

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA No.533 /Ind/2025

(AY: 2018-19)

Rajesh Kumar Rathore Galla Mandi Sehore (PAN: AAPPR2617B)	बनाम/ Vs.	Income Tax Officer Ward 5, Sehore
(Appellant)		(Respondent)
Assessee by	Shri Harshit Choukse, CA & Shri Kunal Agrawal, CA	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	02.02.2026	
Date of Pronouncement	19.02.2026	

आदेश / ORDER

Per Paresh M Joshi, J.M.:

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961,[herein after referred to as the Act for the sake of brevity] before this Tribunal as & by way of second appeal. The Assessee is aggrieved by the order bearing Number:-ITBA/NFAC/S/250/2025-26/1075676936(1) dated

17.04.2025 passed by the Ld. CIT(A) u/s 250 of the Act, which is herein after referred to as the **"Impugned order"**. The relevant assessment year is 2018-19 and the corresponding previous year period is from 01.04.2017 to 31.03.2018.

2. **Factual Matrix**

2.1 That as and by way of an **order u/s 271AAC(1) of the Act**, bearing No. ITBA/PNL/F/271AAC(1)/2023-24/1056519467(1) dated 25.09.2023 a **penalty of Rs. 26,65,125/-** u/s **271AAC(1)** was imposed on the assessee being 10% on tax payable **u/s 115BBE of the Act**, which is herein after referred to as the **"Impugned Penalty Order"**. In the impugned penalty order following is recorded-

5. Summary of information / evidence including comments from report of VU/TU, if any.

As the assessee has not responded to any of the notices issued by this office, the notices and letters were sent to the Verify of the unit for service of the same. The

Verification Unit served the letter on the assessee. Still, there is no response from the assessee till date.

6. Point wise rebuttal of reply of the assessee including analysis of case law relied upon

The assessee has not responded to any of the notices / letters issued by this office.

7. Conclusion drawn for imposition of penalty

a. It is verified from the CPC portal, Insight portal and 360 degree profile, the assessee has not preferred appeal against the assessment order for the year under consideration. In the absence of any verifiable documentary evidence and from the assessee, the AO completed the assessment and it is concluded that the assessee has nothing to explain regarding the nature and source of the cash deposits and hence added to the total income under sec. 69 of the IT Act. Further penalty proceedings u/s. 271AAC(1) of the Act are being initiated

separately for unexplained cash deposits u/s. 69 r.w.s. 115 BBE of the IT Act.

b) This case was reopened u/s 147 of the IT Act, 1961 on the basis of the information that the assessee has made cash deposit of Rs. 3,45,00,000/- in its bank account maintained with ICICI Bank Ltd. during the year. It is further seen that the assessee has not filed his return of income for A.Y. 2018-19. In the absence of return of income and related accounts, the sources of cash deposit in bank account remains unexplained. As the income to the extent of Rs. 3,45,00,000/- has escaped from the assessment, the same is brought to tax and penalty proceedings under sec. 271AAC(1) are initiated. In view of the above detailed reasons and non compliance from the assessee, I am satisfied that it is a fit case for levy of penalty u/s 271AAC(1) Aof Income tax Act. Hence, the assessee is liable to pay penalty of 10% percent of the amount of tax payable u/s 115BBE of the Income tax Act.

8. COMPUTATION OF PENALTY

Hence, the assessee is liable to pay penalty of 10% percent of the amount of tax payable u/s 115BBE of the Income tax Act.

Sl. No.	Description	Amount in Rs.
i	Income chargeable to tax under the provisions of Sce. 115BBE of the Income Tax Act, 1961	Rs. 3,45,00,000/-
ii	Tax on 115BBE@60%	Rs. 2,07,00,000/-
iii	Surcharge @ 25% of tax on demand income chargeable u/s 115BBE	Rs. 51,75,000/-
iv	Education cess @ 3% on (ii)+(iii)	Rs. 7,76,250/-
v	Net tax payable (ii)+(iii)+(iv)	Rs. 2,66,51,250/-
vi	Penalty leviable u/s 271AAC(1) being 10% on tax payable u/s 115BBE	Rs. 26,65,125/-
vii	Rounded u/s 288A	Rs. 26,65,125/-

In view of the above reasons, I am satisfied that it is a fit case for levy of penalty u/s under section 271AAC(1) of the Income tax Act., to the tune of Rs. 26,65,125/-. The penalty u/s 271AAC(1) is being imposed after the prior approval of the Competent Authority i.e Range Head as per the provisions laid down in Section 274(2) of the

Income Tax Act, 1961. This demand should be paid as per the demand notice enclosed."

2.2 That the assessee being Aggrieved by the aforesaid **"Impugned Penalty Order"** prefers the first appeal **u/s 246A** of the Act before the Ld. CIT(A) who by the **"Impugned Order"** has dismissed the 1st appeal of the Assessee on the grounds & reasons stated therein. The core grounds & reasons for the dismissal of the 1st appeal are as under:-

"3. It is clear from the above that the order u/s 271AAC(1) of the Income Tax Act, 1961 was made on 25.09.2023 which got served upon the appellant on 25.09.2023 but the appeal was filed on 22.11.2024 with a delay of 394 days [424 days (from 25.09.2023 to 22.11.2024) 30 days] i.e. beyond prescribed time of 30 days, whereas, the appellant was required to file appeal within 30 days as provided vide section 249(2) on receipt of order u/s 271AAC(1) of the Income Tax Act, 1961. The appellant has sought condonation of delay in filing the appeal against the penalty order

dated 25.09.2023, which was admittedly appealable up to 23.10.2023. The delay has been attributed to the appellant's lack of education and unawareness of the reassessment proceedings initiated under Section 147 of the Income Tax Act, 1961. It is also contended that the reassessment and subsequent penalty proceedings were conducted under the Faceless Scheme, and that all communications were sent to an email address which allegedly did not belong to the assessee. The appellant came to know about the proceedings only when approached by the jurisdictional tax authorities for recovery of demand. Thereafter, on consulting a tax professional, the appeal was filed along with a request for condonation of delay.

While the appellant has placed reliance on his lack of education and knowledge of the proceedings, it is to be noted that under the Faceless Scheme, communications are made electronically through the registered email ID and the e-filing portal, which is the responsibility of the

assessee to maintain and monitor. Ignorance of statutory proceedings and failure to update or verify contact details on the official tax portal cannot be treated as sufficient cause under the law. The law mandates a reasonable standard of diligence and responsibility in tax matters, and mere reliance on lack of education or absence of awareness, without any proactive steps taken to ensure compliance, does not constitute a justifiable ground to condone delay. The explanation offered is general in nature, lacks corroborative evidence beyond an affidavit, and does not inspire confidence that the delay was due to reasons entirely beyond the appellant's control.

Hence, the reason stated can't be relied upon and therefore, as provided in the section 249(3) of the IT Act, I am not satisfied that the appellate had sufficient cause for not presenting the appeal within the specified period. Hence, since, appeal was not filed within

prescribed time as provided in the section 249(2) of the IT Act, the same is not admitted.

4. In view of the above facts, the appeal is dismissed for statistical purpose and not required to be adjudicated on merits.

5. In result, the appeal is disposed off"

3. **Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 02.02.2026 when all the three appeals of the assessee i.e. ITA No. 533/IND/2025, 534/IND/2025 & 535/IND/2025 were listed for hearing. They were heard all together with the consent of both the parties. It was submitted by the Ltd AR that the assessee is an individual & deals with grain. It was submitted that the **"Impugned Penalty Order"** was dated 25.09.2023 & first appeal was filed on 28.11.2024. It was submitted that first appeal is required to be filed within 30 days but since there was delay (394 days), a condonation of

delay was sought in the form No. 35 wherein the following was avered :

Kindly refer to above subject, Rajesh Kumar Rathore, the appellant and assessed to Income Tax Officer, Ward- Sehore, in this regard, we would like to submit as under That, the penalty order in the appellants case for A.Y. 2018-19 was passed on 25.09.2023. The above referred order was appealable with-in 30 days from 25.09.2023. Being aggrieved by the said order, appeal should have been filed on or before 23.10.2023. Appellant under genuine belief, however, could not do so for the following reasons:

That the appellant concerned i.e. Mr. Rajesh Kumar Rathore is not well educated. Appellant was not even aware that his case has been selected for reassessment proceedings u/s 147 of the Income Tax Act, 1961 and the reassessment proceedings were conducted under Faceless Scheme. All the notices, order etc. were only served on mail address registered on e-filling portal.

During the course of reassessment and penalty proceedings, E-mail address registered on assessee's E-filing portal was shyamsundermantri@yahoo.in which does not pertained to the assessee.

That, due to lack of education and knowledge, no compliance has been done by the assessee and therefore assessment order was passed u/s 144.

Further, on follow-up by jurisdictional officers for demand recovery proceedings, the assessee came to know of the completed assessment proceedings for A.Y. 2018-19 and the alleged additions made in his case.

Furthermore, the appellant has a consulted the tax consultant and discussed about the notices issued by the department and has come to know about the compliance to be made in past which were not made and he is advised by the consultant to appeal against the order passed by the Ld. AO, to pray for condonation of delay in filling of appeal and present his case before the Hon'ble CIT (A). That, the appellant assures Your

Honor that full cooperation will be extended by the appellant in the appeal proceedings. The appellant is duly submitting the affidavit to reaffirm his explanation regarding reason for delay in filling of appeal.

In view of above facts and circumstances, the delay may kindly be condoned

Prayer

It is therefore, most respectfully prayed that since the delay in filling of appeal is unintentional, bona fide and the appellant was prevented from sufficient cause due to reason mentioned above, the delay in filling of this appeal may very kindly be condoned so that justice may be done.

I would request Your Honor to kindly condone the delay and entertain the appeal on merit."

The Ld. CIT (A) in the "**Impugned Order**" has not considered the above application/COD & has rejected the first appeal as

according to him the assessee ought to have been proactive & must ensure compliance. It was also submitted that **“Impugned Penalty Order”** too was ex-parte. It was submitted that the Quantum & Penalty proceedings were conducted in the faceless manner. The e-mail address on the portal was shyamsundarmantri@yahoo.in which does not pertained to the assessee. That due to lack of education & knowledge, no compliance has been done by the assessee & the Quantum Assessment Order was passed u/s 144. It is only upon follow ups by the JAO for demand, the assessee came to know of the completed assessment proceedings for AY 2018-19. Reliance was placed on Affidavit dt. 09.11.2024. It was averred therein that in the quantum reassessment proceedings e-mails were sent on shyamsundarmantri@yahoo.in which does not pertained to the assessee. It was averred therein that due compliance for want of inadequate information & knowledge, wrong e-mail on portal regd. etc were reasons for non-compliance & representation. The copy of ack No. 936397151160425 was tendered across bar to demonstrate that a reply was filed before the NFAC, Delhi to keep in

abeyance the Penalty Proceedings till disposal of Quantum Appeal. It was also urged that the aforesaid e-mail was of assessee's erstwhile counsel with whom some dispute occurred & same e-mail remained in the system. Hence non-compliance occurred. It was also urged that the assessee is not a regular e-filer. It was submitted that the "**Impugned Order**" be set aside & the matter be remanded. Per contra the Ld. DR appearing for & on behalf of the Revenue submitted that the "**Impugned Order**" may be set aside if the Tribunal deems fit & matter to be remanded back to the file of the Ld. AO for de novo adjudication after condoning delay.

4. Observations Findings & conclusions

4.1 We have to decide the legality, validity and propriety of the "**impugned order**" basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the rival contentions of the Ld. AR & the Ld. DR canvassed before us, are of the considered view that the **“Impugned Penalty Order”** is not on merits & the **“Impugned Order”** of the CIT(A) has dismissed the first appeal by not condoning the delay. We observe that the Ld. AR has demonstrated before us during the hearing that there are sufficient causes for the delay & even the Ld. DR has not raised any serious argument opposing the condonation aspect of the matter which was sole ground for rejection of first-appeal before the CIT(A). We additionally hold that basis the application for the **“Condonation of Delay”** along with **“An Affidavit in support”** before the Ld. CIT(A) which we have reproduced above (supra), we observe that it was contended by the assessee that he is not well educated & had no knowledge about his case that it was selected for reassessment u/s 147 of the Act & that the reassessment proceedings are now conducted in faceless manner. E-mail address was of shyamsundermantri@yahoo.in which did not belong to the assessee. It is stated on the “Affidavit” that compliance could

not be done due to wrong e-mail on the portal and so also representation. Later upon engaging Tax consultant, he was advised to file the first appeal & he learnt about non compliance made by him in the past. These reasons according to us are reasonable and fair as it is supported by the Affidavit too. In hearing the Ld. AR has fairly stated that e-mail address was of the assessee's erstwhile counsel with whom relationship got soured. In the circumstances we deem it fit to condone the delay. Further, the assessee had filed a reply to the Ld. CIT(A) to keep penalty proceedings in abeyance (supra). We further observe that notices u/s 271AAC(1) dt. 6/3/2023, 12/6/2023, 26/07/2023 & 18/08/2023 all had come on e-mail id shyamsundermantri@yahoo.in which was of the erstwhile counsel of the assessee hence there was non compliances at the original stage of the proceedings Under these facts & circumstances, we set aside the **"Impugned Order"** & remand the case back to the file of Ld. AO for fresh adjudication & adjudgement on de novo basis. We direct the assessee to furnish the Deptt. all details, reply, submissions on merits of

the case before the Ld. AO including his latest e-mail Id & that of his counsel.

4.4 In view of the above, we set aside the “**Impugned order**” and remand the case back to the file of the Ld. AO on denovo basis, who shall now pass a speaking & well reasoned order by taking into consideration overall facts & circumstances of the assessee’s case including Quantum Assessment Order.

5

Order

5.1 In the result, the impugned order is set aside as & by way of remand back to the file of the Ld. AO.

5.2. In result, appeal of Assessee is allowed for statistical purpose.

Pronounced in open court on 19.02.2026.

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)

(PARESH M JOSHI)

ACCOUNTANT MEMBER

JUDICIAL MEMBER

Indore

Dated : 19 /02 /2026

SN

Copies to:

- (1) The appellant
- (2) The respondent
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore