आयकर अपीलीय अधिकरण, हैदराबाद पीठें, हैदराबाद

INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES, HYDERABAD

BENCH: A

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT &
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER

ITA 818/HYD/2025 (निर्धारण वर्ष/Assessment Year: **2020-21**)		
AMR INFRASTRUCTURES 12-2-831/190, CENTURY APPARTMENTS, FLAT NO 105, ASIGNAGAR, HUMATUNNAGAR, HYDERABAD-500028, TELANGANA	Vs.	DCIT., CENTRAL CIRCLE-2(1) O/O DCIT., CENTRAL CIRCLE-2(1) HYDERABAD-, TELANGANA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		AAXFA0279J
अपीलार्थी द्वारा/Appellant represented by:		Mr. Ravi Bharadawaj, CA
प्रत्यर्थी द्वारा/Respondent represented by:		Mr. Ashish Kumar Shukla, SR-AR

सुनवाई की तारीख / Date of conclusion of hearing:	08-Sep-2026
घोषणा की तारीख / Date of pronouncement:	16-Oct-2026

आदेश / ORDER

PER MANJUNATHA.G, AM:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-12, Hyderabad, dated 30.09.2024, and pertains to assessment year 2020-21.

2. The assessee has raised the following grounds of appeal:

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1. The Learned CIT(A) has erred in dismissing the appeal without adequately considering the merits of the case.

2. The Learned CIT(A) failed to appreciate that the appellant was in the process of collecting necessary documents and appointing an authorized representative in relation the Appeal.

3. The Learned CIT(A) erred in confirming the penalty imposed under Section 270A for under-reporting as a consequence of misreporting of income, without appreciating that the appellant had voluntarily disclosed and revised the income before the completion of assessment.

4. The Learned CIT(A) erred in categorizing the income offered as under reported income in consequence of mis reporting of income, without appreciating that the appellant had accepted the addition made by the AO to avoid protracted litigation;

5. The Learned CIT(A) erred in confirming the penalty at 200% of tax on the under-reported income as a consequence of misreporting of income, which is the maximum penalty prescribed under Section, without demonstrating any aggravating circumstances to justify the enhanced penalty.

6. The Ld CIT(A) has failed to take a lenient view on penalty where the Assessee has accepted the addition and decided not to litigate the assessment order;

7. The appellant craves to consider each of the above grounds of appeal without prejudice to each other and craves leave to add, alter, amend, modify, omit, delete, substitute and or rescind all or any of the grounds of appeal on or before the final hearing.

3. The brief facts of the case are that the assessee is a partnership firm, engaged in the business of real-estate, filed its Return of Income for AY 2020-21 on 15.02.2021 admitting total income of Rs.96,22,720/-. A survey operation u/s.133A of the Income Tax Act, 1961 [in short "the Act"] was conducted in the case of the assessee on 06.03.2020. During the course of survey, certain irregularities in maintaining the books of accounts, bills & vouchers were noticed and accordingly, the assessee firm voluntarily admitted on an estimated basis additional income of Rs.2.5 Crs. over and above the regular income of the firm for AY 2020-21. However, the

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assessee firm filed Return of Income declaring total income of Rs.96,22,720/-. Therefore, the AO called upon the assessee 'as to why' addition shall not be made for additional income offered during the course of survey. In response thereto, the assessee submitted that during the year total income before taking into consideration, the discrepancy pointed out during the course of survey was arrived at Rs.12,41,000/- and after considering irregularities, the total income was arrived at Rs.96,22,720/-. The AO, however, was not satisfied with the explanation of the assessee and accordingly, issued show cause notice to the assessee and in response, the assessee has voluntarily admitted additional income of Rs.2.50 Crs. admitted during the course of survey. The AO after considering relevant submissions of the assessee has completed the assessment and determined total income of Rs.2,62,41,000/- by adopting regular income of the year at Rs.12,41,000/- and additional income admitted during the course of survey for Rs.2.50 Crs.

4. Subsequently, penalty proceedings u/s.270A of the Act was initiated and show cause notice u/s.274 r.w.s.270A of the Act dated 12.02.2022 was issued and served on the assessee and called upon the assessee to explain 'as to why' penalty shall not be levied for 'underreporting of income as a consequence of misreporting of income thereof'. There was no compliance from the assessee during penalty proceedings. Therefore, the AO by taking note of relevant facts and also admission of additional income of Rs.2.50 Crs. observed that there is a difference between income determined in the order passed u/s.143(1)(a) of the Act and the income assessed as per the

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assessment order to the tune of Rs.1,66,18,280/- which fall under the category of 'underreported income' and further observed that if such 'underreporting of income as a consequence of misreporting of income', penalty @200% on the amount of tax on underreporting income is leviable. Therefore, by taking note of relevant assessment of underreported income, levied penalty of Rs.1,23,34,734/- u/s.270A(8) of the Act.

5. Aggrieved by the penalty order, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee neither appeared nor filed any explanation. Therefore, the Ld.CIT(A) disposed of appeal filed by the assessee for non-prosecution and upheld the penalty levied by the AO u/s.270A(8) of the Act for 'underreporting of income as a consequence of misreporting of income'

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

7. The Ld. Counsel for the assessee, Mr. Ravi Bharadawaj, CA, submitted that the order of the AO u/s.270A of the Act is invalid and liable to be quashed, because the AO has passed order on the basis of show cause notice without referring to specific sub-clause, under which, the case of the assessee fall under sub-clause (9) of Section 270A of the Act. In this regard, he relied upon the decision of ITAT Chennai Bench in the case of Ernica Enterprises (P) Ltd. v. DCIT reported in [2024] 163 taxmann.com 105 (Chennai-Trib.). The Ld. Counsel for the assessee further submitted that the penalty levied by the AO @200% of tax sought to be underreported

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is also incorrect, going by the facts of the present case, because, the addition made by the AO towards 'underreported income' is on estimated basis without any reference to misreporting thereof and further, the AO hadn't brought out the case of the assessee under Clause (a) to (e) of sub-section (9) of Section 270A of the Act, so as to levy penalty @200% on 'underreported income'. Since, the AO levied penalty on additions made towards estimated additional income, the penalty levied by the AO should be deleted.

8. The Ld.Sr.AR for the Revenue, on the other hand, supporting the order of the Ld.CIT(A) submitted that the appellate proceedings before the Ld.CIT(A) are ex-parte. The assessee neither appeared nor filed any explanation. Further, there is no merit in the arguments of the assessee that show cause notice issued by the AO u/s.274 r.w.s.270A of the Act is vague, because, the AO has clearly specified the 'underreporting of income as a consequence of misreporting of income thereof'. Therefore, the arguments of the assessee in the light of certain judicial precedents doesn't hold good and needs to be rejected. Further, in so far as levy of penalty u/s.270A(8) of the Act, it is a clear case of 'underreporting of income as a consequence of misreporting of income', because, the assessee has clearly admitted irregularities in maintaining books of accounts and also additional income of Rs.2.50 Crs. and said admission of additional income fall under the category of 'underreporting of income as a consequence of misreporting of income thereof'. Therefore, he submitted that the penalty levied by the AO and upheld by the Ld.CIT(A) should be upheld.

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9. We have heard both the parties, perused the materials available on record and had gone through orders of the authorities below. The assessee has challenged penalty levied by the AO u/s.270A(8) of the Act on multiple grounds, including on the ground of invalid penalty order passed by the AO in consequent to show cause notice issued u/s.274 r.w.s.270A of the Act. The assessee has challenged the penalty order on the ground of vague notice issued u/s.274 r.w.s.270A of the Act and argued that the AO has issued a vague show cause notice without any reference to satisfaction regarding 'underreporting of income as a consequence of misreporting of income thereof'. We find that, the AO issued a show cause notice dated 12.02.2022 which is available in Page No.16 of the Paper Book filed by the assessee and we find that the AO has clearly specified the reasons for issue of notice and issued said show cause notice for 'underreporting of income as a consequence of misreporting of income thereof'. From the show cause notice issued by the AO, it is very clear that the AO has clearly arrived at the satisfaction regarding 'underreporting of income as a consequence of misreporting of income thereof'. Therefore, in our considered view, the arguments of the assessee in the light of decision of ITAT Chennai Bench in the case of Ernica Enterprises (P) Ltd., fails and thus, we reject the ground taken by the assessee.

10. Having said so, let us come back to penalty levied @200% of 'underreported income'. Admittedly, the assessee has declared additional income of Rs.2.50 Crs. during the course of survey for irregularities in maintaining books of accounts, bills & vouchers, etc. However, the

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assessee has not disclosed additional income admitted during the course of survey while filing Return of Income for the assessment year under consideration. Further, the assessee had admitted additional income of Rs.2.50 Crs. during the course of assessment proceedings, and the AO has completed the assessment determining the total income of Rs.2,62,41,000/- and the same has been accepted by the assessee without filing any appeal. Therefore, from the above, it is very clear that the assessee has 'underreported income' to the extent of Rs.1,66,18,280/- which is evident from the relevant provisions of Sec.270A(2) & (3) of the Act, where the underreported income has been defined which includes in a case where income has been assessed for the first time, if return has been furnished, the difference between the amount of income assessed and the amount of income determined under Clause (a) to sub-section (1) of Section 143 of the Act. But, in the present case, the assessee has filed Return of Income on 15.02.2021 declaring total income of Rs.96,22,720/- and the same was processed u/s.143(1) of the Act. Further, assessment has been completed u/s.143(3) of the Act on 03.02.2022 and determined total income of Rs. Rs.2,62,41,000/- and if you consider the income determined as per Section 143(1)(a) of the Act and income assessed as per the order passed u/s.143(3) of the Act, there is a difference of Rs.1,66,18,280/- which fall under the category of 'underreported income'. Therefore, to this extent, we are in fully agreement with the reasons given by the AO for levy of penalty for 'underreported income' of Rs.1,66,18,280/-.

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11. In so far as levy of penalty @200% of tax on 'underreported income' of Rs.1,66,18,280/-, in our considered view, the AO has not made out any case of 'misreporting of income' which fall under Sub-section (8) of Section 270A of the Act and further, the instances of 'misreporting of income' referred to in clause (a) to (f) of sub-section (9) of Section 270A, which is evident from relevant assessment order passed by the AO and penalty order passed u/s.270A of the Act, where the AO simply levied penalty @200% u/s.270A(8) of the Act without directing the case of the assessee under clause (a) to (f) of sub-section (9) of Section 270A which deals with mis-representation and suppression of facts, failure to record any receipt in books of accounts having a baring on total income, etc. Since the AO has not made out a case of 'misreporting of income' in any of clause (a) to (f) of sub-section (9) of Section 270A, in our considered view, 200% penalty levied by the AO u/s.270A(8) of the Act can't be upheld. The Ld.CIT(A) without appreciating the relevant facts simply sustained the penalty levied by the AO. Therefore, we set aside the order of the Ld.CIT(A) and direct the AO to levy penalty @50% of tax on underreported income u/s.270A(2) of the Act.

12. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 16.10.2026.

Sd/-	**Sd/-**
(विजय पाल राव)	**(मंजूनाथा. जी)**
(VIJAY PAL RAO)	**(MANJUNATHA.G)**
उपाध्यक्ष /VICE-PRESIDENT	**लेखा सदस्य/ACCOUNTANT**

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Hyderabad
Dated: 16.10.2026
TLN

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2	DCIT., CENTRAL CIRCLE-2(1), O/O DCIT., CENTRAL CIRCLE-2(1), HYDERABAD-, TELANGANA
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