2026:BHC-AUG:21465-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4950 OF 2026

Hiraman Ramchandra Rithe,
Age 70 yrs. Occ. Nil
r/o Ramchandra Colony,
Near New High School,
A/p Chikalthana Airport,
Aurangabad-431005
PAN No. ANFPR1362L. ... **PETITIONER**

V/s.

1. The Union of India
Through its Secretary
Ministry of Finance
Department of Revenue,
New Delhi.

2. DCIT,
Central Circle-2, Aurangabad
Aayakar Bhavan, Opp. Holy Cross
English High School, Aurangabad.

3. The Pr. Commissioner of
Income Tax (Central) Nagpur,
Room no. 116, Aaykar Bhavan,
Civil Line Nagpur-440001. .... **RESPONDENTS**

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Mr. Raviraj R. Chandak, Advocate for the Petitioner
Mr. Akshay Kulkarni, Advocate for Union of India / Resp. No.1
Mr. Alok Sharma, Advocate for the Respondent Nos.2 & 3

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CORAM : NITIN B. SURYAWANSHI &
VAISHALI PATIL JADHAV, JJ.
DATE : 5th May, 2026

ORAL JUDGMENT :- (Per: Nitin B. Suryawanshi, J.)

1. Rule. Rule made returnable forthwith. Heard finally by the consent of the parties.

2. By this petition, the Petitioner is challenging the order dated 20.02.2026 under Section 271-D and notice of demand under Section 156 dated 20.02.2026. The learned advocate for the Petitioner has placed reliance on the decision rendered by the Coordinate Bench of this Court at Principal Seat in Writ Petition (L) No. 42864 of 2025 dated 03.02.2026, which according to him squarely covers the issue raised in this petition.

3. Learned advocate for the Respondents / Income Tax Department has strenuously opposed the petition stating that the Petitioner has alternate efficacious remedy and therefore the petition may not be entertained on that ground. The learned advocate for the Union of India has supported the impugned order.

4. This Court while allowing Writ Petition (L) No. 42864 of 2025 has followed the decisions in **B. Shreeram Durgaprasad Vs. Commissioner of Income Tax, Nagpur [2016] 65 taxmann.com 293 (Bombay)]** and **Kellogg India Private Limited Vs. National Faceless Assessment Centre, Delhi & Ors**. and **Maharashtra State Electricity Transmission Company**

Limited V/s. Assessment Unit, Income Tax Department, National Faceless Assessment Centre & Ors. We find that the issue raised in the present petition is squarely covered by the same decision. Hence, the petition deserves to be allowed.

5. In the result, Writ Petition succeeds. The impugned penalty order dated 20.02.2026 (Exhibit-C) is hereby quashed and set aside.

We direct that the penalty proceedings shall be kept in abeyance till a decision is rendered in the Appeal filed by the Petitioner before the CIT(A). Only once those proceedings are concluded, and are in favour of the Revenue, the Revenue can then continue with the penalty proceedings, and take it to its logical conclusion. If the Petitioner succeeds before the CIT(A), the question of continuing with the penalty proceedings will not arise. In other words, the continuation of the penalty proceedings will entirely depend on the outcome of the Appeal filed by the Petitioner before the CIT(A)against the Assessment Order passed under Section 147 of the IT Act.

6. Rule is made absolute in the above terms.

[VAISHALI PATIL JADHAV, J.] **[NITIN B. SURYAWANSHI, J.]**

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