

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2657/PUN/2025  
निर्धारण वर्ष / Assessment Year : 2015-16

Sagar Developers, S. No.27/22, Puneet Yash Arcade Dhanukar Colony, Kothrud, Pune- 411038. PAN : AASFS3658Q	Vs.	ACIT, Circle-3, Pune.
Appellant		Respondent

Assessee by : Shri H. G. Sharma  
Revenue by : Shri M. M. Chate

Date of hearing : 23.12.2025  
Date of pronouncement : 10.02.2026

**आदेश / ORDER**

**PER VINAY BHAMORE, JM:**

This appeal filed by the assessee is directed against the order dated 17.09.2025 passed u/s 271(1)(c) of the IT Act by Ld. CIT(A), Delhi-31 ['Ld. CIT(A)'] for the assessment year 2015-16.

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

*"On the facts and in the circumstances of the case and in law-*

- 1. The Ld. CIT (A) erred in confirming the order of ACIT, Circle-3, Pune to the extent of levy of penalty u/s 272(1)(c) amounting to Rs. 3,45,81,680/- being income offered during the course of Survey and shown in ITR filed post the Survey proceedings.*

2. *The Ld. Income Tax Authorities erred in law and on facts in levying a penalty u/s 272(1)(c) amounting to Rs. 3,45,81,680/- for concealment of income without appreciating the fact that the appellant has offered the regular income in Survey proceeding conducted on 25.08.2015 i.e. well before the due date for filing return of income. The learned CIT(A) ought to have appreciated that the learned AO has accepted the returned income vide assessment order u/s 143(3) dated 13.12.2017 without making any addition to the returned income, as such the question of concealment of income does not arise.*
3. *The appellant craves leave to amend, alter, and modify any of the above Grounds of Appeal or to add new Grounds of Appeal, and to seek any just and fair relief during the course of appeal proceedings.”*

3. Facts of the case, in brief, are that the assessee is a partnership firm and has furnished its return of income on 17.10.2015 declaring total income of Rs.15,03,19,866/- which includes additional income of Rs.15,00,14,809/- disclosed during survey u/s 133A of the IT Act conducted at the premises of the assessee on 25.08.2015. The assessment was completed vide order 13.12.2017 u/s 143(3) of the IT Act by accepting the income returned by the assessee. The Assessing Officer also initiated penalty proceedings u/s 271(1)(c) of the IT Act. Subsequently, vide order 28.06.2018 penalty of Rs.3,45,81,680/- u/s 271(1)(c) of the IT Act was imposed on the assessee.

4. Being aggrieved with the above penalty order dated 28.06.2018, the assessee preferred an appeal before Ld. CIT(A).

Since according to Ld. CIT(A) the assessee remained absent on six different dates of hearing, the appeal was dismissed by applying the decision of Hon'ble Supreme Court in the case of B. N. Bhattacharjee & Another, 118 ITR 461 (SC).

5. It is the above order against which the assessee is in appeal before this Tribunal.

6. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper book and written submission furnished by the assessee. In this regard, we find that the Assessing Officer levied penalty of Rs.3,45,81,680/- u/s 271(1)(c) of the IT Act on the basis of additional income accepted and declared during the course of survey conducted at the premises of the assessee u/s 133A of the IT Act. Subsequently, when the matter travelled before Ld. CIT(A) it was observed by Ld. CIT(A) in his order that the assessee did not comply with the notices of hearing issued to the assessee. However, we also find that in the same appellate order on page 3, Ld. CIT(A) has mentioned and accepted the fact of filing of written submission dated 25.06.2025 by the assessee and for our surprise the same was

also reproduced by Ld. CIT(A) in his order starting from page 3 to page 10.

7. On perusal of the above impugned order of Ld. CIT(A), we find that at one hand Ld. CIT(A) is reproducing the written submission furnished by the assessee for appeal hearing and on the other hand, Ld. CIT(A) is mentioning that the assessee remained absent before him and did not comply with the notices of hearing. Thereby mentioning contradictory facts in his order which proves that Ld. CIT(A) has not applied his mind and the appeal is dismissed without considering the written submission already furnished by the assessee. Therefore, considering the totality of the facts of the case and in the interest of justice, we deem it appropriate to set-aside the order passed by Ld. CIT(A) and remand the matter back to his file with a direction to decide the appeal afresh and as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT(A) in this regard and to produce additional documents/evidences/submissions, if any, in support of grounds of appeal without taking any adjournment under any pretext, otherwise Ld. CIT(A) shall be at liberty to pass appropriate

orders as per law. Thus, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on this 10<sup>th</sup> day of February, 2026.

Sd/-  
(MANISH BORAD)  
ACCOUNTANT MEMBER

Sd/-  
(VINAY BHAMORE)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 10<sup>th</sup> February, 2026.

*Sujeet*

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Delhi-31.
4. The Pr.CIT/CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.