



2026:DHC:9149-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 13th October, 2026

CNR No. DLHC010134442023+ **W.P.(C) 4767/2023****BT GLOBAL COMMUNICATIONS INDIA PRIVATE LTD**

.....Petitioner

Through: Mr. Ankul Goyal, Ms. Tanvi
Aggarwal, Advocates.

versus

**THE ASSESSMENT UNIT NATIONAL FACELESS ASSESSMENT
CENTRE AS NATIONAL FACELESS PENALTY CENTRE
INCOME TAX DEPARTMENT NEW DELHI & ANR.**

.....Respondents

Through: Mr. Anurag Ojha, SSC with Ms.
Hemlata Rawat & Mr. VK Saxena,
JSCs.

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE DR. JUSTICE ADITI CHOUDHARY****J U D G M E N T****DINESH MEHTA, J.(ORAL)**

1. By way of the present writ petition, the petitioner has challenged the order dated 24.03.2023 passed by the respondent-Assessing Officer imposing penalty upon the petitioner under Section 270A of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).

2. Assailing the impugned order, learned counsel for the petitioner argued that the order under challenge is void and without jurisdiction inasmuch as it was passed during the pendency of appeal before the Income Tax Appellate Tribunal (*hereinafter referred to as 'Tribunal'*).



3. Apprising the Court about the relevant facts, learned counsel submitted that an assessment order dated 28.07.2022 came to be passed by the Assessing Officer for the assessment year 2018-19 under Section 143(3) read with 144C(13) of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).
4. While passing the above assessment order the AO recorded satisfaction of initiation of penalty proceedings and issued a notice for penalty under Section 270A of the Act of 1961 on the very same day, i.e., 28.07.2022.
5. The petitioner filed a reply dated 17.08.2022 and thereafter filed an appeal against the above assessment order before the Tribunal (under Section 253 of the Act of 1961) on 29.08.2022. And on filing the appeal, the petitioner informed the Assessing Officer about the appeal against the assessment order dated 28.07.2022 having been filed.
6. The petitioner has approached this Court with a specific plea that the factum of appeal had been informed to the Assessing Officer during the pendency of the penalty proceedings and yet, he has passed the impugned penalty order flouting the mandate of Section 275(1)(a) of the Act of 1961.
7. Learned counsel for the petitioner argued that Sub-section 1(a) of Section 275 of the Act of 1961 leaves no manner of doubt that during the pendency of appeals including one filed under Section 253 of the Act of 1961, the penalty proceedings are to be kept in abeyance.
8. Mr. Anurag Ojha, learned Senior Standing Counsel, invited Court's attention towards paragraph no.3 of the assessment order and submitted that the assessee had informed the Assessing Officer that he was in the process of filing the appeal.



9. Heard learned counsel for the parties.
10. A perusal of paragraph no.3 of the impugned order gives an impression that the petitioner was in the process of filing appeal but such inscription appears to have been taken from petitioner's reply dated 17.08.2022 – being the first reply which the petitioner had filed.
11. There is no denial of the fact that the petitioner had filed appeal on 29.08.2022 and an intimation to this effect was given on 29.08.2022.
12. Be that as it may. Whether intimation was given or not, is immaterial, as Section 275(1)(a) of the Act of 1961 in no ambiguous terms provides that the penalty proceedings shall be kept in abeyance, in case, when an appeal under Section 253 of the Act of 1961 is pending. On the date of passing of the impugned order, the petitioner's appeal was pending and it is still pending.
13. Section 275(1)(a) of the Act of 1961 is reproduced hereunder for ready reference:

*“275. (1) No order imposing a penalty under this Chapter shall be passed-
(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Joint Commissioner (Appeals) or to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Principal Commissioner or Commissioner, whichever period expires later:*

Provided that in a case where the relevant assessment or other order is



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the subject-matter of an appeal to the Joint Commissioner (Appeals) or the Commissioner (Appeals) under section 246 or section 246A, and the Joint Commissioner (Appeals) or the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Joint Commissioner (Appeals) or the Commissioner (Appeals) is received by the Principal Commissioner or Commissioner, whichever is later;.....”

14. In view of the discussion foregoing, the writ petition is allowed. The impugned penalty order is, therefore, clearly contrary to provisions contained in Section 275(1)(a) of the Act of 1961 and is thus quashed and set aside.

15. The Assessing Officer shall however, be free to take up the penalty proceedings afresh, in case the Tribunal decides the appeal against the petitioner-assessee and in case law so permits.

16. The writ petition stands allowed.

(DINESH MEHTA)
JUDGE

ADITI CHOUDHARY
(JUDGE)

OCTOBER 13, 2026/nk