आयकर अपीलीय अधिकरण, विशाखापत्तनम पीठ, विशाखापत्तनम
INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BENCH: DIVN

BEFORE RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER

ITA 345/VIZ/2026 (निर्धारण वर्ष/Assessment Year: **2019-20**)		
KKG ASSOCIATES 49-24-14 SRI SURYA APARTMENTS, MADHURA NAGAR, VISAKHAPATNAM-530016, ANDHRA PRADESH	**Vs.**	**INCOME TAX OFFICER, WARD - 2(1)** INFINITY TOWERS VIZAG VISAKHAPATNAM-530016, ANDHRA PRADESH
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**

Permanent Account Number of Assessee:	**AASFK9861F**
अपीलार्थी द्वारा/Appellant represented by:	**Shri A Chakradhar, CA (Hybrid)**
प्रत्यर्थी द्वारा/Respondent represented by:	**Shri A.P. Babu, Sr-AR**

सुनवाई की तारीख / Date of conclusion of hearing:	**14-10-2026**
घोषणा की तारीख / Date of pronouncement:	**16-10-2026**

आदेश / ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee firm is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (for short, "CIT(A)"), dated 05/01/2026, which in turn arises from the order passed by the Assessing Officer (for short "AO") under section 270A of the Income Tax Act, 1961

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(for short "the Act"), dated 22/08/2025 for Assessment Year (AY) 2019-20. The assessee firm has assailed the impugned order on the following grounds of appeal:

1. "The order passed by the Learned Commissioner of Income Tax (Appeals) is factually incorrect. The order has been passed without taking into consideration the actual facts of the case, therefore, the order passed by the CIT (A) should be quashed.
2. The Learned National Faceless Appeal Centre (NFAC) erred in law and on facts in failing to appreciate that the Appellant had duly filed the original return of income for AY 2019-20 prior to issuance of notice under Section 148. The observation in the order that. The appellant is a firm and has not filed return of income for A.Y. 2019-20 is factually incorrect, contrary to record, and vitiates the very foundation of the penalty proceedings.
3. The Learned CIT(A) erred in confirming the penalty u/s 270A by proceeding on a patently incorrect assumption that the appellant had not filed return of income u/s 139(1), whereas the appellant had duly filed the return which was processed u/s 143(1). The Learned CIT(A) failed to appreciate the material on record and mechanically upheld the penalty without verifying that the income returned u/s 139(1), income declared in response to notice u/s 148, and income assessed u/s 147 are identical with no addition whatsoever, thereby demonstrating complete non-application of mind. The impugned order, being based on incorrect facts and disregard of evidence on record, is bad in law and liable to be quashed.
4. The Learned NFAC erred in law by mechanically upholding the penalty order by placing reliance on the findings of the Assessing Officer, without independently examining the facts, submissions, and evidences on record, thereby failing to exercise its co-extensive appellate powers.
5. The grounds stated above are independent of, and without prejudice to one another. The Appellant craves leave to add, alter, amend, OR withdraw all OR any grounds of appeal herein either at OR before the appeal hearing.
6. The Learned NFAC erred in holding that the income was not voluntarily offered, without appreciating that the income stood duly disclosed in the original return of income and was accepted under section 143(1), much prior to the initiation of reassessment proceedings, in fact, a refund of INR 8,87,840.00 was also issued to the Assessee pursuant to such processing, thereby evidencing due disclosure and acceptance of the returned income.
7. The Learned CIT(A)NFAC erred in confirming the penalty of INR 7,15,086.00, failed to appreciate the material on record and mechanically upheld the penalty without verifying that the income returned u/s 139(1), income declared in response to notice u/s 148, and income assessed u/s 147 are identical with no addition whatsoever, thereby demonstrating complete non-application of mind.
8. The Learned NFAC failed to appreciate that in the absence of any variation between returned income and assessed income, there is no under-reported income within the meaning of section 270A, and hence, the very jurisdiction to levy penalty does not arise.
9. The Learned NFAC erred in upholding the invocation of Section 270A(2)(b) on the erroneous premise that no return of income was filed. Since the Appellant

had in fact filed a valid return under Section 139(1), the provisions of Section 270A(2)(b) are wholly inapplicable, rendering the penalty order unsustainable.

10. The Learned NFAC erred in not appreciating that penalty under section 270A cannot be invoked where the income assessed is the same as the income determined under section 143(1), as per the express provisions of the Act."

2. Succinctly stated, the assessee firm is engaged in the business of providing consultancy services. The assessee firm had filed its original return of income under Section 139(1) of the Act on 31.10.2019, declaring an income of Rs. 45,83,888/-. The said return of income was processed under Section 143(1) of the Act, vide intimation dated 10.05.2020, which accepted the return.

3. Subsequently, information was received by the AO concerning purchases of Rs. 25,00,000/- made by the assessee firm from M/s Sivion Contractors, Delhi (formerly known as M/s Univistar Contractors Limited). On the basis of the said information, reassessment proceedings were initiated. An order under Section 148A(d) of the Act was passed, and notice under Section 148 of the Act was issued on 17.04.2023. In response thereto, the assessee firm filed its return of income, once again declaring the same income of Rs. 45,83,888/-.

4. Thereafter, the AO framed the reassessment under Section 147 r.w. Section 144B of the Act vide order dated 28.02.2025. As is discernible from the record, the AO accepted the returned income of Rs. 45,83,888/- without making any addition or disallowance thereto. Thus, the income

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originally declared by the assessee firm in its return of income filed under Section 139(1) of the Act remained the assessed income even upon completion of the reassessment proceedings.

5. However, the AO initiated penalty proceedings under Section 270A of the Act and, vide order dated 22.08.2025, imposed a penalty of Rs. 7,15,086/- on the allegation that the assessee firm had under-reported its income of Rs. 45,83,888/-. The assessee firm had, in the course of the penalty proceedings, specifically brought to the notice of the AO the material fact that its original return of income had been filed under Section 139(1) of the Act, declaring the aforesaid income, and that the same income had ultimately been accepted in the reassessment order. In particular, the assessee firm had brought this aspect to the AO's notice in its reply to the show-cause notice dated 11.03.2025.

6. Aggrieved by the penalty imposed by the AO, the assessee firm carried the matter in appeal before the CIT(A). The assessee firm specifically incorporated the aforesaid material facts in its “Statement of Facts” and challenged the imposition of penalty, contending, inter alia, that when the income declared in the original return had been accepted by the AO without any variation, there was no basis for treating the said income as under-reported. The CIT(A), however, upheld the penalty imposed by the AO vide his order dated 05.01.2026.

7. The assessee firm, aggrieved with the CIT(A) order, has carried the matter in appeal before us.

8. Before us, the Ld. The Authorized Representative (for short, "Ld. AR") for the assessee firm submitted that both the lower authorities had failed to appreciate the facts of the case in the right perspective. It was submitted that the assessee firm had voluntarily filed its original return of income under Section 139(1) of the Act, declaring income of Rs. 45,83,888/-, which was duly processed as such under Section 143(1) of the Act. Even in response to the notice issued under Section 148 of the Act, the assessee firm had declared the very same income. Elaborating further on his contention, the Ld. AR submitted that the AO, while completing the reassessment under Section 147 r.w. Section 144B of the Act, had accepted the income so declared without making any addition or disallowance. The Ld. AR submitted that, in these circumstances, the very foundation for alleging under-reporting of income was absent. It was further submitted that the aforesaid facts had been specifically placed before the AO during the penalty proceedings and before the CIT(A) in the appellate proceedings, yet the authorities below failed to address them. The Ld. AR accordingly submitted that the penalty imposed under Section 270A of the Act be deleted.

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9. Per contra, the Ld. Sr. DR supported the orders of the lower authorities and submitted that the penalty imposed by the AO and sustained by the CIT(A) did not call for any interference. However, the Ld. Sr. DR, on being queried that now when the income of the assessee firm as assessed by the AO vide his order passed under Section 147 r.w. Section 144B of the Act dated 28.02.2025 at Rs. 45,83,888/-, remained the same as was disclosed in its original return of income filed under Section 139(1) of the Act on 31.10.2019, then how penalty for underreporting of income under Section 270A was warranted in its case, failed to come forth with any reply.

10. We have heard the Ld. Authorized Representatives of both parties, perused the orders of the lower authorities and considered the material available on record.

11. The short issue before us is whether the penalty of Rs. 7,15,086/- imposed under Section 270A of the Act can be sustained when the assessee firm had originally declared income of Rs. 45,83,888/- in its return filed under Section 139(1) of the Act and the AO, while completing the reassessment, accepted the very same income without making any addition or disallowance.

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12. On a perusal of the material available on record, we find that the assessee firm had filed its original return of income under Section 139(1) of the Act on 31.10.2019, declaring income of Rs. 45,83,888/-. The said return of income was processed under Section 143(1) of the Act vide intimation dated 10.05.2020. Subsequently, even though reassessment proceedings were initiated on the basis of information concerning purchases of Rs. 25,00,000/- from M/s Sivion Contractors, Delhi, the AO, upon completion of the reassessment under Section 147 read with Section 144B of the Act vide order dated 28.02.2025, accepted the income of Rs. 45,83,888/- declared by the assessee firm, and did not make any addition or disallowance to the returned income. Thus, the material fact that the income declared by the assessee firm in its original return remained unchanged even after the reassessment proceedings were completed is beyond dispute. More importantly, this was not a fact which had escaped the attention of the authorities below for want of information. The assessee firm had specifically brought the same to the notice of the AO in its reply to the show-cause notice dated 11.03.2025 and had also incorporated the said fact in the Statement of Facts filed before the CIT(A).

13. At this stage, it would be apposite to refer to Section 270A of the Act, which provides for the imposition of penalty in cases of under-reporting and misreporting of income. Under Section 270A(2)(a) of the Act, a person

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is considered to have under-reported his income where the income assessed is greater than the income determined in the return processed under Section 143(1)(a) of the Act, subject to the other applicable provisions of the section. Accordingly, the statutory provision requires that a relevant comparison be made to determine whether income has been under-reported. However, in the present case, the assessee firm had filed its original return of income under Section 139(1) of the Act, which was processed under Section 143(1) of the Act. The income declared therein was Rs. 45,83,888/-. The AO thereafter completed the reassessment and accepted the very same income of Rs. 45,83,888/-. There is, therefore, no difference between the income declared in the original return and the income ultimately assessed by the AO. However, the penalty order treats the entire income of Rs. 45,83,888/- as under-reported, without explaining how the statutory conditions for treating such income as under-reported were satisfied. We are of the firm view that in the absence of any variation between the income originally returned and the income assessed, the very basis for imposing the impugned penalty is unsustainable on the facts of the present case.

14. We are constrained to observe that the manner in which the AO and the CIT(A) have dealt with the respective proceedings is wholly unsatisfactory. The AO, while imposing the penalty under Section 270A of

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the Act, appears to have summarily brushed aside the material fact that the assessee firm had voluntarily filed its return of income under Section 139(1) of the Act on 31.10.2019, declaring income of Rs. 45,83,888/-, which was initially processed as such under Section 143(1) of the Act vide intimation dated 10.05.2020. The said income was thereafter accepted in its entirety by the AO while completing the reassessment under Section 147 r.w. Section 144B of the Act, vide order dated 28.02.2025. We are of the view that what makes the matter more disconcerting is that the aforesaid material fact had been specifically brought to the notice of the AO by the assessee firm in its reply to the show-cause notice dated 11.03.2025. The same fact was also specifically incorporated in the "Statement of Facts" filed before the CIT(A). However, we find that neither of the authorities below appears to have addressed this fundamental aspect of the matter before imposing and sustaining the penalty under Section 270A of the Act.

15. We are seriously taken aback by a case in which an assessee firm, having voluntarily disclosed its income in the original return filed under Section 139(1) of the Act, has been subjected to penalty for under-reporting the very same income, even though the AO ultimately accepted the returned income in the reassessment proceedings without making any addition or disallowance. The imposition of penalty on the entire income

of Rs. 45,83,888/- in these circumstances, without demonstrating how the statutory requirements for under-reporting were fulfilled, cannot be countenanced.

16. We, therefore, strongly deprecate the manner in which the AO imposed the penalty under Section 270A of the Act vide order dated 22.08.2025, without properly appreciating the material facts brought to his notice by the assessee firm. We are equally unable to approve the manner in which the CIT(A), despite the assessee-appellant's specific disclosure of these facts in the "Statement of Facts", casually upheld the penalty without addressing the fundamental objection raised by the assessee firm. We are of the firm conviction that the authorities below were expected to examine the material facts and apply the relevant statutory provisions before imposing a penalty of Rs. 7,15,086/-on the assessee firm. In our view, had the facts been considered in their proper perspective, the absence of any difference between the income originally returned and the income ultimately assessed could not have been overlooked. The failure to consider this basic aspect has resulted in the assessee firm being pushed into unnecessary litigation, which could and ought to have been avoided had the proceedings been dealt with in the right perspective.

17. Be that as it may, having regard to the facts of the case and the legal position discussed hereinabove, we hold that the impugned penalty

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imposed under Section 270A of the Act is not sustainable. We accordingly set aside the order of the CIT(A) dated 05.01.2026 and direct the AO to delete the penalty of Rs. 7,15,086/- imposed vide order dated 22.08.2025.

18. In the result, the appeal filed by the assessee firm is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 16th October, 2026.

Sd/-	Sd/-
MADHUSUDAN SAWDIA	**RAVISH SOOD**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Hyderabad.
Dated: 16th October, 2026.
*OKK/SPS

Copy to:

1	**KKG ASSOCIATES, 49-24-14 SRI SURYA APARTMENTS, MADHURA NAGAR, VISAKHAPATNAM-530016, ANDHRA PRADESH**
2	**INCOME TAX OFFICER, WARD - 2(1), INFINITY TOWERS VIZAG, VISAKHAPATNAM-530016, ANDHRA PRADESH**
3	THE PCIT, VISAKHAPATNAM.
4	THE D.R., ITAT, VISAKHAPATNAM BENCH
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