

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.630/Ind/2025
(AY: 2012-13)

MAMTA UPPADHYAY, 1 NP UPPADHYAY NEHRU COLONY STATION ROAD 466001 MADHYA PRADESH INDIA, SEHORE (PAN:ACJPU1481E)	<u>बनाम/</u> Vs.	ITO SEHORE
(Appellant)		(Respondent)
Assessee by	Ms Saniya Farhaz Memon, CA	
Revenue by	Sh. Ashish Porwal, Sr.DR	
Date of Hearing	16.02.2026	
Date of Pronouncement	27.02.2026	

आदेश / O R D E R

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 and by way of a second appeal. The Assessee is aggrieved by the order bearing No:-ITBA/NFAC/S/250/2024-25/1075125343(1) dated 27.03.2025 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 2012-13 and the

corresponding previous year period is from 01.04.2011 to 31.03.2012.

2.

Factual Matrix

2.1 That as and by way of an penalty order made u/s 271(1) (b) of the Act, a penalty of Rs. 10,000/- was imposed on the assessee as the assessee had not complied with the notice(s) u/s 142(1) dated 01.05.2019 and 23.10.2019 resulting in statutory default attracting penal provision u/s 271(1) (b) of the act. That the aforesaid **“penalty order”** bears no: - ITBA/PNL/F/271(1) (b)/2021-22/1038427080(1) and that the same is dated 05.01.2022 which is hereinafter referred to as the **“impugned penalty order”**.

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 first appeal of the assessee on the grounds and reasons stated therein. The core ground and reasons for the dismissal of the first appeal was as under:-

“5.0 I have considered the penalty order and the appeal documents filed by the assessee. The assessee during the

appellate proceedings submitted that the assessee was unaware the initiation of the assessment as well as penalty proceedings. Hence, she could not comply to the statutory notices.

I have considered the contention of the assessee, however the same is not tenable. The AO did valid service of notices to the assessee. The assessee was supposed to file reply to the 142(1) notices issued by the AO, however the assessee failed to file reply to the notices. The penalty levied by the AO to the tune of Rs. 10,000/- u/s 271(1)(b) is upheld and grounds of appeal are dismissed.

In result, the appeal is dismissed."

2.3 The assessee being aggrieved by the **"impugned order"** has preferred the instant second appeal before this tribunal and has raised the following grounds of appeal in the form no. 36 against the **"impugned order"** which are as under:-

"Ground 1. That in the fact and circumstances of the case the appellant never intended to avoid the assessment proceedings initiated by the department the sole reason of her not attending the proceedings was non receipt of notices issued by the department. The appellant did not respond to the notice issued under section 142 of the Income Tax Act, 1961 as she was unaware about the of initiation of assessment proceedings since registered mail id did not belong to appellant and thus initiation of penalty proceedings under section 271(1)(b) is bad in law and should be annulled.

Ground 2. That in the facts and circumstances of the case the penalty order and appellate order is passed without giving any opportunity to the appellant which is bad in law and against the principles of natural justice.

3.Ground The Appellant craves leave to add, amend, alter vary and OR DLEETE all OR any of above grounds."

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 16.02.2026 when the Ld. AR for & on behalf of the

Assessee appeared before us & interalia contended that the **“Impugned Order”** is bad in law, illegal & not Proper. It is in the violation of the principles of natural justice. It therefore deserves to be set aside. It was next contended that the registry has pointed out the delay of 48 days in filing the instant second appeal. It was submitted that the **“impugned order”** is dated 27.03.2025 and the instant appeal ought to Have been filed on or before 27.05.2025 [or before end of 60 days from end of the month in which the impugned order was received]. However the instant appeal was filed on 18.07.2025. A condonation of delay application along with an affidavit in support is placed on record of this tribunal. It is pleaded in the application for the condonation of delay that instant appeal could not be filed in time as the email id on record does not belong to the assessee nor her counsel. The assessee consequently was unaware of the on-going appellate proceedings and could not file instant appeal in time an affidavit dated 18.07.2025 was placed on record in support of the condonation of delay application. The Ld. DR appearing for and on behalf of the revenue contended that

dept. of Income Tax has no objection if the delay is condoned by this tribunal however he leaves the issue to be decided by this tribunal as per it's wisdom. We after hearing both the parties, condone the delay as sufficient cause is shown.

3.2 The Ld. AR then submitted that Quantum Assessment first appeal is pending before the Ld. CIT (A). Submissions have been made. In so far penalty issue is concerned it was submitted that tax practitioner who was engaged by the assessee was unprofessional as he frequently used to change email ids and was found to be untrustworthy. In final analysis of things it was submitted by the Ld. AR that email notices did not come to the assessee and that was the reason for non-compliances of two notices dated 01.05.2019 and 23.10.2019 issued u/s 142(1). It was prayed that the matter be remanded back to the file of Ld. AO. Per contra the Ld. DR submitted that he leaves the issue of penalty to the wisdom of the tribunal. Hearing was closed.

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 opinion that the **"impugned order"** is not proper as against the Quantum Assessment Order dated 30.11.2019 which is placed on record first appeal is pending before Ld. CIT (A) and submissions in that appeal has been made. Under these facts and circumstances we deem it fit to set aside the impugned order and remand the case back to the file of Ld. AO on De novo basis. The assessee is directed to furnish before Ld. AO her correct email id including of her counsel where dept. could serve notice(s) to assessee in an effective

manner. Assessee is directed to cooperate with dept. of Income Tax.

4.4 In view of above, we set aside the **"impugned order"** and remand the case back to the file of Ld. AO on De novo basis, who shall pass a fresh order after taking into consideration the outcome of the first appeal in Quantum assessment proceedings.

5

Order

5.1 In the result the **"Impugned order"** is set aside as and by way of remand back to the file of the Ld. AO.

5.2 The appeal of the assessee is allowed for statistical purpose.

Pronounced in open court on 27.02.2026.

Sd/-

sd/-

**(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER**

**(PARESH M JOSHI)
JUDICIAL MEMBER**

Indore

Dated : 27/02/2026

Patel/Sr. PS

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