

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 8071/MUM/2025
(Assessment Year : 2009-10)

Oopal Diamond

Suite No.2, B Wing, Laxmi Diamond,
Bandra Kurla Complex,
Bandra (East),
Mumbai - 400051
PAN: AAFO1064A

..... Appellant

v/s

**Deputy Commissioner of Income Tax,
Circle – 19(1),**

Room No.506, 5th Floor, Piramal Chambers,
Lal Baug, Parel,
Mumbai- 400012

..... Respondent

Assessee by : Shri Himanshu Gandhi

Revenue by : Shri Virabhadra Mahajan, Sr. DR

Date of Hearing – 17/02/2026

Date of Order - 19/02/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order of dated 15.09.2025, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*learned CIT(A)*], which in turn arose from the penalty order passed under section 271(1)(c) of the Act, for the assessment year 2009-10.

2. During the hearing, the learned Authorized Representative ("learned AR"), at the outset, by referring to the impugned order, submitted that the learned CIT(A), while dismissing the assessee's appeal against the penalty order passed under section 271(1)(c) of the Act, has considered incorrect facts, which do not pertain to the year under consideration. In this regard, our attention was drawn to paragraph 2.1 of the impugned order, wherein the learned CIT(A) has taken into consideration the return of income filed by the assessee for the assessment year 2009-10. Further, it was submitted that the reference to the assessment order passed under section 143(3) read with section 147 of the Act is also incorrect, as in the present case, the assessment order is dated 27.03.2015, whereas the assessment order taken into consideration by the learned CIT(A) is dated 14.12.2019. We find a similar error in the decision of the learned CIT(A) in paragraph 5 of the order, which is reproduced below: -

"5.1 It is evident from the assessment order dated 14.12.2019 that the impugned purchases claimed by the assessee is treated as bogus in entirety. Further, the appeal filed by the appellant against the quantum addition made vide order u/s 143(3) r.w.s 147 of the I.T. Act, 1961 dated 14.12.2019 has been dismissed by National Faceless Appeal Centre vide order dated 15.09.2025.

In view of the above, penalty imposed under section 271(1)(c) of I.T. Act, 1961 vide order u/s 271(1)(c) of I.T. Act, 1961 dated 27.03.2019 is being upheld and the present appeal of the appellant is hereby dismissed."

3. Therefore, we deem it appropriate to restore this appeal to the file of the learned CIT(A) for *de novo* adjudication after considering the correct facts in the assessee's case for the year under consideration. Accordingly, the impugned order is set aside, and the grounds raised by the assessee are allowed for statistical purposes. Needless to mention, no order shall be passed

without affording a reasonable and adequate opportunity of hearing to the assessee.

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

Order pronounced in the open Court on 19/02/2026

**Sd/-
VIKRAM SINGH YADAV
ACCOUNTANT MEMBER**

**Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 19/02/2026

Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai.