

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DEHRADUN “DB” BENCH: DEHRADUN**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No. 229/DDN/2025  
[Assessment Year : 2018-19]**

Grand Legacy Khasra No.384 Min/New No.642K, Dehra Khas Adjoining Lal Pul Patel Nagar, Dehradun Uttarakhand -248001 <b>PAN-AAIFG4885D</b>	vs	DCIT Circle-1, Dehradun Uttarakhand
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Rajan Malik & Shri A.K. Kashyap	
<b>Respondent by</b>	Ms. Poonam Sharma, CIT DR	
<b>Date of Hearing</b>	10.03.2026	
<b>Date of Pronouncement</b>	12.03.2026	

**ORDER**

**PER MANISH AGARWAL, AM :**

The present appeal is filed by assessee against the order dated 19.09.2025 by Ld. Commissioner of Income Tax (A), NFAC, Delhi [“Ld. CIT(A)”] in Appeal No. NFAC/2017-18/10101141 passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising out of assessment order dated 26.03.2021 passed u/s 143(3) r.w.s. 143(3A) & 143(3B) of the Act pertaining to Assessment Year 2018-19.

2. Brief facts of the case are that assessee had claimed deduction u/s 80-IC of the Act which was disallowed by the AO for the reason that the assessee has not fulfilled the conditions prescribed for

claiming said deduction and initiated the penalty proceedings u/s 271A for under reporting as a consequence of mis-reporting of income. Thereafter, AO levied penalty u/s 271A of the Act of INR 67,820/- for under reporting by invoking clause (e) of sub-section (9) of section 270A of the Act.

3. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 19.09.2025, confirmed the same.

4. Aggrieved by the order of Ld. CIT(A), assessee is in appeal before the Tribunal.

5. Before us, Ld.AR submits that assessee was entitled for 03 types of subsidy:-

- (i) State Government subsidy on capital investment
- (ii) Exemption from luxury tax for certain period and
- (iii) Central Government subsidy on account of deduction u/s 80-IC of the Act.

6. Since the assessee had established new undertaking in the shape of hotel, it claimed deduction u/s 80-IC which was disallowed for the reason that assessee has not established eco-friendly hotel.

7. Ld.AR for the assessee submits that in notice issued for initiation of penalty proceedings u/s 270A of the Act, AO has not specified the charge under which the penalty proceedings were initiated. He further submits that penalty proceedings were initiated

for under reporting as a consequence of mis-reporting of income however, the penalty is levied for under reporting of income. Therefore, no penalty is levied on the charge for which it was initiated and was levied on different charge. Accordingly, Ld.AR requested for the deletion of the penalty so levied u/s 270A of the Act.

8. On the other hand, Ld. CIT DR for the Revenue supported the orders of the lower authorities and submits that assessee had claimed deduction u/s 80-IC of the Act for the first time in AY 2013-14 which was disallowed and the assessee has failed in appellate proceedings also. Despite of this fact, assessee is regularly claiming deduction u/s 80-IC which was disallowed in subsequent Assessment years also. As per Ld. CIT DR, the assessee knowingly claimed the deduction u/s 80IC when such claim was denied in earlier years therefore, it is willful attempt made by the assessee and accordingly, it is the case of under reporting as a consequence of mis-reporting for which penalty u/s 270A of the Act has rightly been levied.

9. Heard the contentions of both parties and perused the material available on record. In the instant case, AO has initiated the penalty proceedings in terms of the notice issued u/s 274 r.w.s. 270A of the Act dated 26.03.2021 which is reproduced as under:-



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
National e-Assessment Centre  
Delhi



To, GRAND LEGACY KHASARA NO 384 MIN/ NEW NO 642 K, DEHRA KHAS ADJ LAL PUL PATEL NAGAR DEHRA DUN 248001, Uttarakhand India	
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PAN: AAIFG4885D	Assessment Year: 2018-19	Date : 26/03/2021	DIN : ITBA/PNL/S/270A/2020- 21/1031803850(1)
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**Notice for Penalty under section 274 read with section 270A of Income-tax Act, 1961**

Ms/Mr/M/s,

Whereas in the course of proceedings before me for the Assessment Year 2018-19, it appears to me that you have under-reported income which is in consequence of misreporting thereof.

2. You are required to show cause why an order imposing penalty u/s 270A of Income-tax Act, 1961 should not be passed.
3. You are required to submit your reply online electronically in 'e-Proceeding' facility through your account in e-filing website ([www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in)) by the midnight (23:59 hours) of 31/03/2021.
4. In case reply is not submitted, the order shall be passed without the benefit of your explanation.

Additional / Joint / Deputy / Assistant Commissioner of Income Tax  
Income-tax Officer,  
National e-Assessment Centre,  
Delhi

10. From the perusal of the aforesaid notice, it is observed that AO has initiated the penalty proceedings for under reporting as a consequence of mis-reporting of income however, in the notice has not specified the charge as provided in Clause (a) to (f) of section 270A sub-section (9) of the Act. Therefore, the said notice does not speak about the charge for which the penalty proceedings were initiated penalty be levied u/s 270A of the Act. It is further observed that in the assessment order, before initiating the penalty proceedings, satisfaction was recoded for under reporting as a consequence of mis-reporting of income however, the penalty was levied u/s 270A of the Act for under reporting of income.

11. In view of these facts, in our considered view, penalty levied u/s 270A is without any basis and therefore, the same is hereby deleted.

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

Order pronounced in the open Court on 12.03.2026.

**Sd/-**

**(MAHAVIR SINGH)  
VICE PRESIDENT**

**Date-12.03.2026**

*\*Amit Kumar, Sr.P.S\**

**Sd/-**

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**