

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, AHMEDABAD**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 508/AHD/2026
Assessment Years: 2017-18**

Jyotsna Ranchhodbhai Patel, 30, Kedar Bunglows, opp. Zarna Party Plot, S.G. Highway, Ahmedabad, Gujarat – 380015 [PAN – ACPPP8383G] (Appellant)	Vs.	Deputy Commissioner of Income Tax, Circle – 3(1)(1), Ahmedabad - 380015 (Respondent)
Assessee by	Shri Dipen Shukhadia, AR	
Revenue by	Shri Abhijit, SR-DR	
Date of Hearing	06.05.2026	
Date of Pronouncement	12.05.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as ‘CIT(A)’] dated 02.05.2025 for the Assessment Year (A.Y.) 2017-18 in the proceeding u/s 270A of the Income Tax Act.

2. There was delay of 209 days in filing of this appeal. The assessee has filed a condonation application along with an affidavit. It has been explained that the assessee is a senior citizen 74 years of age living with her husband aged about 80 years. Their children are settled out of India

and there is nobody in the family to help them in the technical matters pertaining to Income-tax proceedings. The assessee is not used to online portal of the department and the order of the CIT(A) received on the e-mail was overlooked by the assessee due to her old-age. Subsequently, when the demand matter was pursued by the Department, the assessee has filed the present appeal and in the process there was delay of 209 days. Considering the explanation of the assessee, the delay in filing of the appeal is condoned.

3. The brief facts of the case are that the assessee had filed her return of income in A.Y. 2017-18 on 28.10.2017, declaring total income of Rs.1,81,60,310/-. The case was selected for complete scrutiny under CASS. The assessee derived income from business, interest income and capital gains. In the course of assessment, the AO had noticed that an amount of Rs.9,05,105/- being short-term loss was debited to P&L account. Further in Schedule-BP of ITR, the assessee had reduced this amount of Rs. 9,05,105/- from “Net profit before tax” to consider the same under other heads of income. However, this amount was not found considered in any other head income by the assessee. When this fact was brought to the knowledge of the assessee, she admitted that this as a *bona fide* mistake and had agreed to the addition of Rs. 18,10,210/- to her business income. Accordingly, the AO had made the addition and also initiated penalty proceeding u/s. 270A of the Act for misreporting the income. Subsequently, a separate order u/s. 270A of the Act was passed on 30.03.2022 imposing penalty of Rs.12,52,952/- on the assessee at the rate of 200% of the tax sought to be evaded.

4. Aggrieved with the order of the AO, the assessee had filed an appeal before the first appellate authority, which was decided by the Ld. CIT(A) vide the impugned order and the appeal of the assessee was dismissed.

5. Now the assessee is in second appeal before us. The following grounds have been taken in this appeal:

On the facts and circumstances of the case and in law -

1. *The Ld. NFAC/CIT(A) has erred upholding penalty u/s 270A.*
2. *The Ld. NFAC/CIT(A) has erred not appreciating the facts that appellant consultant has made bona fide mistake by not reducing the capital loss amount from Business income as it included in Profit and loss account.*
3. *The Ld. NFAC/CIT(A) has erred in holding it as under reported income resultant to misreporting and charged 200% penalty. Without prejudice it should be held as under reported income and charged 50% penalty.*

The appellant craves leave to add to, alter amend, vary, modify or delete any of the grounds taken above.

6. Shri Dipen Shukhadia, the Ld. AR of the assessee submitted that the assessee's consultant had made the *bona fide* mistake while filing her return, in making adjustment for short term capital loss of Rs.9,05,105/-. When the mistake was brought to the knowledge of the assessee in the course of assessment proceeding, she had accepted the mistake and agreed to the proposed addition and no appeal was filed against the assessment order. The Ld. AR submitted that the AO was not correct in imposing penalty u/s. 270A of the Act for misreporting of income as this was only a *bona fide* mistake made by the consultant of the assessee while filing the return.

7. Per Contra Shri Abhijit, the Ld. SR-DR, supported the order of the lower authorities.

8. We have carefully considered the rival submissions. There is no dispute to the fact that a *bona fide* mistake was committed by not reducing the short term capital loss amount from the business income. This mistake was evident from the Income-tax return filed by the assessee itself. Thus, there was no misrepresentation or suppression of any fact. Rather, it was a case mistake in arithmetical adjustment, which had occurred due to omission on the part the of the consultant while filing the return. Under the circumstance, the AO was not correct in imposing penalty on the assessee for misreporting of income. The provision of section 270A(9) stipulates misreporting of income in the following cases:

(9) The cases of misreporting of income referred to in sub-section (8) shall be the following, namely:—

- (a) misrepresentation or suppression of facts;
- (b) failure to record investments in the books of account;
- (c) claim of expenditure not substantiated by any evidence;
- (d) recording of any false entry in the books of account;
- (e) failure to record any receipt in books of account having a bearing on total income; and
- (f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

9 In view of the above specific provision, the Assessing Officer, while imposing the penalty under Section 270A of the Act for misreporting of income, was duty bound to specify as to which specific clause of Section 270A(9) of the Act was attracted in the present case. The Assessing

Officer had not given any finding in this regard either in the assessment order or in the penalty order. From the facts of the case as already discussed earlier, we do not find that any of the above clauses were attracted in the present case. The assessee had neither misrepresented or suppressed any fact nor claimed any expenditure which was not supported by any evidence. There was no record of any false entry in the books of account. The mistake made by the assessee was evident from the ITR itself and the assessee had never tried to misrepresent her case. Rather *bona fide* mistake committed by the consultant was duly accepted and no appeal was filed against the assessment order. Considering the specific facts of the case as already discussed earlier, none of the clauses of Section 270A(9) of the Act are found attracted in the present case and we do not find it to be a case of misreporting of income. Therefore, the penalty imposed by the Assessing Officer under Section 270A of the Act for misreporting of income, is cancelled.

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

Order pronounced in the Court on 12/05/2026 at Ahmedabad.

Sd/-
(SAJAY GARG)
Judicial Member

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

Dated – 12th May, 2026

Neelesh, Sr. PS

(True Copy)

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,

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6. गार्ड फाईल /Guard file.

आदेशानुसार/BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad