

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री इंदूरी रामा राव, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **3950/CHNY/2025**

निर्धारण वर्ष/Assessment Year: 2020-21

&

S.A. No. 137/CHNY/2025

[In ITA No. 3950/CHNY/2025]

Shri Santhosh Abraham,
21, Morrison 2nd Street,
Alandur, Chennai – 600 016.

The Income Tax Officer,
Vs. Ward 1,
Kancheepuram.

PAN: AIJPA 0742L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri N.Sai Sathiyabama, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. Gouthami Manivasagam,
Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 11.02.2026

घोषणा की तारीख/Date of Pronouncement

: 12.02.2026

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 23.10.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2020-21.

2. The solitary issue that is raised is whether the First Appellate Authority (FAA) is justified in confirming the penalty imposed u/s.270A of the Act amounting to Rs.2,57,631/-.

3. Brief facts of the case are as follows: The assessee had not filed his return of income for the assessment year 2020-21 u/s.139 of the Act. Assessee had made substantial financial transaction in the stock market and incurred loss of Rs.1,97,056/-. Assessee for the relevant assessment year was working with TCS and Ashok Leyland and had received salary amounting to Rs.22,76,480/-, for which there was TDS. Since, no return of income was filed by the assessee, notice u/s.148 of the Act was issued on 22.03.2024. In response to the notice u/s.148 of the Act, assessee filed his return of income declaring total income of Rs.22,76,480/- and taxable payable of Rs.5,26,210/- [tax payable was covered substantially by the TDS/advance tax]. The assessment was completed accepting the returned income u/s.147 r.w.s.144B of the Act vide order dated 15.01.2025.

4. Subsequent to completion of assessment, penalty notice u/s.274 r.w.s.270A of the Act was issued for under-reporting of income. During the course of penalty proceedings, it was

contended that assessee could not file his return of income since he and his family members were affected by Covid during the pandemic and since, there was no difference between the returned income filed in response to notice filed u/s.148 of the Act, no penalty needs to be levied. However, the AO rejected the contentions of the assessee and he imposed penalty u/s.270A of the Act vide order dated 14.07.2025, for under-reporting of return of income being 50% of the tax sought to be evaded.

5. Aggrieved by the order of the AO imposing penalty u/s.270A of the Act, assessee filed appeal before the FAA. Before the FAA, assessee reiterated the contention that since there was no difference between the returned income and the assessment income, no penalty is leviable. The FAA rejected the contentions of the assessee since assessee has not complied with the statutory duty of filing the return of income within the prescribed time limit. Further, the FAA noted that assessee had substantial transaction in the share market. The relevant finding of the FAA reads as follows:-

“4.3

On careful consideration it is seen that the appellant did not file the ROI despite having substantial taxable income. It is not the case that the appellant was not aware of the obligation to file the ROI, the appellant has been having substantial transactions of more than Rs.13

crore in the share market. Considering these facts the general explanation adduced by the appellant Is not found acceptable. The appellant's case is duly covered by the provisions of section 270A of the Act. Therefore, I do not find any infirmity in the action of AO and the penalty of Rs.2,57,631/- is confirmed."

6. Aggrieved by the order of the FAA confirming the penalty imposed, assessee has filed the present appeal before the Tribunal.

The grounds raised read as follows:-

a. The Learned Commissioner of Income-Tax (Appeals), Income Tax Department failed to consider the fact that the income assessed by the assessee is identical to the returned income, and thus there was no evasion of tax.

b. The Respondent, while imposing penalty, erred in concluding it as under-reported income though the explanation given by the Appellant with relevant records was satisfactorily accepted by them. Also it is pertinent to state here that the return of income assessed was accepted as filed by the Appellant. Therefore the Respondent ought not to have declared the income as under-reported as per Section 270-A (6) (a) of the Income Tax Act, 1961.

c. The Learned Commissioner of Income-Tax (Appeals), Income Tax Department failed to consider that there was no intention by the Appellant to suppress the income or to evade tax but the delay caused because of Corona pandemic. Moreover the Appellant had also tried multiple times to file the returns after due date and failed as the system didn't allow him to submit.

d. The Learned Commissioner of Income-Tax (Appeals), Income Tax Department ought to have invalidated the entire proceedings since the notice under section 148 dated 06.03.2024 and the notice under section 270 A dated 15.01.2025 were issued by the Jurisdictional Assessing Officer and not by the Faceless Accessing Officer.

e. The Learned Commissioner of Income-Tax (Appeals), Income Tax Department erred in considering the Appellant's income as misreporting of income, when it doesn't come under any of the purview of Section 270-A (9) of the Income Tax Act, 1961.

f. The Learned Commissioner of Income-Tax (Appeals), Income Tax Department failed to appreciate the facts that the Appellant in response to the show cause dated 15.01.2025, requested the Respondent to drop the penalty proceedings, which could have been considered as application to claim immunity under section 270-AA though it was not in specific format. Thus the Respondent failed in granting immunity to the Appellant though the conditions specified in Section 270-AA (1) (a) of the Income Tax Act, 1961, are fulfilled.

g. The Learned Commissioner of Income-Tax (Appeals), Income Tax Department failed to appreciate the fact that the taxable income for AY 2020-21 was only the salary income where the tax had already been deducted. Therefore no tax is evaded. Also failed to appreciate that there was no gain in trading and share transactions.

h. The Learned Commissioner of Income-Tax (Appeals), Income Tax Department erred in observing that the Appellant had substantial transactions of more than Rs.13 Crore in the share market. But, the said amount was actually the gross turnover made in F&O Trading during the said Assessment Year.

4. The Appellant craves leave to add, alter or amend any of the grounds at the time of hearing if necessary.”

7. The Ld.AR submitted that assessee on his own has been regularly filing return of income on time from assessment year 2007-08 to assessment year 2025-26. It is submitted that for the relevant assessment year namely, 2020-21, assessee and his family members had suffered covid during the Covid-19 pandemic and was not in a position to file the return within the prescribed time. It was

stated that, subsequently assessee made efforts to file the return, however the system did not accept the return which was sought to be filed. It was submitted that out of the aggregate income tax liability of Rs.5,26,174/-, a sum of Rs.5,12,810/- was paid by way of TDS and balance sum of Rs.10,912/- was on account of penalty for not filing the return of income and interest u/s.234A of the Act. Therefore, it was contended that more than 99% of tax has been paid by way of TDS and assessee had no intention to conceal his income. It was stated that this fact is also clearly borne out from the assessment order dated 15.01.2025 at page 4, wherein it has been clearly stated that assessee's claim was corroborated with the available record and the return of income has been accepted. Therefore, it was contended that the explanation of the assessee is bonafide u/s.270A(6)(a) of the Act. The Ld.AR further submitted that on identical facts, Ahmedabad Bench of the Tribunal in the case of Suresh Rao vs. ITO in ITA No.1235/Adhd/2024, order dated 24.01.2025 had deleted the penalty imposed u/s.270A of the Act.

8. The Ld.DR on the other hand submitted that assessee had gross turnover exceeding Rs.13 crores in dealing with Future and Options (F&O). Moreover, for the relevant assessment year, the total declared income of the assessee was Rs.22,76,480/- in

response to the notice issued u/s.148 of the Act, which is above the basis exemption limit. Therefore, it was contended that assessee having failed to file the return of income, there was escapement of assessment, which warrants imposition of penalty u/s.270A of the Act. It was stated that penalty u/s.270A of the Act for under-reporting of income is computed u/s.270A(3)(b)(i) of the Act, being the difference between the assessment income and the exemption limit with the tax payable thereon u/s.270A(10)(b) of the Act. Therefore, the order of FAA which has confirmed the AO's order imposing penalty u/s.270A of the Act requires no interference and the appeal of the assessee may be dismissed.

9. We have heard rival submissions and perused the material on record. Admittedly, assessee has been regularly filing his return of income from assessment years 2007-08 to assessment year 2025-26, copies of acknowledgment for having filed the return of income is placed on record. For the relevant assessment year namely 2020-21, assessee has not filed his return of income. Assessee had stated that he was not been able to file the return of income on account of he and his family members suffering from Covid during the covid-19 pandemic. It was stated that thereafter

multiple attempts were made to file the returns, which was in vain, since system did not allow to submit.

10. The assessee had traded in stock market and has gross turnover exceeding Rs.13 crores. However, it is clear from the written submissions of the Ld.DR that trading in shares had resulted in loss of Rs.1,97,056/- (para 1 of the Ld.DR submissions). Pursuant to the notice issued u/s.148 of the Act, return of income was filed by assessee declaring total income of Rs.22,76,480/- (income from salary). The return of income was accepted by the AO and assessment was accordingly completed u/s147 r.w.s.144B of the Act vide order dated 15.01.2025. In the assessment order, the AO had accepted the genuineness of the assessee claim based on the evidences and the explanation provided. The relevant portion of the assessment order reads as follows:-

“The submissions made by the assessee were duly verified and examined against the return of income filed, along with the details and particulars provided during the assessment proceedings and other relevant records. The genuineness of the assessee’s claims was corroborated with available records, and based on the evidence, the explanations provided by the assessee were found satisfactory.”

11. As regards the salary income so disclosed in the return of income filed pursuant to notice issued u/s.148 of the Act, it is to be mentioned that there has been TDS on the said salary payments

almost covering 99% of total tax demand. The balance tax of sum of Rs.13,400/- is on account of penalty in not filing return of income and interest payment u/s.234A of the Act. Section 270A(6)(a) of the Act states that for the purpose of this section under-reporting of income shall not include amount of income in respect of which assessee offers an explanation which is bonafide and assessee has disclosed all material facts to substantiate the explanation offered. Penalty in this case has been imposed u/s.270A of the Act for under-reporting of income for the reason that if notice not being issued u/s.148 of the Act, income would have escaped assessment. We fail to understand when total tax liability has been covered by TDS payment, how income could have escaped assessment. When tax liability is covered by TDS, there is no manafide intention on the part of the assessee to conceal any particulars of income or under-reporting his income. Therefore, the explanation of the assessee that he was prevented from filing the return of income for the relevant assessment year due to suffering Covid-19 is a bonafide explanation and covered u/s.270A(6)(a) of the Act. Accordingly, on the facts of the instant case, we are of the view that penalty u/s.270A of the Act is not to be imposed and we, delete the same. It is ordered accordingly.

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12. Since we have allowed the appeal and deleted the penalty, the Stay application is rendered infructuous and is dismissed.

13. In the result, the appeal filed by the assessee is allowed and the stay application filed by the assessee is dismissed.

Order pronounced in the open court on 12th February, 2026 at Chennai.

Sd/-

(इंटूरी रामा राव)

(INTURI RAMA RAO)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 12th February, 2026

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT