

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“F” BENCH, MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

**I.T.A. No. 4204/Mum/2025  
A.Y: 2018-19**

Smt. Urmila Dhelia D 67/651 MIG Colony, Kala Nagar, Bandhra (E), Mumbai – 400051. <b>PAN – AAEPD1367R</b>	Vs	ITO, Ward -23(3)(1) Piramal Chambers, Lalbaug, Mumbai – 400 012.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Karsh Kapadia
Revenue by	Shri Vivek Permpurna, CIT DR

Date of Hearing	13.01.2026
Date of Pronouncement	20.01.2026

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the assessee challenging the impugned order dt. 04.06.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2018-19. The assessee has raised the following rolls of appeal.

*1. The ground or grounds of appeal are without prejudice to one another.*

*1.a) On the facts and in the circumstances of the case and in law, the ld. CIT(A) erred in confirming the penalty levied by the AO u/s.270A for 1,18,144/- on plea of mis-reported income.*

*b) The ld. AO failed to appreciate that:*

*i) mere addition or disallowance or rejection of the claim or stand of the Appellant based on reasonable interpretation of the law is not sufficient to attract penalty u/s.270A;*

*ii) there is no misrepresentation or suppression of the facts of the case;*

*even otherwise it could be case of under-reporting of income for which the Appellant was eligible for grant of immunity from imposition of penalty u/s.270AA as the prescribed conditions i.e. (i) tax and interest was not payable, and (ii) no appeal against the order u/s.143(3) r.w.s. 147 was filed, are fulfilled;*

*iv) it is not mandatory that penalty must be imposed in every case, even the word "may" in section 270A (1) indicates that the authority concerned has discretion to levy penalty in case where an assessee has under reported his income; and*

*v) the penalty levied by the ld. AO is invalid or excessive and unreasonable.*

*c) In reaching to the conclusion and levying penalty the ld. AO omitted to consider relevant factors, considerations, principles and evidences while he was overwhelmed, influenced and prejudiced by irrelevant considerations and factors.*

2. All the grounds raised by the assessee are relates to challenging the order of Ld. CIT(A) in confirming the penalty levied by the AO u/s 270A of the Act. Therefore, we have decided the adjudicate these grounds through the present consolidated order.

3. At the very outset, Ld. AR submitted that the noticed which is at paper book page No. 48 and 49 was issued for levy of penalty u/s 274 r.w.s 270A of the Act, did not specify the limb of Sec. 270A(9) of the Act under which the assessee can be said to have misreported the income. Therefore in the absence of the same, penalty levied u/s 270(A) of the Act cannot be sustained and thus relied upon the following decisions:

1. ***Saltwater Studio LLP v/s. NFAC Delhi, 157 taxmann.com 749 [2023] (Mumbai-Trib)***
2. ***Kishor Digambar Patil v/s. Income Tax Officer, 149 taxmann.com 502 [2023] (Pune-Trib)***
3. ***Prem Brothers Infrastructure LLP v/s. NFAC, 142 taxmann.com 38 [2022] (Delhi) (HC)***
4. ***Hi-Tech Engineers v/s. Assistant Commissioner of Income Tax, ITA No.3165/MUM/2025 (Mumbai-Trib)***
5. ***Gujarat Energy Development Agency v/s. Deputy Commissioner of Income Tax, 179 taxmann.com 629 [2025] (Ahmedabad-Trib)***
6. ***GE Capital US Holdings Inc. v/s. Deputy Commissioner of Income Tax, 163 taxmann.com 146 [2024] (Delhi)(HC)***
7. ***Greenwoods Govt. officers welfare society v/s. Deputy Commissioner of Income Tax, 160 taxmann.com 237 [2024] (Delhi-Trib)***
8. ***Alrameez Construction (P.) Ltd. v/s. CIT/NFAC, 152 taxmann.com 382 [2023] (Mumbai-Trib)***

4. On the other hand, Ld. DR relied upon the orders passed by the revenue authorities.

5. We have heard the counsels for both the parties, perused the material placed on record, judgements cited before us and also the orders passed by the revenue authorities. From the records we noticed that AO had not specified the limb of Sec. 270A(9) of the Act at the time when the notice was issued for levy of penalty u/s 274 r.w.s 270(A) of the Act under which the assessee can be said to have misreported the income. On the co-joint reading of various provisions contained in Section 270A of the Act it becomes clear that on occurrence of the instance of under-reporting of income specified in Section 270A(2)(a) to 270A(2)(g) of the Act, in case the Assessing Officer arrives at a conclusion that the under-reporting of income is in consequence of misreporting, Assessing Officer is required to exhibit that the

aforesaid misreporting falls within the ambit of the cases of misreporting specified in Section 270A(9)(a) to 270A(9)(g) of the Act before the Assessing Officer can levy penalty at a higher rate of 200% of the amount of tax on under-reported income by invoking provisions of Section 270A(8) of the Act. Accordingly, while levying penalty under Section 270A of the Act for under-reporting income in consequence of misreporting, the Assessing Officer is required to establish that there is misreporting and that such misreporting falls within the cases of misreporting specified in Section 270A(9)(a) to 270A(9)(g) of the Act. Therefore, we hold that while passing the penalty order under Section 270A(1) read with Section 270A(8) of the Act the Assessing Officer is required to specify the specific limb of Section 270A(9) of the Act under which the Appellant was held to have misreported its income leading to under-reporting of income. The invocation of specific limb of Section 270A(9)(a) to 270A(9)(g) of the Act should either be apparent from the express provisions stated in the penalty order or should be unambiguously discernable from the reading of the penalty order as a whole; and in absence of the same penalty levied under Section 270A of the Act cannot be sustained. In the case before us, on perusal of Penalty Order, dated 07/08/2023, we find that the Assessing Officer has not specified the specific limb of Section 270A(9) of the Act which has been invoked. Further, even on perusal of the penalty order as a whole it is not clearly discernible whether the Assessing Officer has invoked provisions contained in Section 270A(a)/(c)/(d) of the Act.

6. On this preposition, we draw strength from the decision of Coordinate Bench of ITAT in the case titled ***Hi-Tech Engineers v/s. Assistant Commissioner of Income Tax, ITA No.3165/MUM/2025 (Mumbai-Trib)***. Therefore considering the entire facts as discussed by us above and also taking into consideration the decision of the Coordinate Bench of ITAT in the case of ***Hi-Tech Engineers (supra)***, we held that the penalty order dated 07.08.2023 thereby levying penalty u/s 270A of the Act cannot be sustained therefore the impugned order passed by Ld. CIT(A) is set aside and quashed and penalty levied u/s 270(A) of the Act stands dismissed.

7. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 20/01/2026

**Sd/-**  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

**Sd/-**  
**(SANDEEP GOSAIN)**  
**(JUDICIAL MEMBER)**

Mumbai:

Dated: 20/01/2026

*KRK, Sr. PS.*

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)  
**ITAT, Mumbai**