

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 1914 & 1915/Bang/2025
Assessment Year : 2018-19

<p>M/s. SKF Engineering & Lubrication India Pvt. Ltd., (resultant company pursuant to merger of M/s. SKF Technologies India Pvt. Ltd.), No. 249/250, Bommasandra Industrial Area, Phase 3, Hosur Road, Bangalore – 560 099. PAN: AAACL2061P</p>	Vs.	<p>The Deputy Commissioner of Income Tax, Circle – 6 (1)(1), Bangalore.</p>
APPELLANT		RESPONDENT

Assessee by	:	Shri Abhi Parakh, CA & Shri Aditya Mansabdar, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	20-01-2026
Date of Pronouncement	:	15-04-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These are the appeals filed by the assessee challenging the quantum order as well as the penalty order of the NFAC, Delhi both dated 13/06/2025 in respect of the A.Y. 2018-19 and raised the following grounds:

ITA No. 1914/Bang/2025

“The Grounds of Objections to the above variations proposed by the Ld. AO/Hon. CIT(A) are as under. Each of the following objections are without prejudice and independent to the other

Ground No. 1. General Ground

On the facts and in the circumstances of the case and in law, the assessment order dated September 24th, 2021 passed under section 143(3) of the Act by the National Faceless Assessment Centre [hereinafter referred to as 'Learned Assessing Officer' or Id. A01 and the appellate order dated June 13th, 2025 passed under section 250 of the Act by the Honourable Commissioner of Income Tax (Appeals) [hereinafter referred to as 'Hon'. CIT(A)] are erroneous, contrary to law, prejudicial to the interests of the Appellant and in violation of principles of natural justice; hence, both orders are bad in law and liable to be quashed.

Ground No. 2. Addition on account of Duty Drawback : Reliance on CBEC portal data

The learned CIT(A) has erred in confirming the addition of 21,70,825/- on account of alleged unaccounted duty drawback, merely on the basis of CBEC/ICEGATE portal data, without appreciating that the Appellant had already accounted duty drawback on actual realization basis, and no additional income had accrued to the Appellant during the relevant year.

Ground No. 3. Addition based on un-confronted CBEC data

On the facts and in law, the Ld. AO erred in relying on unspecified "CBEC data" for making additions without furnishing the underlying records or giving the Appellant an opportunity to rebut, in violation of section 144B and principles of natural justice; the addition is thus unsustainable.

Ground No. 4. Failure to appreciate method of accounting

Whether on the facts or the circumstances of the case, the Ld. AO/ Hon. CIT(A) has failed to appreciate that:

- *the Appellant consistently follows the method of accounting duty drawback on actual realization/cash basis*
- *the settled judicial principle permits following different methods of accounting for specific items of income (e.g., subsidies, incentives) provided the same is consistently followed; and*
- *no defect has been pointed out in the method of accounting employed by the Appellant.*

Ground No. 5. Accrual of income not established

Whether on the facts or the circumstances of the case, the Ld. AO/ Hon. CIT(A) has erred in law and on facts in holding that duty drawback becomes taxable merely upon export of goods, without appreciating that:

- *accrual of income under section 5 of the Act requires enforceable right to receive;*
- *export of goods does not ipso facto guarantee grant or realization of duty drawback, which is subject to verification, eligibility conditions, and sanction by customs authorities; and*
- *the Appellant had not acquired any vested right to receive the alleged duty drawback during the relevant year.*

Ground No. 6. Tax neutrality ignored

Whether on the facts or the circumstances of the case, the Ld. AO/ Hon. CIT(A) has erred in not appreciating that the accounting treatment of booking duty drawback on realization basis is tax neutral, since the same is invariably offered to tax in the year of receipt. The addition therefore leads to double taxation of the same income: which is impermissible in law.

Ground No. 7. Misinterpretation of section 2(24)(xviii)

Whether on the facts or the circumstances of the case, Hon. CIT(A) has failed to appreciate that the insertion of section 2(24)(xviii) by Finance Act, 2015 (w.e.f. 01.04.2016) does not alter the principle of real income taxation, i.e.. an income must accrue or be received before it can be taxed. The reliance placed by the CIT(A) on the said amendment to disregard the receipt basis of accounting is misconceived and contrary to the legislative intent.

Ground No. 8. Failure to consider judicial precedents

Whether on the facts or the circumstances of the case, Hon. CIT(A) has erred in disregarding binding judicial precedents (including those relied upon by the Appellant) which hold that government subsidies/incentives are taxable only upon actual receipt or when an enforceable right to receive arises, irrespective of the system of accounting.

Ground No. 9. Erroneous rejection of corroborative bank statements

On the facts and in law, the Hon. CIT(A) erred in treating the Appellant's complete bank statements as "additional evidence" despite the primary duty-drawback account having already been furnished before the Ld. AO. The remaining statements only corroborated that no other credits existed and did not introduce any fresh claim. Hence, rejection citing the documents as voluminous is bad-in-law.

Ground No. 10. Rejection of Binding Precedent

On the facts and in law, the Hon. CIT(A) erred in rejecting the reliance placed on the judgment of the Hon'ble Bombay High Court of 'Matchwell Electricals (I) Ltd vs CIT [2003] 263 ITR 227 (Born)' solely on the ground that it was delivered prior to the amendment to section 2(24)(xviii) by Finance Act, 2016. The CIT(A) failed to appreciate that the amendment, read with section 145B, itself recognizes duty drawback on receipt basis, which is fully consistent with the ratio of the said judgment. The rejection is thus erroneous and contrary to law,

Ground No. 11. Violation of principles of natural justice

The Hon. CIT(A) has erred in dismissing the Appellant's grounds without granting adequate opportunity of being heard and without properly considering the evidences placed on record, thereby vitiating the appellate proceedings.

Ground No. 12. Erroneous initiation of penalty

The Hon. CIT(A) has further erred in upholding the initiation of penalty proceedings under section 270A(1) of the Act, despite the issue being a matter of bona fide accounting difference, duly disclosed in the books and tax

audit report, and involving no element of concealment or misreporting.

Ground No. 13. Miscellaneous ground

The Appellant craves leave to add, alter, amend, or withdraw any of the above grounds of appeal at the time of hearing.

On the basis of above grounds and other grounds which may be urged at the time of hearing with the consent of the Honourable Tribunal, it is prayed that the order passed under section 250 of Act by Hon. CIT(A) and Order passed under Section 143(3) read with 144B by Ld. AO be quashed and relief sought be granted.”

ITA No. 1915/Bang/2025

“The Grounds of Objections to the above variations proposed by the Ld. AO/Hon. CIT(A) are as under. Each of the following objections are without prejudice and independent to the other

Ground No. 1. General Ground

On the facts and in the circumstances of the case and in law, the penalty order dated March 27th, 2022 passed under section 270A of the Act by the National Faceless Assessment Centre (hereinafter referred to as 'Learned Assessing Officer' or 'Ld. AO'] and the appellate order dated June 13th, 2025 passed under section 250 of the Act by the Honourable Commissioner of Income Tax (Appeals) [hereinafter referred to as 'Hon'. CIT(A)] are erroneous, contrary to law, prejudicial to the interests of the Appellant and in violation of principles of natural justice; hence, both orders are bad in law and liable to be quashed.

Ground No. 2. Validity of Penalty Order

On the facts and in the circumstances of the case, the order passed under section 270A of the Income-tax Act, 1961 ("the Act") is bad in law and void ab initio, inasmuch as the Assessing Officer failed to specify the particular limb—whether the penalty was being levied for "under-reporting" or "misreporting" of income. The absence of such a mandatory finding renders the penalty order unsustainable in law.

Ground No. 3. Violation of Section 275 — Pendency of Quantum Appeal

On the facts and in the circumstances of the case, the penalty order passed is contrary to section 275 of the Act, which mandates that penalty proceedings should be kept in abeyance till the disposal of the quantum appeal. The Appellant had specifically requested for such abeyance and had filed proof of appeal before the CIT(A), but the Ld. AO proceeded to levy penalty prematurely, rendering the order illegal.

Ground No. 4. Violation of Faceless Penalty Scheme, 2021

On the facts and in the circumstances of the case, the impugned penalty order is in gross violation of the Faceless Penalty Scheme, 2021, as it has been signed in the individual name of the officer instead of being issued in the name of the "National Faceless Assessment Centre (NFAC)". This jurisdictional defect renders the penalty order void ab initio.

Ground No. 5. Erroneous finding regarding non-filing of appeal by Ld. AO

On the facts and in the circumstances of the case, the learned Assessing Officer has erred, both in law and on facts, in passing the penalty order under section 270A of the Act dated March 27th, 2022, by incorrectly recording that no appeal had been filed by the Appellant against the assessment order, despite the fact that the Appellant had duly filed Form 35 before the learned CIT(A) on February 25th, 2022 and had also placed a copy of the same on record in response to the penalty proceedings. The penalty order is therefore vitiated, being based on a patently incorrect assumption of fact.

Ground No. 6. Mechanical Order by Hon. CIT(A)

On the facts and in the circumstances of the case, the Hon. CIT(A) erred in mechanically upholding the penalty levied under section 270A by merely referring to the findings of the Assessing Officer and quantum order, without independently adjudicating the specific grounds raised by the Appellant, thereby vitiating the appellate order.

Ground No. 7. Non-adjudication of grounds by Hon. CIT(A)

On the facts and in the circumstances of the case, the Hon. CIT(A) erred in passing a nonspeaking order in violation of section 250(6) by ignoring the Appellant's written submission dated May 22nd, 2025 and the additional ground raised during hearing, thereby violating principles of natural justice.

Ground No. 8. Incorrect Taxability of Duty Drawback

On the facts and in the circumstances of the case, the Ld. AO and Hon. CIT(A) erred in concluding that duty drawback is taxable merely because details were available on the CBEC portal, ignoring that:

- *As per Section 2(24)(xviii) read with Section 1458 of the Act, the chargeability of the duty drawback is on actual receipt.*
- *The Appellant has consistently followed a practice of offering the drawback to tax in the year of realization.*
- *The differential portion added by the AO was not "undisclosed" but a matter of timing difference, which cannot attract penalty under section 270A.*

Ground No. 9. Bona fide Conduct and Absence of Mens Rea

On the facts and in the circumstances of the case, the Appellant has disclosed all primary facts, offered the duty drawback to tax on receipt basis, and had no intention to conceal or misreport income. The issue is one of difference in method of taxability and not concealment, thereby squarely falling outside the scope of penalty under section 270A.

Ground No. 10. Principles of Natural Justice Violated

On the facts and in the circumstances of the case, the penalty order passed by Ld. AO along with order passed by Hon. CIT(A) have been passed without due consideration of the Appellant's submissions, without granting proper opportunity, and in complete disregard of the principles of natural justice.

Ground No. 11. Miscellaneous Ground

The Appellant craves leave to add, alter, amend, or withdraw any of the above grounds of appeal at or before the time of hearing of the appeal.

On the basis of above grounds and other grounds which may be urged at the time of hearing with the consent of the Honourable Tribunal, it is prayed that the order passed under section 250 of Act by Hon. CIT(A) and Order passed under Section 270A by Ld. AO be quashed and relief sought be granted."

2. The brief facts of the case are that the assessee is a company and filed their return of income on 20/03/2019. Subsequently, the case was selected

for complete scrutiny. Notice u/s. 143(2) was issued and thereafter notices u/s. 142(1) were issued. The assessee also filed their explanations. The AO had also made a reference to the TPO by considering the TP risk parameter whereas the TPO has not recommended for any such TP adjustment. Thereafter the AO had proposed to treat the difference between the duty drawback of Rs. 22,91,524/- and the duty drawback declared in the P&L account of Rs. 1,20,699/- as addition to the total income. The assessee submitted that the duty drawback received were accounted in the books of accounts on the basis of actual realisation of duty drawback amount in the bank account and not on the basis of export and import made during the financial year. The AO had not accepted the said explanations and confirmed the disallowance and completed the assessment u/s. 143(3) of the Act. The AO had also initiated penalty proceedings u/s. 270A(1) of the Act for misreporting of the income. Subsequent to the said proceedings, the AO had also issued a show cause notice for imposing penalty u/s. 270A of the Act. The assessee also replied to the said notice and also submitted that the assessee had filed an appeal against the quantum order and therefore requested to keep the penalty proceedings in abeyance till the quantum appeal was decided by the Ld.CIT(A).

3. The assessee initially challenged the quantum assessment by filing an appeal on 22/10/2021 and subsequently, filed an appeal against the penalty order on 25/04/2022. In the quantum appeal, the assessee submitted that the amount of duty drawback received in their bank account was shown in the P&L account and not the duty drawback to be received on the value of the export and import during the F.Y. Similarly, the assessee had disputed the penalty levied u/s. 270A of the Act by contending that there is no misreporting of any income and there is no basis for making the addition as estimated by the AO and therefore the penalty could not be imposed. The Ld.CIT(A) had not accepted the grounds raised by the assessee in respect of both the quantum appeal as well as the penalty appeal and dismissed the appeals.

4. As against the said orders, the present appeals have been filed by the assessee before this Tribunal.

5. At the time of hearing, the Ld.AR submitted that the duty drawback would be credited into the bank account of the assessee by the Government and therefore without having any other materials to show that the Government has given so much of the duty drawback, the AO cannot make the addition on estimation. The Ld.AR also submitted that the duty drawback received during the F.Y. was properly accounted and reported in the return of income and the balance amounts were taken into account in the next F.Ys. whenever the duty drawback was credited into their bank account. The Ld.AR also invites our attention to section 2(24)(xviii) and 145B(3) and submitted that the duty drawback received during the F.Y. has to be treated as income in the F.Y. in which it was received. The Ld.AR further submitted that the AO had relied on the data in the website of Central Board of Excise and Customs without furnishing the data to the assessee and therefore the addition could not be sustained on the ground of violation of the principles of natural justice. The Ld.AR also filed a paper book and furnished the copies of the replies filed by them and also the details of the duty drawback received during the A.Y. and also the bank statements highlighting the receipt of the duty drawback. The Ld.AR also furnished all the bank statements of the assessee and also relied on the judgments of several Hon'ble High Courts and Hon'ble Supreme Court as well as the orders of the various Hon'ble Tribunals in support of their submission that the actual receipt of the duty drawback should be treated as income.

6. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeals.

7. We have heard the arguments of both sides and perused the materials available on record.

8. The assessee is doing the export of various goods manufactured by them and out of that the assessee is entitled for the duty drawback by the Government to encourage the export business carried on by the assessee. Section 2(24)(xviii) defines the income which includes the assistance in the form of subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement by the Central Government or by a State Government or any authority or body or agency in cash or kind to the assessee. Section 145B(3) speaks about the year in which the said duty drawback has to be treated as income of the assessee. Section 145B(3) clearly says that the year in which the duty drawback was received by the assessee should be deemed as income of the previous year of the assessee in which the duty drawback was received. As stated in section 2(24)(xviii), the duty drawback was given by the Central Government and directly to the bank account of the assessee. By considering the above said provisions, the assessee had taken the amount received by them as duty drawback as income in the previous year in which it was received and the said duty drawback was also included in the P&L account of the assessee. The Ld.AO without giving any data or details, had presumed that the assessee had received the duty drawback of Rs. 22,91,524/- and made the addition to the total income declared by the assessee. In the assessment order, the AO has stated as per the CBEC data, the assessee had received the duty drawback whereas no such details were furnished by the AO so that the assessee could have explained the same.

9. We have also perused the various documents furnished by the assessee including the bank statements which would exhibit that the assessee had received a duty drawback of Rs. 1,20,699/- during the A.Y. When the records produced by the assessee would establishes the fact that the duty drawback mentioned in the P&L account is the correct amount received by the assessee, the AO could not have made the additions that too without any material evidence. No doubt, the duty drawbacks were routed through the bank accounts of the assessee and the bank statements of the assessee would shows that the assessee had received the duty drawback of

Rs. 1,20,699/- during the A.Y. and not more than that. The provisions also made it clear that the duty drawback received during the previous year should be added as income of the assessee. In such circumstances and also by considering the various documents furnished by the assessee, we have accepted the case of the assessee and directed the AO to delete the addition under the head duty drawback of Rs. 21,70,825/-

10. In the result, the quantum appeal filed by the assessee is allowed.

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11. Insofar as the penalty appeal is concerned, the AO had imposed the penalty u/s. 270A(1) of the Act for the reason that the assessee had misreported the income. In the earlier quantum appeal order, we have held that there is no misreporting of income by the assessee and allowed the additions made by the AO. In such circumstances, there is no point in sustaining the penalty imposed u/s. 270A(1) of the Act. We, therefore set aside the levy of penalty made u/s. 270A(1) of the Act.

12. In the result, the penalty appeal filed by the assessee is also allowed.

13. In the combined result, both the appeals filed by the assessee are allowed.

Order pronounced in the open court on 15th April, 2026.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 15th April, 2026.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore