

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'C' BENCH AT KOLKATA**

**Before**

**SHRI GEORGE MATHAN, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 2101/KOL/2025**

**Assessment Year: 2006-07**

Manoj Kumar Patodia	Vs.	DCIT, Central Circle-4(2), Kolkata
<i>(Appellant)</i>		<i>(Respondent)</i>
<b>PAN: AFRPP0108E</b>		

**Appearances:**

**Assessee represented by** : Binod Kumar Bindal, AR.

**Department represented by** : Sallong Yaden, Addl. CIT(DR).

Date of concluding the hearing : 05-February-2026

Date of pronouncing the order : 11-February-2026

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the Assessee is against the order of the Commissioner of Income Tax (Appeals)-27, Kolkata [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2006-07 dated 28.08.2025.

2. The Assessee is in appeal before the Tribunal raising the following grounds of appeal:

*"1. The CIT(A) erred in law and on facts in confirming a penalty of Rs 30,000/- u/s 271(1)(b) of the Act as no such default was committed by the appellant and the proceedings so undertaken were bad in law ab initio.*

*2. That the alleged show cause notice dated 05/02/2015 to levy penalty u/s 271(1)(b) of the Act is defective and bad in law and no penalty can be imposed on the basis of the same, which must be cancelled.*

*3. That no separate notice u/s 271(1)(b) of the Act for each alleged default was served on the appellant as neither in the impugned penalty order nor in the assessment order for the AY 2006-07, the same is mentioned.*



4. That no penalty for any default u/s 143(2) of the Act could be levied as the appellant attended the proceedings in response thereto as mentioned in the said section itself.

5. That no letter can be called u/s 142(1) of the Act from an assessee to seek any information from a third party about himself nor it mandates to create a document against him or in any other manner and thus no default was committed by the appellant to attract levy of the impugned penalty.

6. The appellant craves the leave to add, substitute, modify, delete or amend all or any ground of appeal either before or at the time of hearing.”

3. Brief facts of the case are that the Govt. of India received certain information from a foreign Government by virtue of provisions for exchange of information under the Bilateral Double Taxation Avoidance Agreement with that country. As per the information the assessee had operated bank account in Switzerland with the HSBC bank. The case of the assessee was reopened by issue of notice u/s 148 of the Act as the Assessing Officer (hereinafter referred to as Ld. 'AO') had reason to believe that the bank account the assessee had been maintaining with HSBC, Switzerland, was not disclosed in his regular books of account or his income tax return. The Ld. AO completed assessment u/s 147/143(3) of the Act after initiating penalty proceedings u/s 271(1)(b) of the Act as the assessee failed to comply with the notices u/s 143(2) and 142(1) of the Act. This resulted in penalty amounting to ₹30,000/- for each instance of non-compliance to the notices issued. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who vide order dated 28.08.2025 dismissed the appeal of the assessee by giving his finding in para 8 of the appeal order which is reproduced as under:

“8. For the appeal Ground Nos. 1 to 7: -

8.1. Discussions and Decision in respect of the appeal Ground No(s). 01 to 07:

8.1.1. I have perused the submissions filed by the assessee as well as the penalty order passed by the AO. On perusal of the same, it is observed during the appellate proceedings that the AO had issued a penalty notice u/s. 271 (1 )(b) for the non-compliance of the notice issued u/s. 143(2) and 142(1) of the LT. Act. The assessee has claimed that the penalty-imposed u/s. 271 (1 )(b) to the extent of Rs.30,000/- was done even though he had complied with the notices u/s 143(2) and 142(1) of the Act on 05.02.2015.

8.1.2. However, the AO stated that on 05.02.2015, the assessee was requested to provide a bank statement related to an account alleged to be held with HSBC in Switzerland. The assessee claimed he had no bank accounts or assets outside India and did not comply with notices under sections 143(2) and 142(1). He also refused to sign the "Consent Waiver Form," which would have allowed Swiss authorities to send his bank statements, as done for others. Had he been so sincere and is so patriotic then he should not open a bank account in Switzerland to park the money away from his own country only with a willful attempt to evade the due tax on money (might be ill gotten) and then he ought not kept himself away to join hand together with the government machinery in conducting legitimate investigation to crosscheck that he had really not maintained have the bank account there in HSBC Switzerland as, confronted with the materials under possession of the department during recording statement. Documentation indicates that the assessee is recorded as an account holder with HSBC, and family members are linked to his client profile, suggesting he knowingly concealed information about his account. Had the assessee been so perfect then what was the reason and problem in signing the "Consent Waiver Form," which was the part and parcel of the notices issued u/s.143(2) and 142(1) of the Act dated: 05.02.2015. Thus, the assessee has failed to comply with the said notices purposefully not to join in legitimate inquiry/investigation intentionally.

In view of above, the relevant penalty order which is under appeal reflects clearly that there is apparently no irregularity in imposing this penalty against the assessee for wilful attempt in non-compliance of the notice u/s. 143(2) and 142(1) of the Act, issued on 05.02.2015. Further, no citation as referred by the assessee in his submissions from time to time, is applicable in the case of appellant assessee due to complete distinguishable facts and circumstances with the assessee as discussed above.

8.1.3. Thus, the imposition of penalty of Rs.30,000/- for non-compliance of the aforesaid notice issued u/s 143(2) and 142(1) of the IT Act, 1961 dated 05.02.2015, and order u/s.271(1)(b) is considered justifiable and as per the provisions of the law. Further, during the appellate proceedings, the assessee has failed to bring any cogent evidence in support of his appeal.



*Thus, in absence of suitable explanation fit for deletion of penalty is not brought on record that is why the grounds of appeal are dismissed.”*

4. Aggrieved with the order of the Ld. CIT(A), the Assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The assessee stated that he has a reasonable cause for non-compliance.

6. We have considered the facts of the case, the submissions made and the documents filed. The Ld. AO has made the assessment u/s 143(3) of the Act and not u/s 144 of the Act. Since the assessment has been made u/s 143(3) of the Act, the default, if any, in compliance with the notices has been impliedly condoned and waived by the Ld. AO. Since there was a default, the order should have been made u/s 144 of the Act with other consequences and as the same has been made under section 143(3) of the Act, therefore, the default has been impliedly condoned. Hence, there is no justification for imposition of penalty as such and the penalty order is hereby cancelled.

7. In the result, the appeal filed by the Assessee is allowed.

**Order pronounced in the open Court on 11<sup>th</sup> February, 2026.**

*Sd/-*

**[George Mathan]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 11.02.2026

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Manoj Kumar Patodia, 170 MG Road, 89, Jamunalala Bajaj Street, Barabazar H.O., Kolkata, West Bengal, 700007.**
2. **DCIT, Central Circle-4(2), Kolkata.**
3. CIT(A)-27, Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata