

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1930/PUN/2025
निर्धारण वर्ष / Assessment Year : 2017-18

The Mayani Urban Co-op. Bank Ltd., Tal: Khatav Dist.: Satara, Mayani, A/p Mayani- 415102. PAN : AAAAT7489H	Vs.	ITO, Ward-3, Satara.
Appellant		Respondent

Assessee by : Smt. Deepa Khare
Revenue by : Shri Harish Bist (Virtual)

Date of hearing : 17.09.2025
Date of pronouncement : 24.11.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 11.07.2025 passed by Ld. CIT(A)/NFAC for the assessment year 2017-18.

2. The appellant has raised the following grounds of appeal :-

- "1. The CIT(A) has erred in confirming penalty U/S 270A(9) of Rs.151140/- without appreciating the facts and circumstances of the case.*
- 2. On the facts and circumstances of the case penalty U/S 270A is not justified at 200%.*

3. *The appellant craves leave to add alter modify or substitute any grounds of appeal at the time of hearing.”*

3. Facts of the case, in brief, are that the assessee is a co-operative bank and an assessment order u/s 143(3) in the case of the assessee for the period under consideration was passed on 29.11.2019 wherein addition on account of interest of Rs.2,51,900/- received on income tax refund not offered to tax was made and subsequently vide order dated 09.11.2021 penalty of Rs.1,51,140/- under clause (a) of sub-section (9) of section 270A of the Act was imposed for under-reporting of income in consequence of misreporting.

4. Being aggrieved with the above penalty order, the assessee preferred an appeal before the Ld. CIT(A)/NFAC. Since the appeal was furnished with the delay of 1184 days, Ld. CIT(A)/NFAC was of the view that the delay should not be condoned. However, without prejudice to above observation, Ld. CIT(A)/NFAC dismissed the appeal after considering the merits of the case on the basis of written submission furnished by the assessee.

5. It is the above order against which the assessee is in appeal before this Tribunal.

6. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT(A)/NFAC is not justified. Ld. AR submitted before us that that the assessee has deposited the assessed tax within one month from the end of the month in which the assessment order was passed and an application requesting for immunity from penalty as per section 270AA of the Act was furnished before the Assessing Officer. However, it was admitted by Ld. AR that the requisites Form 68 could not be filed within the time limit prescribed under the Act. Ld. AR also submitted that the assessed tax was deposited, application as per section 270AA was filed and no appeal was furnished against the assessment order. Ld. AR submitted that while imposing the penalty, the penalty officer pointed out that Form 68 was not furnished hence the immunity from penalty cannot be granted. Ld. AR also submitted that Ld. CIT(A)/NFAC also without verifying the above facts of the case dismissed the appeal filed by the assessee since Ld. CIT(A)/NFAC was already of the view that the appeal filed by the assessee is time barred. Ld. AR also submitted that even otherwise the penalty u/s 270A is not attracted.

7. Ld. DR appearing from the side of the Revenue relied on the orders passed by the subordinate authorities and requested to confirm the same. Ld. DR also submitted that the immunity u/s 270AA of the Act is not available to the assessee since the penalty was imposed under sub-section (9) of section 270A of the Act.

8. We have heard Ld. counsels from both the sides and perused the material available on record. In this regard, we find that due to the fact that the interest received on income tax refund was not offered to tax by the assessee an addition of Rs.2,51,900/- was made to the income of the assessee during 143(3) proceedings and subsequently penalty under clause (a) of sub-section (9) of section 270A of the Act was imposed for Rs.1,51,140/- for under reporting in consequence of misreporting. In first appeal, Ld. CIT(A)/NFAC found that the appeal was furnished with the delay of 1184 days and according to Ld. CIT(A)/NFAC the delay cannot be condoned, however the appeal was dismissed after considering the merits of the case. In this regard, we find that it was the contention of Ld. counsel of the assessee that the assessee was entitled for immunity u/s 270AA of the Act and the same was wrongly declined by the penalty officer and the penalty order was wrongly confirmed by Ld.

CIT(A)/NFAC. Apart from above, it was also alternatively contended that the case may fall under the category of underreporting of income but certainly cannot fall under the category of underreporting of income in consequence of misreporting. In this regard, Ld. AR drew our attention to clause (a) of sub-section (6) of section 270A, which is as under :-

“Penalty for under-reporting and misreporting of income.

270A. (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.

(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 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;”

9. Accordingly, it was argued that if it is treated as underreporting of income the assessee may get benefit of clause (a) of sub-section (6) of section 270A of the Act wherein explanation offered by the assessee is acceptable to the Assessing Officer or the Commissioner (Appeals) as the case may be and therefore the penalty is not impossible.

10. In this regard, we find that the appeal was dismissed by Ld. CIT(A)/NFAC without condoning the delay however after considering the merits of the case. We find some force in the arguments of Ld. counsel of the assessee that if one opportunity is provided to the assessee the assessee is in a position to substantiate the grounds of appeal before Ld. CIT(A)/NFAC. Considering the totality of the facts of the case and in the light of arguments made by the rival parties, we deem it appropriate to set-aside the order passed by Ld. CIT(A)/NFAC and remand the matter back to the file of Ld. CIT(A)/NFAC with a direction to decide the appeal afresh as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT(A)/NFAC in this regard and to produce relevant documents/evidences/submissions in support of grounds of appeal as well as also raise additional ground, if any, to substantiate its case without taking any adjournment under any pretext, otherwise Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per law. Thus, the grounds of appeal raised by the assessee are allowed for statistical purposes.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 24th day of November, 2025.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 24th November, 2025.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.