

आयकर अपीलीय अधिकरण, दिल्ली पीठें, नई दिल्ली

**INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCHES, NEW DELHI**

BENCH: A

**BEFORE HON'BLE SUDHIR KUMAR, JUDICIAL MEMBER
AND HON'BLE MANISH AGARWAL, ACCOUNTANT**

ITA No. 776/Del/2026
(Assessment Year: 2015-16)

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| Sangeeta Kathuria, D-49, 2 nd Floor, Suncity Sector-54, Chakarpur Gurgaon (Appellant) PAN: BJNPK2905B | Vs. | ITO, Ward-49(1), Delhi (Respondent) |
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| Assessee by : | Shri Amarbir Singh Walia, Adv. Shri Zoravar Singh, CA, Ms. Kashika Khemka, CA |
| Revenue by: | Shri Ajay Kumar Arora, Sr. DR |
| Date of Hearing | 11/05/2026 |
| Date of pronouncement | 15/05/2026 |

ORDER

PER SUDHIR KUMAR, JM:

1. This penalty appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] dated 14.11.2025 arising from the penalty order passed u/s. 271(1)(B) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 19.08.2025 by the Assessing Officer, NaFAC, Delhi (hereinafter referred to as 'Id. AO').

2. At the time of hearing, Id. AR for the assessee submitted that quantum appeal against which this penalty appeal has been filed, has already been set aside and issues involved therein have been remitted back to the file of the AO for *denovo* adjudication, in accordance with law. Id. DR could not controvert the aforesaid proposition of the Id. AR.

3. We have heard the rival contentions and perused the records. We find that Tribunal in assessee's own case in quantum appeal being ITA No. 5888/Del/2024 (AY 2015-16) vide order dated 15.5.2025 has held as under:-

“2. We find that the assessee had not filed the original return of income u/s 139 of the Act or in response to notice u/s 148 of the Act. Hence, there was no admission of any income by the assessee in the entire proceedings for the year under consideration. While this is so, there cannot be any advance tax liability that could be fastened on the assessee. Once there is no question of payment of advance tax, the provisions of Section 249(4)(b) of the Act cannot be pressed into service. Hence, we hold that the ld NFAC erred in dismissing the appeal as not maintainable.

3. In this case, the assessment was also framed ex parte. Hence, we deem it fit and appropriate in the interest of justice and fairplay, to restore this appeal to the file of the ld AO for de novo adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. With these directions, the grounds raised by the assessee are allowed for statistical purposes.”

4. After perusing the aforesaid findings of the Tribunal, we note that issues involved in the quantum appeal of the same assessment year have already been remitted back to the file of the AO for denovo adjudication, thus, the instant penalty also require to be set aside on the similar lines to the file of the AO for deciding the same, in accordance with law. We hold and direct accordingly.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court 15.05.2026.

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER
SR BHATTANGAR

Date: 15.05.2026

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals) `
5. DR: ITAT

Sd/-

(SUDHIR KUMAR)
(JUDICIAL MEMBER)

ASSISTANT REGISTRAR
ITAT DELHI