore 560 010 Karnataka PAN NO : APEPR0592K	Vs.	ITO Ward 2(2)(2) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sahana T.H.M., A.R.
Respondent by	:	Sri Shivanand Kalakeri, D.R.

Date of Hearing	:	24.11.2025
Date of Pronouncement	:	30.01.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of Id. CIT(A)/NFAC dated 15/05/2005 vide DIN & Order No. ITBA/NFAC/S/250/2025-26/1076217140(1) passed u/s. 250 of the Income Tax Act, 1961 (in short “the Act”) for the AY 2015-16.

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

1. The Order of the learned Commissioner passed under section 250 of the Act is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.
2. The learned Commissioner of Income-tax (Appeals) erred in passing the order without giving sufficient opportunity of being heard thus violating the principles of natural justice rendering the order liable to be cancelled on the facts and circumstances of the case.
3. The learned Commissioner of Income-tax (Appeals) erred in upholding penalty levied of Rs.10,78,031/- despite there has been no concealment of income and ingredients of section 271(1)(c) of the Act are not satisfied in the facts and circumstances of the case.
4. The learned Commissioner of Income-tax (Appeals) erred in upholding penalty levied of Rs.10,78,031/- based on the quantum order which was passed ex-parte in the facts and circumstances of the case.
5. The Appellant craves leave of this authority to add, alter, delete or substitute any or all of the above grounds as may be necessary at the time of hearing.
6. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.
7. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.

3. The brief facts of the case are that the coordinate bench of this Tribunal while adjudicating the quantum appeal of the assessee for the Assessment year 2015-16 in ITA No.877/Bang/2025 vide order dated 26.8.2025 had remitted the entire issue to the file of the jurisdictional AO for fresh consideration and decide the issue as per law with a cost of Rs.5,000/- to the assessee with a direction to the JAO to give three effective opportunities to the assessee and also directed the assessee to produce necessary documents for substantiating his case.

4. Before us, at the outset the ld. A.R. of the assessee drew our attention to a memo dated 22.9.2025 filed by the AR of the assessee and submitted that since the assessment order based on which the penalty proceeding was initiated and concluded had been set aside, the penalty order is rendered null and void in the eyes of law and the AO would have to conclude the assessment afresh pursuant to the order of this Tribunal (supra) and decide on invoking penalty on completion of assessment, if at all an adverse order is issued. Since the penalty order does not have a legal basis in view of the order of this ITAT and accordingly prayed to allow this appeal in the interest of justice.

5. Ld. D.R. on the other hand supported the order of the authorities below.

6. We have heard the rival submissions and perused the materials available on record. On going through the Tribunal's order dated 26.8.2025 passed in case of the assessee in quantum appeal for the assessment year 2015-16, we find that in paragraph 6 the order, the Tribunal had clearly noted that the assessee did not file his return of income, however, the assessee has sold the capital asset for

Rs.53 lakhs and accordingly the case was reopened u/s 147/148 of the Act. During the reassessment proceedings, as well as appellate proceedings, the assessee neither submitted any documents nor any proof to substantiate the cost of acquisition of the property and accordingly, the AO had treated the entire sales consideration as income of the assessee. The Tribunal, in the interest of justice remitted the entire issue to the file of jurisdictional AO for fresh consideration and decide the issue as per law. Since this Tribunal had already remitted the entire issue to the file of JAO to decide the issue as per law, therefore, we also set aside the entire penalty proceedings for the assessment year 2015-16 to the file of the AO for fresh consideration in accordance with law. Since in our opinion, if a quantum appeal is set aside by the ITAT, the penalty proceedings based on the same quantum assessment cannot sustain. We are of the considered opinion that if an order of assessment or reassessment which forms the very basis for the penalty is set aside, then the penalty cannot stand by itself and is liable to be set aside. Accordingly, the penalty proceedings is also set aside to the file of AO for fresh consideration in accordance with law.

7. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 30th Jan, 2026

Sd/-
(Padmavathy S.)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 30th Jan, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**