

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
(DELHI BENCH 'G' NEW DELHI)  
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER  
ITA No. 5177/DEL/2024 (A.Y. 2018-19)**

Sudarsan De C/o. C S Anand, Advocate B-81, First Floor, (Part B), Defence Colony, Bhishma Pitamah Marg, New Delhi <b>PAN: ABDPD3749F</b>		Vs.	DCIT Circle-2(1)(1), Ghaziabad
<b>Appellant</b>			<b>Respondent</b>
Assessee by	Advocate C.S. Anand and Advocate Vaishnavi Yadav		
Revenue by	Sh. Manish Gupta, Sr. DR		
Date of Hearing	26/05/2025		
Date of Pronouncement	30/05/2025		

**ORDER**

**PER YOGESH KUMAR, U.S. JM:**

The Assessee has challenged the order of Ld. CIT (A) dated 10/04/2024 wherein the Ld. CIT(A) confirmed the order of penalty passed by the A.O. u/s 270A of the Act for Assessment Year 2018-19.

2. Brief facts of the case are that, the Assessee had not filed the Income Tax Return on time. However, filed return of income on 11/04/2022 declaring total income of Rs. 1,02,88,060/-. Consisting of income from business & profession of Rs.89,86,252/-, income from other sources of Rs. 16,86,810/- and claimed house property loss of Rs.2,00,000/- and Chapter VIA deduction at Rs.1,85,000/-.

3. The assessment in the case of the Assessee was completed at the return income. However, the Ld. A.O. recorded satisfaction for 'under reporting the income' and initiated of penalty u/s 270A of the Act. An order of penalty came to be passed u/s 270A of the Act vide order dated 02/05/2023 by imposing the penalty of Rs. 17,15,404/-. Aggrieved by the order of penalty dated 02/05/2023, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order impugned dismissed the Appeal of the Assessee. As against the order of the Ld. CIT(A) dated 10/09/2024, the Assessee preferred the present Appeal.

4. The Ld. Counsel for the Assessee submitted that the Assessee has voluntarily filed the return of income and the same has been accepted by the Department, there is no case of 'under reporting the income' as no addition has been made by the A.O. for the year under consideration. Further, submitted that the Ld. CIT(A) has committed error in dismissing the Appeal, thus, sought for allowing the Appeal.

5. Per contra, the Ld. Departmental Representative submitted that the Assessee is a non-filer of the Return of Income. The Return for the year under consideration has been filed only after the case of the Assessee was taken up for scrutiny assessment u/s 147 of the Act. Further submitted that the filing of ITR manually cannot be accepted

as there is no record of any condonation granted u/s 119(2) of the Act. Thus submitted that the order of penalty u/s 270A has been rightly imposed for 'under reporting the income', accordingly, sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. It is not in dispute that the Assessee is a non-filer and has filed return of income for the year under consideration belatedly declaring total income of Rs. 1,02,88,060/- and the assessment has been completed at the return income. While passing the assessment order a satisfaction has been recorded by the A.O. for 'under reporting the income'. 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'. As observed earlier, though the Assessee is a non-filer, while filing Return suo-moto belatedly, declared the total income at Rs. 1,02,88,060/- which has been accepted by the Department and no addition has been made on the quantum. However, a penalty provision has been invoked u/s 270A for 'under reporting income'. The 'under Reporting income' occurs when a person discloses smaller amount than their 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, thus, the limb of 'under reporting' in Section 270A is not applicable and the said limb cannot to be invoked. Considering the above facts and circumstances, the penalty order and the order of the Ld. CIT(A) are hereby set aside.

7. In the result, the Appeal of the Assessee is allowed.

**Order pronounced in the open court on 30<sup>th</sup> May, 2025**

**Sd/-**

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

Date:- 30.05.2025

R.N, Sr.P.S\*

**Copy forwarded to:**

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

**Sd/-**

**(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**