

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH

**Before: Ms. Suchitra Kamble, Judicial Member**

**ITA No. 799/Ahd/2023  
Assessment Year 2020-21**

|   |    |   |
|---|----|---|
| Mahendra N. Patel,<br>Ahmedabad<br>PAN: AALPP5256G<br>(Appellant) | Vs | The Dy. CIT,<br>Ahmedabad<br>(Respondent) |
|---|----|---|

**Assessee by: Shri Parin Shah, A.R.**

**Revenue by: Shri Ashish Rajesh Revar, Sr. D.R.**

Date of hearing : 22-01-2024  
Date of pronouncement : 31-01-2024

**आदेश/ORDER**

This is an appeal filed against the order dated 31-08-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2020-21.

2. The grounds of appeal are as under:-

| Grounds of Appeal |  | Tax effect relating to each Ground of appeal |
|-------------------|--|--|
| 1.                | <i>The order passed by lower authorities in bad in law and required to be quashed.</i> | N.A.   |

|                         |  |  |
|-------------------------|--|--|
| 2                       | <i>Ld. NFAC erred in law and on facts in confirming penalty of Rs. 11,39,816/- ignoring submission of the appellant.</i>       | Rs. 11,39,816/-                                    |
| 3                       | <i>Ld. NFAC erred in law and on facts in not considering fact that the case of the appellant falls u/s 270A(6) of the Act.</i> | N.A. being alternative contention to Ground No. 2. |
| 4                       | <i>Ld. NFAC erred in law and on facts in imposing penalty without recording proper satisfaction.</i>                           | N.A. being alternative contention to Ground No. 2. |
| 5                       | <i>Ld. NFAC erred in law and on facts in confirming action of A.O. for invocation of section 270A(9) of the Act.</i>           | N.A. being alternative contention to Ground No. 2. |
| <i>Total Tax Effect</i> |  | 11,39,816/-  |

3. The assessee filed his return of income for assessment year 2020-21 on 11-12-2020 declaring total income of Rs. 5,49,75,980/-. The case was selected for scrutiny assessment and order u/s. 143(3) r.w.s. 144B of the Income Tax Act, 1961 was passed on 29-09-2022 determining the total assessed income by Rs. 5,63,08,997/- thereby making addition of Rs. 13,33,313/-. The Assessing Officer observed that during the course of assessment proceedings, the assessee failed to establish any nexus between the income earned from other source and interest expenses of Rs. 13,33,313/- as explained u/s. 57 of the Act. The Assessing Officer initiated penalty proceedings for mis-reporting of income and under reporting of income and show cause notice was issued u/s. 270A r.w.s.

274 was issued on 03-08-2022. Since the assessee did not reply the same, the Assessing Officer imposed penalty of Rs. 11,39,860/- for under reporting of income in consequence of mis-reporting of income u/s. 270A r.w.s. 274 of the Act.

4. Being aggrieved by the penalty order passed u/s. 270A of the Act, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that the expenditure was properly noted in the books of accounts/audit report and the same was filed during the assessment proceedings as the assessment order in para 2 mentions that the assessee has submitted copy of ITR acknowledgement, computation of income, copy of form 26AS, director fee and therefore claimed deduction u/s. 57 on account of interest payment against maturity of LIC of India of Rs. 1,48,65,220/- interest of unsecured loan of Rs. 13,33,313/- and certain expenses of Rs. 6,60,000/- paid to M/s Shree Fintax Services. The assessee submitted that receipt from LIC regarding interest payment against maturity of LIC of India and also submitted that list of six parties from whom he has taken unsecured loan. The assessee has filed his ledger in the books of accounts of these parties as well as copy of bank statements, confirmation and ITR of the said parties. As regards to short term fund requirements, the

assessee has taken a loan and for that the assessee has given reason which was incorporation in para 5 of the assessment order. Thus, section 270A will not be attracted as there was no mis-reporting and under-reporting by the assessee.

6. The ld. D.R. submitted that the assessee has not claimed the proper expenditure as required under the law and therefore the same is mis-reporting and under reporting. The ld. D.R. relied upon the assessment order, penalty order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant materials available on record. While invoking section 270A(9)(c) of the Act, the assessee has given a categorical reply to the Assessing Officer during the assessment proceedings vide reply dated 09-03-2020 and also submitted that all the details of books of accounts as well as the audit account. The assessee has established the nexus between the interest expenses and interest earned during the financial year 2009-10 from unsecured loans and in fact has given the genuineness, identity and creditworthiness for those parties. The assessee has also submitted notice copy of Shree Fintax Services and thus, the assessee has given all the details and explained the expenses including that of the interest expenditure which was led out or extended wholly and

exclusively for purpose of earning income from LIC policy maturity hence director fees from Mila India Pvt. Ltd.. Thus, it cannot be said that the assessee has under-reported in consequence of mis-reported the income of assessee at any point of time. Thus, section 270A(9)(c) of the act will not be attracted in the present case. The assessee Assessing Officer as well as the CIT(A) was not justified in imposing the penalty.

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

Order pronounced in the open court on 31-01-2024

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

**Ahmedabad : Dated 31/01/2024**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद