



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos.2699 and 2698/PUN/2025
Assessment Year : 2015-16

Mumatajabi Yasin Sayyad, Krantinagar, Patoda, Beed-414204 Maharashtra PAN : CODPS6590A	Vs.	Income Tax Officer, Ward -1(5), Aurangabad
Appellant		Respondent

Assessee by	:	Shri Shubham Rathi (Through Virtual)
Revenue by	:	Shri Eknath Abhang (Through Virtual)
Date of hearing	:	03.02.2026
Date of pronouncement	:	11.02.2026

आदेश / ORDER

These two appeals filed by the assessee pertain to the Assessment Year 2015-16 and are directed against the separate orders passed by National Faceless Appeal Centre, Delhi u/s.250 of the Income Tax Act, 1961 [in short "the Act"] dated 17.09.2025 and 18.09.2025 which in turn are arising out of the respective Assessment/Penalty order.

2. At the outset, ld. Counsel for the assessee submitted that ld.CIT(A) has not condoned the delay in filing of the appeals and dismissed the appeals against the quantum addition as well as against levy of penalty u/s.271(1)(c) of the Act. He prayed for condoning the said delay and affording one more opportunity to go before ld.CIT(A) for necessary adjudication of the issues raised in the instant appeals.



3. Ld. Departmental Representative on the other hand supported the order of ld.CIT(A).

4. I have heard the rival contentions and perused the record placed before me. Admittedly, the assessee who is an individual has been assessed for A.Y. 2015-16 and addition of Rs.37.00 lakh has been made u/s.69A of the Act followed by levy of penalty u/s.271(1)(c) of the Act at Rs.11,10,000/-. Further, the assessee filed the appeals before ld.CIT(A) against the quantum addition and penalty belatedly by 235 days and 84 days respectively. Ld. Counsel for the assessee has referred to the reasons giving rise to the said delay stating that the delay is not intentional and assessee has not gained from delaying the appeals.

5. After hearing both the sides and considering the reasons which led to delay and also placing reliance on the judgment of Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs. Mst. Katiji & Ors. (1987) 2 SCC 107* I find that due to 'reasonable cause' assessee failed to file the appeals within the time limit specified under the Act. I therefore condone the delay of 235 days and 84 days respectively before ld. CIT(A).

6. Ostensibly, impugned orders have not been passed on merits of the case.

7. The issue of Tribunal's power to adjudicate the ground raised before it in second appeal which did not pass through first appeal came for consideration before the *Hon'ble Delhi High Court in the case of 'Divine Infracon Pvt. Ltd. Vs PCIT' [2025, 171 taxmann.com 92 (Del)]*, wherein their Hon'ble Lordship vide para 13 have categorically held that, the Tribunal has no jurisdiction to proceed to decide the ground which did not arise from the



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impugned order passed by first appellate authority, irrespective of such ground was raised in first appeal or not.

8. Under these given facts and circumstances, I deem it appropriate to remit back the issues raised on merits to the file of ld.CIT(A) for *denovo* adjudication. Needless to mention that in the set aside proceedings ld.CIT(A) shall afford reasonable opportunity of hearing to the assessee. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause. Impugned order is set aside and all the grounds of appeal raised by the assessee are allowed for statistical purposes.

9. Since the issues raised in the quantum addition are remitted back to ld.CIT(A) the appeal relating to penalty levied u/s.271(1)(c) raised in ITA No.2698/PUN/2025 being consequential is also remitted back to the file of ld.CIT(A). Ld.CIT(A) shall decide the quantum addition issue first and then decide the penalty issue in accordance with law. Impugned order is set aside and the grounds of appeal raised by the assessee are allowed for statistical purposes.

10. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on this 11th day of February, 2026.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 11th February, 2026.

Satish



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

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

आदेशानुसार / BY ORDER

// True Copy //

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