IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.6412/Del/2025
[Assessment Year : 2019-20]

Pravesh Aggarwal, HRC professional Hub, VB-1002, Vaibhav Khaand, Indrapuram, Ghaziabad, Uttar Pradesh-201014 **PAN: AFZPA8382F**	vs	CIT(Appeals), NFAC, New Delhi
APPELLANT		**RESPONDENT**

Appellant by	None
Respondent by	Shri Jitendra Singh, CIT DR
Date of Hearing	19.02.2026
Date of Pronouncement	13.05.2026

ORDER

PER MANISH AGARWAL, AM :

The present appeal is filed by assessee against the order dated 15.09.2025 by Ld. Commissioner of Income Tax (Appels), National Faceless Appeal Centre (NFAC), New Delhi ["Ld. CIT(A)"] in DIN & Order No. ITBA/NFAC/S/250/2025-26/1080723854(1) passed u/s 250 of the Income Tax Act, 1961 ["the Act"] arising out of order dated 13.06.2025 passed u/s 270A of the Act pertaining to Assessment Year 2019-20.

2. Although number of grounds have been raised by the assessee, however, all these are related against the order of ld. CIT(A) in

confirming the levy of penalty of Rs. 3,74,072/- by the Assessing Officer u/s 270A of the Act.

3. Facts of the case, in brief, are that the assessee is an individual. On the basis of information available, the assessee had received salary income of more than Rs.30.00 lacs, but has not filed the return of income for the impugned assessment year. The case of the assessee was re-opened as per the provisions of section 147 of the Act after passing the order us/ 148A(d) of the Act on 19.04.2023 and thereafter, issued the notice u/s 148 of the Act. In response to the same, the assessee filed return on 08.05.2023, declaring total income of Rs.30,22,900/-. The Assessing Officer thereafter, issued statutory notices u/s 143(2) and 142(1) of the Act, in response to which requisite details were filed. The Assessing Officer accepted the return of income at Rs. 30,22,900/-. However, he initiated penalty proceedings u/s 270A of the Act for under-reporting of income as no return of income was filed u/s 139(1) of the Act.

4. During the course of such penalty proceedings, the assessee filed a detailed reply submitting that the penalty u/s 270A of the Act should not be levied as he was under bonafide belief that since both the employers had deducted the tax, thus his tax obligations were duly discharged. However, the Assessing Officer rejected the contention of the assessee and levied the penalty of Rs. 3,74,072/- being 50% of the tax on concealed income by holding that the assessee has under reported his income to the extent of Rs.

30,22,900/- i.e. the income which was declared in the return filed in response to notice u/s 148 and no return was filed u/s 139 of the Act.

5. Against the said order, assessee filed an appeal before Ld. CIT(A) wherein it was claimed by the assessee that the income declared was accepted and as such there was no concealed income. However, ld. CIT(A) has not accepted the contentions of the assessee and dismissed the appeal of the assessee.

6. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking various grounds of appeal mentioned in the appeal memo.

7. At the time of hearing, no one appeared on behalf of the assessee however, in alongwith appeal memo, assessee has stated as under:

> ***Facts of the Case:***
>
> 1. *I was employed during the Financial Year 2018-19, and during the course of the year, I changed my job.*
> 2. *Due to this change, I was unable to obtain all the relevant documents, especially Form 16 from both employers, before the due date for filing the return under Section 139(1).*
> 3. *Further, I was under the impression that the tax deducted at source (TDS) as seen in my Form 26AS was correctly deposited and my total income was duly reported by both employers.*
> 4. *Subsequently, I received a notice under Section 148 from the Assessing Officer on 19/04/2023. I complied in full and filed my return under Section 148 on 08/05/2025.*

5. *The assessment was completed under Section 147 vide order dated 17/12/2024, and the return filed by me was accepted as it is, with no variation or concealment alleged or found.*

6. *Despite this, a separate penalty order has been passed for failure to file the return under Section 139.*

<u>Grounds of Appeal:</u>

1. ***Reasonable Cause for Delay****: The delay in filing return under Section 139 was neither intentional nor to evade taxes. It was caused by circumstances beyond my control, namely, the change of employment and non-receipt of Form 16 from the employers) before the due date.*

2. ***TDS Reflected in Form 26AS****: The tax deducted by the employers was duly reflected in Form 26AS, evidencing that the income was not concealed, and the department had access to the transaction records.*

3. ***Return Filed Under Section 148 and Accepted****: Once the return was filed in response to Section 148 and accepted under Section 147 without any adjustment or adverse finding, the intent to comply is clearly demonstrated.*

4. ***Penalty Discretionary, Not Mandatory****: The penalty provisions are discretionary and not automatic. Courts have held that when there is a reasonable cause and voluntary compliance, penal provisions should not be invoked mechanically.*

5. ***No Revenue Loss or Malafide Intent****: There was no concealment of income, suppression of facts, or evasion of tax. The entire income was voluntarily disclosed and taxes were already deducted at source.*

6. ***Natural Justice and Fairness****: Levying a penalty in this situation would amount to punishing a genuine taxpayer for an unintentional delay, despite full cooperation and honest disclosure.*

7. ***Sekhon Jagtar Singh, Bangalore vs Income Tax Officer, Ward-5(3)(5), ... on 21 August,*** *2024:-*

   the Income Tax Appellate Tribunal, Bangalore Bench, after careful consideration of the facts, submissions, and legal provisions, has held that the assessee, Sekhon Jagtar Singh, failed to file his return of income under a bona fide belief that his tax obligations were fully discharged through TDS by his employer. The Tribunal observed that the income was duly reflected in Form 16 and 26AS, and there was no intention to underreport or misrepresent income. The minor disallowance under section 24 was also held to be a genuine mistake made under a bona fide belief. Accordingly, the Tribunal *concluded that the conditions under section 270A(6) were satisfied and that the case did not warrant a penalty for underreporting of income under section 270A. As a result, the penalty imposed by the AO and confirmed by the CIT(A) was deleted, and the appeal of the assessee was allowed.*

Prayer:

In light of the above circumstances, I humbly request you to:

* *Kindly admit and allow this appeal,*

8. On the other hand, Ld. CIT DR for the Revenue supported the orders of the lower authorities and submits that in case notice under Section 148 of the Act had not been issued to the assessee, then clearly this amount would have escaped taxation and the assessee would never have filed his return of income and reporting such salary and interest income.

9. Heard the contention of Ld.CIT DR and perused the material available on record. The issue for consideration before us is that whether penalty under Section 270A of the Act can be levied in the instant set of facts, when as per the assessee, he was under the genuine belief that since taxes has been deducted at source on such income then there was no occasion to file return of income.

10. Before proceedings further, it would be useful to reproduce the relevant extract of under reporting of income as per sub section (1), (2),(6) and (7) of Section 270A of the Act for ready reference:-

"(1) The Assessing Officer or the Commissioner (Appeals) or the Principal Commissioner or Commissioner may, during the course of any proceedings under this Act, direct that any person who has under-

reported his income shall be liable to pay a penalty in addition to tax, if any, on the under-reported income.

(2) A person shall be considered to have under-reported his income, if—

(a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;

(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 148;

(c) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;

(d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;

(e) the amount of deemed total income assessed as per the provisions of section 115JB or section 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 148;

(f) the amount of deemed total income reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income assessed or reassessed immediately before such reassessment;

(g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

(6) The under-reported income, for the purposes of this section, shall not include the following, namely:—

(a) the amount of income in respect of which the assessee offers an explanation and the Assessing Officer or 29-30 [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, is satisfied that the explanation is bona fide and the assessee has disclosed all the material facts to substantiate the explanation offered;

(b) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Assessing Officer or 29-30 [the Joint Commissioner (Appeals) or] the Commissioner (Appeals) or the

Commissioner or the Principal Commissioner, as the case may be, but the method employed is such that the income cannot properly be deduced therefrom;

(c) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance;

(d) the amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction; and

(e) the amount of undisclosed income referred to in section 271AAB.

(7) The penalty referred to in sub-section (1) shall be a sum equal to fifty per cent of the amount of tax payable on under-reported income.

11. The term "under-reporting" is defined in sub-Section (2) which provides seven situations wherein a person is considered to have under-reported his income. Section 270A(6)(*a*) provides that where the explanation for non-reporting or under-reporting of income is bona fide and all the facts material to the computation are disclosed, then it shall not be considered as a case of under-reporting of income. In the case of ***CIT v. Om Prakash Mittal [2005] 143 Taxman 373 (SC)***, it was held that the term "misrepresentation" implies that there is no true and fair disclosure. The word "misrepresentation" denotes not just written or spoken words but also any other conduct that amounts to a false assertion. The assertion so made, an assertion that does not accord with the facts is also termed false representation.

12. Now the issue for consideration before us is that in view of the peculiar facts of the present case, as applied to the relevant statutory provisions are reproduced above, whether can the assessee claim the benefit of sub-Section (6) of the Act which is to the effect that the assessee has been able to provide the reasonable explanation for such non-disclosure regarding salary and interest income by not filing of return of income or is a misrepresentation of facts. It is not in dispute that the Assessee is a non-filer and has filed return of income for the year under consideration u/s 148 of the Act declaring total income of Rs. 30,22,900/- and the reassessment has been completed accepting the returned income. While passing the reassessment order, a satisfaction has been recorded by the A.O. for 'under reporting the income' and consequent to the said satisfaction, penalty proceedings u/s 270A has been initiated for 'under reporting the income' and penalty has been imposed u/s 270A for 'under reporting the income'.

13. As could be observed from sub-section 2 to section 270A reproduced herein above, 'under Reporting income' occurs when a person discloses smaller amount than his actual income. In the present case, whatever income reported/declared by the Assessee has been accepted by the Department, therefore, it is not the case of reporting smaller amount than their actual income. Further the assessee, was, in the instant facts, under a bona fide believe that due taxes on the salary income has already been deducted at source by the respective employer and is appearing in Form 26AS, thus he has

fulfilled all the tax obligations of disclosing the income earned during the year. Since the assessee was under Bonafide and the genuine belief that there is no misrepresentation or suppression of facts, and the income was duly reflecting in Form No. 26AS on the portal of the Department, which was within the knowledge of the Income Tax Department, therefore, there is no question as regards to any under reporting of income. As per section 270A(2), under reporting of income can arise only when the income reassessed is higher than the income determined assessed earlier. In the present case, atleast *prima facie,* the assessed income u/s 148 of the Act is not greater than the income declared. Thus, it is not a case of misrepresentation also. We, therefore, delete the penalty levied u/s 270A of the Act. All the grounds of appeal raised by the assessee are thus, allowed.

14. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 13.05.2026.

Sd/- ***Sd/-***

(ANUBHAV SHARMA)
JUDICIAL MEMBER

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Date:- 13.05.2026
Amit Kumar, Sr. P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT
6. Guard File

ASSISTANT REGISTRAR
ITAT, NEW DELHI