

**INCOME TAX APPELLATE TRIBUNAL  
AGRA BENCH "SMC": AGRA  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 363/AGR/2025  
(Assessment Year: 2017-18)**

Kishor Kumar Garg, Joura Road, Morena, Gwalior, MP	Vs.	ACIT, Circle-3(1), Gwalior
(Appellant)		(Respondent)
<b>PAN: ACOPG5428J</b>		

Assessee by :	None
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	19/01/2026
Date of pronouncement	21/01/2026

**ORDER**

1. The appeal in ITA No. 363/AGR/2025 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre, Delhi [hereinafter referred to as 'Id. NFAC', in short] dated 02.05.2025 against the order of assessment passed u/s 270A of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 21.01.2022 by the Assessing Officer, ACIT, Circle-3(1), Gwalior (hereinafter referred to as 'Id. AO').

2. None appeared on behalf of the assessee despite issuance of notice. In fact, I find there is no presence from the side of the assessee on 15/10/2025, 19/11/2025 and today i.e. 19/01/2026. Hence, I proceed to dispose of this appeal on hearing the Id DR and based on the materials available on record.

3. The only effective issue to be decided in this appeal is as to whether the penalty u/s 270A of the Act could be levied in respect of ad hoc disallowance of expenses @ 10% on account of repairs to machinery and compensation to employees in the facts and circumstances of the instant case.

4. I have heard the Id DR and perused the materials available on record. The assessee is an individual engaged in the manufacturing of oil agro products and had filed his return of income for AY 2017-18 on 29.10.2017 declaring total income of ₹22,76,660/-. The assessee filed his revised return on 31.10.2018 declaring total income of ₹47,89,310/- consequent upon re-computation of long-term capital gains. The assessment was completed u/s 143(3) of the Act on 29.12.2019 determining the total income at ₹49,18,900/-. In the said assessment, the ad hoc disallowances @10% of repairs to machinery and compensation to employees were made as under: –

Repairs of machinery	Rs.5,06,892/-
Compensation to Employees	<u>Rs.7,89,000/-</u>
Total	Rs. 12,95,892/-
10% disallowance thereon	Rs. 1,29,589/-

5. The Id AO initiated penalty proceedings u/s 270A of the Act for this disallowance on the ground that assessee had under reported and mis-reported his income. It is pertinent to note that the Id AO while making the aforesaid disallowance in the quantum proceedings had not rejected the books of account of the assessee and book results of the assessee by invoking the provisions of Section 145(3) of the Act. Hence, the levy of penalty by the Id AO for an ad hoc disallowance is not warranted as the

disallowance per se would not be maintainable in the facts and circumstances of the instant case. However, since the quantum appeal is not before me, I only hold that levy of penalty u/s 270A of the Act is not warranted as there is neither under reporting of income nor mis-reporting of income as the addition has been made only on ad hoc basis without rejecting book results of the assessee. Accordingly, grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 21/01/2026.

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 21/01/2026  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi