

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH 'SMC': DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.184/DDN/2025
(ASSESSMENT YEAR 2020-21)**

Shiv Ratan Education Society through its Secretary Sh. Arvind Kumar, The Oxford School, Navodaya Nagar, Roshnabad, Haridwar, Uttarakhand-249403. PAN-AAKAS4755K	Vs.	Assessment Unit, Income Tax Department, Hardwar.
(Appellant)		(Respondent)
Assessee by		Shri Pulak Raj, Adv.
Department by		Shri A. S. Rana, Sr. DR
Date of Hearing		11.12.2025
Date of Pronouncement		18.02.2026

ORDER

PER MANISH AGARWAL, AM:

This appeal is filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ['Ld. CIT(A)' in short], dated 28.07.2025 in Appeal No. NFAC/2019-20/10241134 arising out of the assessment order passed u/s 270A of the Act, 1961 (the Act' in short) dated 28.07.2025 for Assessment Year 2020-21.

2. Brief facts of the case are that assessee is an education society running a school imparting education upto Senior Secondary in the name of "The Oxford School" at Haridwar. The return of income was filed on 16.10.2020 declaring total income of Rs. Nil income which was held as invalid as the same was not verified. Thereafter, the assessee again filed revised return of income on 22.10.2020 along

with necessary form 10B of the Act and the audit report prescribed for charitable or religious trusts or institutions. The case of the assessee was selected for limited scrutiny for the reason 'large claim of depreciation for trust - whether asset itself has been claimed as application of income'. During the course of assessment proceedings in terms of reply dated 05.08.2021 assessee stated that in the return of income filed, inadvertently depreciation was claimed as part of application of funds, however, it had already claimed application of the capital assets, therefore, such claim was withdrawn and revised Income and Expenditure account was filed before the AO. It was further claimed by the assessee that since, the assessee has already applied 85% of the gross receipts, therefore, even otherwise if the depreciation is reduced from the gross amount of application, there would be no change in the income of the assessee. The AO after considering the facts has accepted the income declared in the return of income at Nil, however, initiated penalty proceedings u/s 270A(9)(a) of the Act for misrepresentation of the facts.

3. Thereafter, the AO imposed the penalty u/s 270A of Rs.15,44,310/- being 200% of the tax sought to be evaded which penalty stood confirmed by Ld. CIT(A).

4. Aggrieved by the said order, the assessee is in appeal before the Tribunal.

5. Heard both the parties and perused the material available on record. From the perusal of the penalty order, it is observed that the AO while imposing the penalty alleged that if amount of Income over expenditure and depreciation claimed as application are reduced from gross receipts of Rs.3,77,92,087/-, the residuary amount of Rs.2,92,01,731/- is less than 85% of the gross receipts i.e. Rs.3,21,23,274/-. He thus concluded that the assessee by making incorrect claimed of deprecation on the capital asset on which it has already claimed application tantamount to misrepresentation or suppression of facts and levied the penalty u/s

270A of the Act. From the perusal of the appellate order, it is observed that assessee vide its reply dated 05.08.2021 filed before the AO has submitted revised income and expenditure account, according to which the assessee has made following claim:

Total receipt	<u>Rs.3,77,92,087/-</u>
Application of fund (expenditures Net of depreciation)	Rs.2,92,01,731/-
Add: Application towards capital assets (less borrowings)	<u>Rs. 70,54,017/-</u>
Total application of funds of (95.93% of gross receipts).	Rs.3,62,55,748/-

6. The AO after considering the revised computation of income had accepted the claim of the assessee and assessed the income at Nil. However, while imposing the penalty u/s 270A of the Act, the AO had ignored this fact of claim of application towards capital assets and if the same is considered there would be no deficit in the application of funds up to 85% of the gross receipts. It is further observed that the error of claiming depreciation in the application of funds was inadvertently made by the assessee and when such error was pointed out, the assessee immediately corrected the same and filed the revised computation of income. It is further observed that all the facts are duly forming part of the information supplied in the return of income filed and there is no misrepresentation or suppression of facts to hold that it is an incorrect claim and assessee has misrepresented or suppressed the facts as provided in clause (a) of sub-section 9 of section 270A of the Act. Once, the assessee has disclosed the facts and admitted the error occurred in filing the return which has not affected the income nor burdened the assessee with any additional tax liability, therefore, in our considered opinion, no penalty is required to be levied as there would be no willful attempt on the part of the assessee to evade any tax. The

Hon'ble Supreme Court in the case of **CIT vs. Reliance Petroproducts (P) Ltd.** [2010] 322 ITR 158 (SC) has held as under:

“.....We do not agree, as the assessee had furnished all the details of its expenditure as well as income in its Return, which details, in themselves, were not found to be inaccurate nor could be viewed as the concealment of income on its part. It was up to the authorities to accept its claim in the Return or not. Merely because the assessee had claimed the expenditure, which claim was not accepted or was not acceptable to the Revenue, that by itself would not, in our opinion, attract the penalty under Section 271(1)(c). If we accept the contention of the Revenue then in case of every Return where the claim made is not accepted by Assessing Officer for any reason, the assessee will invite penalty under Section 271(1)(c). That is clearly not the intendment of the Legislature.”

7. The **Hon'ble Supreme Court** in the case of **Pricewaterhouse Coopers vs CIT** reported in **348 ITR 306 (SC)** has held as under:

17. *Having heard learned counsel for the parties, we are of the view that the facts of the case are rather peculiar and somewhat unique. The assessee is undoubtedly a reputed firm and has great expertise available with it. Notwithstanding this, it is possible that even the assessee could make a “silly” mistake and indeed this has been acknowledged both by the Tribunal as well as by the High Court.*
18. *The fact that the Tax Audit Report was filed along with the return and that it unequivocally stated that the provision for payment was not allowable under Section 40A(7) of the Act indicates that the assessee made a computation error in its return of income. Apart from the fact that the assessee did not notice the error, it was not even noticed even by the Assessing Officer who framed the assessment order. In that sense, even the Assessing Officer seems to have made a mistake in overlooking the contents of the Tax Audit Report.*
19. *The contents of the Tax Audit Report suggest that there is no question of the assessee concealing its income. There is also no question of the assessee furnishing any inaccurate particulars. It appears to us that all that has happened in the present case is that through a bona fide and inadvertent error, the assessee while submitting its return, failed to add the provision for gratuity to its total income. This can only be described as a human error which we are all prone to make. The calibre and expertise of the assessee has little or nothing to do with the inadvertent error. That the assessee should have been careful cannot be doubted, but the absence of due care, in a case such as the present, does not mean that the assessee is guilty of either furnishing inaccurate particulars or attempting to conceal its income.*
20. *We are of the opinion, given the peculiar facts of this case, that the imposition of penalty on the assessee is not justified. We are satisfied that the assessee had committed an inadvertent and bona fide error and had not intended to or attempted to either conceal its income or furnish inaccurate particulars.*

8. In the light of the above discussion and by respectfully following the judgments of Hon'ble Supreme Court as stated above, we are of the view that in the instant case, once the assessee has disclosed all the facts and no information was suppressed or misrepresented nor there was any negatives impact on the total income of the assessee by making such inadvertent error of claiming depreciation as part of application out of gross receipts, which was later withdrawn by the assessee itself, no penalty could be levied u/s 270A of the Act. Accordingly, the penalty so levied u/s 270A of the Act is hereby deleted. All the grounds of appeal are thus allowed.

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

Order is pronounced in the Open Court 18.02. 2026.

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 18.02.2026

PK, Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, DEHRADUN