

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 5049/Mum/2025
S.A. No. 173/Mum/2025
(Assessment Year: 2018-19)**

Mansukhlal Mohanlal Mehta HUF B-102, Krishakunj, S. N. Road, Mulund west, Mumbai-400 080	Vs.	ITO Ward-41(2)(3), Kautilya Bhavan, Bandra Kurla Complex, Mumbai- 400 051
PAN/GIR No. AAGHM5909Q		
(Applicant)		(Respondent)

Assessee by	Ms. Kalpana Gandhi, Ld. AR
Revenue by	Shri Annavaram Kosuri, Ld. DR

Date of Hearing	10.02.2026
Date of Pronouncement	13.02.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

These proceedings consist of appeal filed by the assessee against the order dated 26.03.2025 passed by the learned Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”], under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] for A.Y. 2018–19 and Stay Application seeking stay of

recovery of penalty demand arising from order passed under section 270A of the Act. Since both matters arise from the same penalty proceedings and were heard together, they are being disposed of by this common consolidated order.

Condonation of Delay

2. The present appeal before the Tribunal was filed with a delay of 81 days. The assessee has filed a petition for condonation of delay explaining that the order of the learned CIT(A) came to the knowledge of the assessee only upon receipt of recovery notice dated 23.07.2025 and that the delay was neither deliberate nor intentional.

3. During the course of hearing, the learned Departmental Representative fairly submitted that he has no serious objection if the delay is condoned.

4. We have considered the explanation furnished. The delay is of 81 days. The explanation given does not indicate any mala fide or deliberate inaction. It is settled law that the expression "sufficient cause" should receive a liberal construction so as to advance substantial justice, particularly when no prejudice is shown to be caused to the other side.

5. In view of the explanation furnished and in the absence of objection from the Revenue, the delay of 81 days in filing the present appeal is condoned and the appeal is admitted for adjudication.

Facts of the Case

6. The assessment in this case was completed under section 143(3) read with section 144B vide order dated 26.04.2021. In the said assessment, the Assessing Officer made an addition of Rs. 66,70,000/- under section 56(2)(x)(b)(B) on account of difference between the stamp duty value of property and consideration shown by the assessee. Consequent thereto, penalty proceedings under section 270A were initiated. The Assessing Officer passed penalty order dated 14.01.2022 under section 270A levying penalty of Rs. 45,34,266/- being 200 percent of tax on alleged misreported income.

7. Aggrieved, the assessee preferred an appeal before the learned CIT(A). The learned CIT(A) passed under section 250 dismissed the appeal on the ground of delay of 488 days without adjudicating the penalty on merits.

8. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

- 1. The Ld. CIT (A) erred in not condoning the delay in filing the appeal with the reason that "that the delay is nothing but negligence and inaction on the part of the appellant which could have been very well avoided by the exercise of due care and attention. There exists no sufficient or good reason for condoning inordinate delay in filing the present appeal. As such there is no reason for condoning such a delay in this case. Considering above the delay is not condoned" and failed to consider that the expression "sufficient cause" for condonation of delay should be interpreted liberally so as to advance substantial justice.*

2. *The Ld. CIT (A) failed to appreciate that the delay in filing the appeal was not intentional, but was due to bonafide belief that rectification application filed under section 154 of the Act was under due consideration, and further appellant was unaware of the penalty order passed under section 270A of the Act.*
 3. *The order of the Ld. CIT(A) is bad in law and against the principles of natural justice and equity as it defeats the appellant's right to be heard on merits.*
 4. *In the facts and circumstances of the case, the Ld. A.O. erred in imposing the penalty of Rs.45,34,266/- u/s 270(A) of Income Tax Act,1961/-.*
 5. *The Ld. CIT(A) also failed to consider that the quantum appeal against the assessment order passed under section 154 of the Act is still pending before the CIT(A), and the penalty proceedings under section 270A, being consequential in nature and arising directly from the said assessment, should have been decide only after the disposal of the quantum appeal. Dismissing the penalty appeal solely on technical grounds of delay, without waiting for the outcome of the quantum appeal, is unjust and contrary to settled judicial principles.*
 6. *The appellant reserves the right to add, alter, or amend any ground or grounds of appeal on or before the hearing.*
9. During the course of hearing before us the learned Authorised Representative (AR) submitted that the quantum addition of Rs. 66,70,000/- made under section 56(2)(x) of the Act in the assessment order dated 26.04.2021 is still pending adjudication before the learned CIT(A)/NFAC in Appeal No. NFAC/2017-18/10290409 filed on 09.03.2023. It was contended that the penalty levied under section 270A vide order dated 14.01.2022 is purely consequential to the said quantum addition and derives its very foundation therefrom. According to the learned AR, the learned CIT(A) dismissed the penalty appeal solely on the ground of limitation without examining the merits of

the case, thereby denying the assessee an opportunity of adjudication on substantive issues.

10. The learned AR further submitted that coercive recovery has already been effected by the Department. The quantum demand as per notice under section 156 dated 26.04.2021 was Rs. 31,66,418/-, out of which 20% works out to Rs. 6,33,284/-. However, an amount of Rs. 9,75,779/- has already been recovered, resulting in recovery of Rs. 3,42,495/- in excess of the 20% benchmark. Apart from this, penalty demand of Rs. 45,34,266/- under section 270A remains outstanding and several bank accounts of the assessee have been attached and frozen. It was emphatically contended that when the very addition forming the basis of the penalty is sub judice before the appellate authority, the penalty proceedings cannot be sustained independently and coercive recovery ought not to continue.

11. The learned Departmental Representative, on the other hand, relied upon the orders of the lower authorities but did not controvert the factual position that the quantum appeal is presently pending before the learned CIT(A).

12. We have considered the rival submissions and perused the record. The penalty under section 270A is directly linked to addition made under section 56(2)(x) in the assessment order dated 26.04.2021. It is not disputed that the quantum appeal against said addition is pending before the learned CIT(A).

13. While penalty proceedings are independent, the very foundation of the penalty is the quantum addition. Where such addition has not attained finality and remains sub judice, dismissal of penalty appeal solely on technical ground of limitation without examining merits is not justified, particularly when the issue forming basis of penalty is pending adjudication.

14. In our considered view, the interest of justice would be served if the matter is restored to the file of the learned CIT(A) for adjudication of penalty appeal on merits after taking into consideration the outcome of quantum proceedings.

15. Accordingly, the order passed under section 250 is set aside and the matter is restored to the file of the learned CIT(A) to adjudicate the penalty appeal afresh on merits after granting adequate opportunity of hearing.

16. The Stay Application seeks stay of recovery of penalty demand of Rs. 45,34,266/- arising from order dated 14.01.2022 under section 270A and further seeks release/defreezing of attached bank accounts.

17. Since we have set aside the order of the learned CIT(A) and restored the matter for fresh adjudication of penalty appeal on merits, the penalty demand has not yet attained finality at appellate stage.

18. Further, it is undisputed that more than 20% of quantum demand has already been recovered, substantial coercive recovery

measures including bank attachments have been effected. Penalty demand is substantial and directly dependent upon quantum proceedings.

19. Considering the totality of facts, prima facie case, balance of convenience and hardship demonstrated, we deem it appropriate to grant interim protection.

20. Accordingly, recovery of penalty demand of Rs. 45,34,266/- arising from order dated 14.01.2022 under section 270A is stayed for a period of 180 days from the date of this order or till disposal of penalty appeal by the learned CIT(A), whichever is earlier. The Assessing Officer is directed to release/defreeze the bank accounts attached in connection with recovery of penalty demand. The assessee shall cooperate in expeditious disposal of penalty appeal before the learned CIT(A).

21. In the result, the appeal of the assessee in ITA No. 5049/Mum/2025 is allowed for statistical purposes and Stay Application No. 173/Mum/2025 is allowed in terms indicated above.

Order pronounced in the open court on 13.02.2026.

**Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT**

**Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER**

Mumbai, Dated 13/02/2026
Dhananjay, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai