

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,  
NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER, AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 4933/DEL/2025 [A.Y 2018-19]

SAS Fashions Pvt Ltd  
B-5/3, Okhla Industrial Area  
Phase - II, New Delhi

Vs.

The Dy. CI.T.  
Circle - 22(2)  
New Delhi

PAN: AAKCS 5894 F

(Appellant)

(Respondent)

Assessee By : Shri K. Sampath, Adv [Virtual]  
Shri V. Raj Kumar, Adv

Department By : Shri Om Prakash, Sr. DR

**Date of Hearing : 27.11.2025**  
**Date of Pronouncement : 12.12.2025**

PER NAVEEN CHANDRA, AM :-

This appeal by the assessee is directed against the order of the NFAC, Delhi dated 20.08.2024 pertaining to A.Y 2018-19.

2. The ld. counsel for the assessee has filed an application for condonation of delay.

3. Having perused the condonation petition, we find that there is a delay of nine months in filing the appeal. We find that the reason for delay in filing the appeal is that the Director of the assessee company expired and the CA entrusted with the affairs of the assessee got afflicted with cancer. Hence the assessee has sufficient cause for not filing the appeal in time. Accordingly, we condone the delay and admit the appeal.

4. The solitary grievance raised by the assessee is against the confirmation of penalty imposed by the assessment unit of the NFAC u/s 270A of the Income-tax Act, 1961 [the Act, for short].

5. Briefly stated, the facts of the case are that the assessment proceedings in the case of the assessee were completed by the Assessing Officer vide his order u/s 143(3) r.w.s 144B of the Act dated 19.04.2021 after disallowing the claim of depreciation of Rs. 79,12,860/- and other expenses of Rs. 1,53,053/- claimed by the assessee against his income from house property.

6. During the course of assessment proceedings, the Assessing Officer noted that the only asset available with the assessee in his statement of Fixed Assets was a property at B-70-73, Sector 83, Gautam Budh Nagar, Noida, UP, which was rented out during the financial year under

consideration from which gross rent of Rs. 2,36,31,775/- was received. The assessee, apart from claiming standard deduction of 30% thereon, also claimed depreciation of Rs. 79,12,860/- on the said building and other expenses of Rs. 1,53,053/- against the said rental income which was offered by the appellant under the head 'income from house property'.

7. After taking into account the submission filed by the assessee, the Assessing Officer disallowed the claim of depreciation and other expense against rental receipts of the assessee and assessed the total income of the assessee at Rs. 165,42,243/-. Penalty proceedings u/s. 270A of the Act was separately initiated for misreporting of income. Notice u/s. 274 r.w.s 270A of the Act was issued on 19.04.2021.

8. During the course of penalty proceedings, further show cause notice dated 01.07.2021 was issued to the assessee for under reporting of income. The assessee contended that there is no misreporting or underreporting of income from its side and there is only difference of opinion between the assessee and the Assessing Officer. It was also contended that an appeal has been preferred before first appellate authority against quantum addition made by the Assessing Officer. Since there was no appearance from the side of the assessee, the Assessing

Officer held that the assessee had not reported its correct income as required under the provisions of the Act resulting in under-reporting of its income and therefore, the Assessing Officer levied penalty u/s 270A of the Act for underreporting of income in consequence to misreporting thereof at Rs. 48,39,548/-, being 200% of tax on misreported.

9. The assessee in quantum appeal before the Id. CIT(A), got part relief on account of other expense of Rs. 1,53,053/-. The balance disallowance of depreciation Rs. 79,12,860/- was upheld by the CIT(A) which was not contested further by the assessee.

10. Now the aggrieved assessee is in appeal against the penalty order on disallowance of depreciation of Rs. 79,12,860/- before us and has contended that the penalty levied u/s 270A is not applicable to the facts of the assessee as the claim of depreciation is a legal issue and there is no misrepresentation of facts. The Id. counsel for the assessee relied on the decision of the Hon'ble Delhi High Court in the case of ***Prem Brothers Infrastructure*** 288 Taxmann.com 768.

11. Per contra, the Id. DR vehemently argued that the case of the assessee falls within the provisions of section 270A(9)(a) of the Act as it has misreported facts about its total income when the claim of

depreciation against the asset which was let out was made by it in the ITR filed. Accordingly, the penalty was correctly levied.

12. We have heard the rival submissions and have perused the relevant material on record. We find that on the facts and circumstances of the case, the term 'under reporting' and 'misreporting' u/s 270A has been loosely applied by the AO. Furthermore, the penalty was initiated in the assessment order for 'misreporting' apparently u/s 270A(9) whereas in the penalty proceedings, the AO issued notices for both 'under reporting' apparently u/s 270A(1) as well as 'misreporting', apparently under 270A(9) of the Act. The CIT(A) has upheld the penalty considering the same as 'misreporting'.

13. We find that the assessee has furnished all the documents regarding the transactions involved in its claim and hence there is no misreporting of any income. The issue is whether penalty for 'misreporting' is applicable on the claim of depreciation being allowable against "House property" income or not. The hon'ble Delhi High Court in *Prem Brothers Infrastructure LLP v. NFAC* (supra) quashed the penalty u/s 270A on the ground that there was no misreporting and that in absence of details as to which limb of section 270A was attracted and how ingredient of sub-section (9) of section 270A was satisfied, mere

reference to word 'misreporting' by revenue in penalty order to deny immunity from imposition of penalty and prosecution makes impugned order manifestly arbitrary.

14. In the instant case also, we are of the considered view that there is no misreporting of facts. We further find that the AO has not transparently provided the details as to which limb of section 270A was attracted and how ingredient of sub-section (9) of section 270A was satisfied. There is mere reference to word 'misreporting' by the AO in penalty order to deny immunity from imposition of penalty which renders the impugned order being considered as manifestly arbitrary. We therefore, following the decision of hon'ble Delhi High Court in the case of *Prem Brothers Infrastructure LLP v. NFAC*, hold that no penalty u/s 270A(1) or 270A(9) is leviable in the instant case. Accordingly, penalty so levied is directed to be deleted.

15. In the result, appeal of assessee in ITA No. 4933/DEL/2025 is allowed.

Order pronounced in open court on 12.12.2025.

Sd/-

[ANUBHAV SHARMA]  
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER

Dated: 12<sup>th</sup> DECEMBER, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

SI No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	