

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI**

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No. 4071/DEL/2025
Asstt. Yr: 2022-23**

Deepak Golcha, 104, Balram Hosue, Karampura, New Delhi-110015	<u>Vs</u>	Income Tax Officer, Circle-43(1), Delhi.
PAN: AGTPG 2554 N		
APPELLANT		RESPONDENT
Assessee represented by	Shri Naman Singla, CA	
Department represented by	Shri Manish Gupta, Sr. DR	
Date of hearing	15.10.2025	
Date of pronouncement	27.10.2025	

ORDER

PER Ms. MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order passed by the Ld. CIT(A)/NFAC, Delhi dated 05.05.2025 arising out of the order dated 27.09.2024 passed by the Assessing Officer, Circle 43(1), New Delhi under Section 270A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Year 2022-23.

2. Facts, in brief, are that for Assessment Year 2022-23 the assessee filed his return of income at Rs. 1,87,09,910/- on 03.11.2022. The assessment was completed u/s 143(3) read with section 144B of the Act on 11.03.2024, assessing the total income at Rs. 2,85,41,590/-, after making an addition of Rs. 98,31,680/- on account of estimated income at the rate of 8% on purchases amounting to Rs. 12,28,95,996/- from alleged bogus parties. Penalty proceedings were initiated under Section 270A read with Section 274 for under-reporting consequent upon misreporting of income. A show-cause notice dated 11.03.2024 was issued, fixing the date of compliance on 30.03.2024. The assessee, as recorded in the assessment order, agreed to the addition of 8% of the total amount paid to such bogus entities. The Ld. AO vide penalty order dated 27.09.2024 imposed penalty of Rs. 61,34,968/- under Section 270A(9) of the Act @ 200% of the tax payable. Aggrieved against it the assessee preferred appeal before the CIT(A)/ NFAC who vide order dated 05.05.2025 affirmed the penalty levied by the Ld. AO. Aggrieved from the order of Ld. CIT(A)/NFAC the assessee is in appeal before us.

3. The case of the assessee is that in quantum proceedings the addition has been made in the hands of the assessee on estimation basis and the assessee has duly paid tax thereon. The assessee did not prefer any appeal against the said order passed by the Assessing Officer. It is the case of the assessee that penalty on the basis of addition made on estimation basis is not sustainable in the eyes of law and,

therefore, liable to be quashed as against quantum Revenue does not have any concrete evidence otherwise addition could not have been made on estimation. In support of the same Learned Counsel has relied upon the decisions in the cases of –

- CIT v. Aero Traders (P) Ltd. [2010] 322 ITR 316 (Delhi HC);
- Harigopal Singh v. CIT (P&H);
- Vishnu Tambi v. DCIT (ITAT Jaipur);
- Kamlesh Gupta v. DCIT (ITAT)

4. On the other hand, Learned DR relied on the order passed by the authorities below.

5. The facts as narrated herein above have duly been considered by us and it appears from the order passed by the Learned Assessing Officer that the addition to the tune of Rs. 98,31,680/- has been made on estimation basis, which is appearing from para 5 of the assessment order itself. Under these facts and circumstances of the case and having regard to the ratio of the decisions passed by different forums, as cited by Learned AR, we are of the considered opinion that no penalty under Section 270A of the Act on estimated addition is sustainable in the given facts of the case. Thus, having heard the Learned counsels appearing for the parties and having regard to the facts and circumstances of the matter, particularly keeping in view the judgments passed by different forums as cited above are found squarely

applicable in the case in hand, we allow this appeal preferred by assessee by quashing the penalty order made by Learned AO dated 27.09.2024, as not sustainable in the eyes of law. Assessee's appeal is allowed in very terms.

6. Assessee's appeal ITA No. 4071/Del/2025 is allowed.

Order pronounced in open court on 27.10.2025.

Sd/-

(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER

Dated: 27.10.2025.

MP

Copy forwarded to:

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

Sd/-

(MS. MADHUMITA ROY)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI