

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

**ITA No.1795/Bang/2025
Assessment Year :2018-19**

Mr. Meda Lakshminarayana Setty Naveen Kumar, Fat No.305, Bougainvilla, Sankalp Central Park, Yadavagiri, Mysore – 570 009. PAN : ABLPN 5943 K	Vs.	ITO, Circle – 1(1) & TPS, Mysore.
APPELLANT		RESPONDENT

Appellant by	:	Shri. Siddesh N Gaddi, CA
Respondent by	:	Shri. K. Subramanian, JCIT(DR)(ITAT), Bangalore.

Date of hearing	:	08.01.2026
Date of Pronouncement	:	26.02.2026

ORDER

Per Prashant Maharishi, Vice President :

1. ITA No.1795/Bangalore/2025 is filed by Meda Lakshminarayana Setty Naveen Kumar (the assessee/appellant) against the order passed by the National faceless appeal Centre, Delhi [the learned CIT(A)], for assessment Year 2018-19 dated 20.05.2025 wherein the penalty under section 270A of the Income Tax Act, 1961 (the Act) of Rs.2,17,158/- by the penalty order dated 13.09.2024 passed by the Assessment Unit, Income Tax Department, was confirmed. The assessee is aggrieved with the same and is in appeal.
2. The appeal is filed by the assessee on 13.08.2025 against the appellate order received by him on 20.05.2025 thereby causing a delay of 18 days. The assessee has filed application for condonation of delay stating that the

date of receipt of the order is assumed as the date of receipt of order. The reasons stated by the assessee shows that due to the insufficient knowledge of the assessee about the e-filing portal, a nominal delay of 13 days has occurred which may be condoned. On reading the affidavit, condonation petition, hearing the parties, we find that delay of 14 days is nominal and has sufficient reason and accordingly the same is condoned admitting the appeal of the assessee.

3. The brief fact of the case shows that assessee did not file any return of income but as per income tax portal, the information was received that assessee has received salary of Rs.8,74,800/-, sold an immovable property for Rs.60 lakhs, has earned interest of Rs.14,90,510/-. Assessee has also sold a motorcycle of Rs.21,56,000/-. The assessee was issued notice under section 148 of the Act on 04.04.2022 in response to which on 22.07.2022 assessee filed return of income declaring income of Rs.6,50,310/-. The assessment order was passed assessing the total income of the assessee at Rs.22,61,487/- wherein the addition of Rs.16,11,177/- was made to the income of the assessee. Thus, the penalty proceedings were initiated as assessee did not file return of income under section 139(1) of the Act and has only declared his income in response to notice under section 148 of the Act. The notice under section 270A of the Act was issued on 20.03.2024 wherein the assessee replied on 08.07.2024 stating that assessee has paid the due tax thereon, does not want to file appeal and claim immunity u/s 270AA of the act so, tried filing Form 68 online, but due to technical reasons, the same is not filed. Accordingly, immunity was requested by letter dated 06.07.2024.
4. The learned AO held that as Form No.68 is not filed, levy of penalty is mandatory as assessee has not furnished any reply. Accordingly, penalty of Rs.2,17,158/- under section 270A of the Act was levied.

5. The learned CIT(A) on appeal confirmed the same holding that assessee has agreed to the addition and paid the tax thereon but has failed to offer any Bonafide explanation before the AO as well as before him. Therefore, penalty was confirmed.

6. The learned AR Mr. Siddesh N Gaddi, CA, submitted a Paper Book containing 60 pages. He submitted that assessee wanted to file Form No.68 but same could not have been filed because of the technical glitches. He specifically referred to grievance acknowledgment No.16586318 wherein assessee has submitted that complete self-assessment tax is paid, copies of the challans were also attached. The response to the above grievance was assessee was directed to raise a fresh grievance by providing copy of the PAN, contact details, error screenshot, etc. It was also the answer that the grievance of the assessee could not be solved. The assessee once again filed grievance providing al the details, still the grievance could not be solved as per information submitted on 18.04.2024. In view of the above facts, it was submitted that assessee has not been given any opportunity to submit an explanation before the learned lower authorities.

7. He further stated that assessee has already filed the immunity application by paying the demand, not filing appeal and filing an application with a delay of only 8 days. Therefore, the assessee must be granted the immunity from the penalty. He further referred to provisions of Rule 129 of the Income Tax Rules, 1962, to state that assessee has complied with all the conditions prescribed under section 270AA of the Act and therefore assessee must be granted immunity from penalty. He further stated that even otherwise he has disclosed full amount in return filed in response to notice under section 148 of the Act.

8. Learned DR vehemently supported the orders of the lower authorities and submitted that assessee has not filed application in Form No.68. According to the time limit prescribed under section 270AA of the Act, no immunity could be granted to the assessee.
9. We have carefully considered the rival contention and perused the orders of the lower authorities. In this case, it is a fact that assessee has made an application though belatedly by 8 days to the learned AO to grant immunity from imposition of penalty under section 270AA of the Act by on interest within the period specified in notice of demand and without preferring an appeal against the assessment order.
10. According to the provisions of sub-section 2, such application should be made within 1 month from the end of the month in which assessment order is received and according to the provisions of Rule 129 of the Income Tax Rules, it is required to be filed in Form No.68. In this case, it is submitted that assessee has filed Form No.68 late by 8 days. It is also a fact that proviso to sub-section 4 of section 270AA of the Act clearly provides that order rejected immunity to the assessee cannot be passed by the learned AO unless assessee has been given opportunity of hearing. It is not denied that assessee has filed an application in Form No.68 though belatedly by 8 days. The delay in filing of the Form is also on account of no fault on the part of the assessee. Two grievance petitions filed by the assessee also shows that assessee was constantly trying to file that Form but due to the technical glitches in the ITBA portal, same could not be filed in time.
11. In view of the above facts, we find that application for immunity filed by the assessee deserves to be considered. The AO is directed to consider the same and if he is not convinced, he must give opportunity of hearing to the assessee. The AO has not done anything as such. Further, the provisions

of sub-section 4 says that AO shall within a period of 1 month shall pass an order from the month in which the application is received accepting or rejecting the same. In this case, such period is already over and therefore the assessee has contested that now immunity provided to the assessee by Form No.68 can also not be rejected.

12. We also find that assessee submitted before the AO that he has filed immunity application and learned AO did not give opportunity of hearing or directed him to submit explanation with respect to penalty. Therefore, the penalty is also levied by not following the principles of natural justice.
13. In view of the above facts, we restore the whole appeal back to the file of learned AO with a direction to deal with the objection filed by the assessee and deal with the application of the assessee under section 270A of the Act, if such order is passed by the AO, thereafter he may consider the explanation of the assessee and decide the issue of penalty afresh.
14. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(SOUNDARARAJAN K)
Judicial Member

Sd/-
(PRASHANT MAHARISHI)
Vice President

Bangalore,
Dated : 26.02.2026.
/NS/*

Copy to:

1. Appellants
2. Respondent
3. DRP
4. CIT
5. CIT(A)
6. DR, ITAT, Bangalore.
7. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.