

## **Penalty Imposed u/s 270A quashed, rules that penalty proceedings cannot be sustained if the notice is vague and fails to differentiate between under-reporting and misreporting of income.**

The case pertains to levy of penalty under section 270A of the Income-tax Act where the assessee's returned income was enhanced during assessment, leading to initiation of penalty proceedings for under-reporting of income. Although the show-cause notice was issued on the ground of under-reporting, the Assessing Officer imposed a penalty at the higher rate applicable to misreporting of income. In the absence of any specific charge or evidence of misreporting, it was held that the penalty could be levied only at the rate prescribed for under-reporting, and not for misreporting, resulting in restriction of the penalty to the extent legally permissible.



## Key Facts of the case:

- The assessee filed a return of income declaring a total income of INR 4.93 lakh.
- The Assessing Officer completed the assessment under section 143(3) and assessed the income at INR13.53 lakh.
- Thereafter, the Assessing Officer issued a notice for initiation of penalty proceedings under section 270A for under-reporting of income.
- After considering the reply submitted by the assessee, the Assessing Officer imposed a penalty at the rate of 200% under section 270A.
- On appeal, the Commissioner (Appeals) confirmed and sustained the penalty.
- Aggrieved by the order, the assessee filed a further appeal before the Income Tax Appellate Tribunal.



**Judgement (ITAT): On appeal before the CIT(A), the Tribunal observed as under :**

- The Tribunal observed that the penalty notice was initiated under the head “underreporting of income’ and not under the head “Mis-reporting”.
- It was noted that even in the penalty order, there is not a single whisper of the "Misreporting" by the Ld AO but allegedly he proceeded to impose the penalty @200% prescribed for misreporting. The Tribunal held that imposition of penalty at 200% is permissible only when misreporting is clearly established, which was absent in the present case.
- The action of applying the higher penalty rate without invoking or proving misreporting was held to be legally unsustainable.
- Accordingly, the Tribunal directed that the penalty should be limited to under reporting of income and restricted to 50% as prescribed under section 270A(7).

**Source : ITAT Delhi (ITA No. 1882/Del/2023 dated 27.03.2026) in the case of Ashok Kumar Gupta, New Delhi Vs DCIT, CC-8, New Delhi.**

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