IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.663/PUN/2025
निर्धारण वर्ष / Assessment Year : 2018-19

Sachin Baban Shinde, Sr. V. No.258, Plot No.26, Hanuman Nagar B/H Hanuman Mandir, Panchvati- 422001. PAN : ABXPS7912F	Vs.	ITO, National Faceless Assessment Centre, Delhi.
Appellant		Respondent

Assessee by	:	Shri Dhananjay Vijay Salunkhe
Revenue by	:	Shri Ganesh B. Budruk
Date of hearing	:	30.04.2025
Date of pronouncement	:	08.05.2025

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 27.09.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2018-19.

2. The appellant has raised the following grounds of appeal :-

> *"1. The learned Commissioner of Income Tax is not justified in levying penalty u/s 270A of Rs.1,46,760/- on the ground that the assessee had under reported income in consequence of*

misreporting without appreciating that the said levy of penalty was not justified in law.

2. *The learned Commissioner of Income Tax failed to appreciate that before the Commissioner of Income Tax, the assessee had duly explained that under reporting of income in his case was attributable to wrong action of tax consultant and all the material facts relating thereto along with substantiating evidences in form of complaint filed against Tax Consultant before Economic Wing of Police Department etc. were also furnished by the assessee and therefore, the levy of penalty u/s 270A without rebutting the explanation offered by the assessee was not justified in view of provisions of the said Act.*

3. *The learned Commissioner of Income Tax ought to have appreciated that the bona fides of the explanation offered by assessee were established from the fact that the assessee, being salaried employee from technical background, was totally dependent upon the tax consultant for filing income tax return and therefore, the levy of penalty u/s 270A was not justified in view of the explanation offered by the assessee."*

3. Facts of the case, in brief, are that the assessee is an individual salaried employee filed return of income for the assessment year 2018-19 declaring taxable income of Rs.4,07,090/-. The Assessing Officer, on the basis of information received from the Income Tax Officer, (Investigation) Nashik, that the assessee has claimed excess deductions, initiated proceeding u/s 147 of the IT Act after obtaining approval from the authorities & accordingly, a notice u/s 148 was issued on 25-02-2020. The assessee furnished return of income on 11-03-2020 in response to notice u/s 148 of the IT Act, declaring taxable income of Rs.8,32,990/-. The assessment was

completed u/s 147 of the IT Act on 02.03.2021 by accepting the income returned in response to notice u/s 148 of the IT Act. Subsequently, vide order dated 12.09.2021 the Assessing Officer imposed penalty of Rs.1,46,760/- u/s 270A(8) of the IT Act for underreporting of income in consequence of misreporting.

4. After considering the reply of the assessee, Ld. CIT(A)/NFAC dismissed the appeal and confirmed the penalty of Rs.1,46,760/- imposed u/s 270A(8) of the IT Act. It is this order against which the assessee is in appeal before this Tribunal.

5. Ld. AR appearing from the side of the assessee submitted before us that the order passed by Ld. CIT(A)/NFAC is unjustified. Ld. AR submitted before us that as soon as the fact of claiming excess refund by the tax consultant came in the knowledge of the assesse he immediately paid the due tax along with interest on 28-05-2019 whereas the notice u/s 148 was issued to him on 25-02-2020, however the revised return could not be filed voluntarily since the date was over. Accordingly, it was requested before the Bench to delete the penalty of Rs.1,46,760/- imposed u/s 270(A) of the IT Act.

6. Ld. DR submitted before us that the appellant has not filed correct return of income voluntarily & therefore the appellant is liable for penalty. It was therefore requested by Ld. DR to confirm the penalty order passed by Assessing Officer & sustained by Ld. CIT(A)/NFAC.

7. We have heard Ld. Counsels from both the sides and perused the material available on record. In this regard, we find that the assessee is a salaried employee & belongs to technical background. The return of most of the employees of CEAT LTD, Bosch Company, HAL & M & M including that of the assessee was filed by a tax consultant namely Kishor Patil. We further find that the assessee came to know from other employees in company that Mr. Kishor Patil with his expertise is able to legally calculate lower tax, resulting in refund of TDS deducted by employer. The assessee was unaware about the contents of the Income Tax Return filed by Kishor Patil & truly believed that the returns are filed legally as per the provisions of the Income Tax Act. The assessee being from technical background does not understand ABCD of Income Tax & therefore completely relied on the above named tax consultant, who without informing him & others, claimed excess deduction under

chapter VI-A of the IT Act & claimed refund. It was Kishor Patil who cheated all the employees & claimed excess deduction in their returns without informing them for his own benefit. The fact of the cheating came in light when a survey u/s 133A was conducted at the premises of Mr Kishor Patil. When the fact that this kind of fraud was made in the name of number of persons all of them complaint to the Economic Offence Wing of Police Nashik, against the tax consultant Kishore Patil. The news regarding fraud committed by Kishore Patil also flashed in the daily news paper of Nashik. It is also apparent that there is no mistake of the assessee but it was the hidden interest of the tax consultant who triggered the gun by using shoulders of the assessee & many more for his own benefit. It is also found that as soon as the fact of excess deduction claimed, came to the knowledge of the assessee he immediately paid the due tax with interest, even before the issue of notice u/s 148 of the IT Act & contacted another genuine tax consultant who prepared and furnished correct return in response to the notice u/s 148 of the IT Act. We find that the Assessing Officer has levied penalty u/s 270(A) of the IT Act of Rs.1,46,760/- on the basis of the fact that the correct income was not returned voluntarily but only after issue

of notice u/s 148 of the IT Act. It is also found that when the notice u/s 148 was issued the appellant has disclosed his correct income & paid the due tax before issue of notice. We also find that the Assessing Officer has accepted the return as it is which was furnished by the appellant in response to the notice u/s 148 of the IT Act. We cannot accept the contention of Ld. DR that the revised return was not voluntary therefore the penalty u/s 270(A) of the Act is inevitable. In this regard the contention of Ld. counsel is also important wherein he stated that the due tax along-with interest was already paid before the issue of notice u/s 148 of the IT Act & admittedly the return of income could not be filed as the due date was already over. We find force in the arguments of the Ld. counsel of the assesse that the amount of tax & interest was deposited voluntarily much prior to the issue of notice u/s 148 of the IT Act since the income tax with interest was deposited by the assesse on **28-05-2019** whereas the notice u/s 148 was issued on **25-02-2020.** Considering the totality of the facts of the case, we are of the considered opinion that this is not a fit case to impose penalty u/s 270(A) of the IT Act & accordingly the order passed by Ld. CIT(A)/NFAC is set-aside & the Assessing Officer is directed to

delete the penalty of Rs.1,46,760/- imposed u/s 270(A) of the IT Act. Thus, the grounds of appeal raised by the assessee are allowed.

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

Order pronounced on this 08th day of May, 2025.

Sd/-	**Sd/-**
(MANISH BORAD)	**(VINAY BHAMORE)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 08th May, 2025.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "**B**" बेंच, पुणे / DR, ITAT, "**B**" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.