**IN THE INCOME TAX APPELLATE TRIBUNAL**
**"SMC" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT**

ITA No. 2130/AHD/2026
(Assessment Year: 2019-20)

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| Kamleshkumar Somalal Bhatt,<br>2, Indraprasth Society,<br>Ganesh Temple Road,<br>Mahavirnagar,<br>Himatnagar H.O,<br>Himatnagar,<br>Sabarkantha-383001.<br><br>[PAN : AAYPB4131 F] | Vs. | The Income Tax Officer,<br>Ward-1,<br>Himatnagar. |
| (**Appellant**) | .. | (**Respondent**) |

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| **Appellant represented by :** | Smt. Asha Sukhadiya, AR |
| **Respondent represented by:** | Shri Kalpesh Rupavatia, Sr. DR |

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| **Date of Hearing** | 19.10.2026 |
| **Date of Pronouncement** | 21.10.2026 |

**O R D E R**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-**

This appeal has been filed by the Assessee against the order dated 11.12.2025 passed by the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi (hereinafter referred to as 'Ld. CIT (A)' in short), under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act' in short) for Assessment Year 2019-2020.

2. The Assessee has raised the following grounds of Appeal:-

*1. The learned CIT(A) [NFAC] has erred in law and on facts in confirming the penalty of Rs. 3,12,000/- levied u/s 270A(8) read with section 270A(9) of the Act, treating the Appellant's case as one of misreporting of income, despite complete absence of any misrepresentation, suppression of facts, false entry, or fabrication. The finding of misreporting is legally unsustainable, as it is not supported by any cogent material or reasoned order.*

*2. The learned CIT(A) [NFAC] failed to appreciate that mere withdrawal of a deduction claimed u/s 80GGC in the return filed u/s 148, accompanied by voluntary payment of tax, does not constitute "misreporting" within the meaning of section 270A(9). The conditions enumerated in section 270A(9)(a) to (f) are exhaustive, and none of them stand satisfied in the present case. The learned CIT(A) failed to examine which specific clause of section 270A(9) was attracted, rendering the penalty order legally infirm.*

*3. The learned CIT(A) [NFAC] erred in confirming penalty without any incriminating or assessee-specific evidence to establish that (a) the donation was bogus, (b) the Appellant received any cash back, (c) the Appellant participated in any accommodation entry arrangement, or (d) there was any nexus between the Appellant and the alleged activities of the political parties. Penalty cannot be sustained on the basis of general investigation findings against third parties, without establishing a direct link to the Appellant.*

*4. The learned AO and the learned CIT(A) erred in law in failing to apply section 270A(6)(a) of the Act, which specifically provides that penalty shall not be levied where the assessee offers a bona fide explanation and has disclosed all material facts necessary for assessment. In the present case, all three conditions of section 270A(6) (a) (i) bona fide explanation, (ii) full and true disclosure, and (iii) computation of income in good faith stood fully and independently satisfied. The learned CIT(A)'s failure to consider this statutory immunity is a grave error of law.*

*5. The learned CIT(A) [NFAC] erred in sustaining penalty when the assessment u/s 147 accepted the income returned by the Appellant in full, without making any further addition. When the Assessing Officer himself has not made any addition over and above the returned income, there is no legally determinable "under-reported income" as defined under section 270A(2), making the levy of penalty u/s 270A fundamentally misconceived and without jurisdictional foundation.*

*6. The learned CIT(A) [NFAC] erred in upholding penalty on the basis of third-party investigation reports and general statements, without granting opportunity of cross-examination or confronting the Appellant with any adverse material, in gross violation of principles of natural justice. The settled law, as affirmed by the Supreme Court in Kishanchand Chellaram vs. CIT (125 ITR 713), mandates that adverse evidence must be confronted to the assessee before it is used against him. Non-compliance with this principle vitiates the entire penalty proceedings.*

*7. The learned CIT(A) [NFAC] erred in law in holding that the Appellant would have "gone scot free" but for reassessment, ignoring settled law that penalty cannot be levied as a matter of assumption, inference or speculation. Penalty being quasi-criminal in nature requires a positive, specific, and cogent finding of deliberate misreporting, supported by material evidence which is wholly absent in the present case. The impugned reasoning is perverse and contrary to settled judicial principles.*

*8. The learned CIT(A) [NFAC] erred in failing to appreciate the binding judicial precedents of the Hon'ble ITAT Raipur (ACIT vs. Anuj Prakash Gupta, ITA No. 11/RPR/2026, dated 05.02.2026) and ITAT Rajkot (Chirag Bhikhabhai Patel vs. DCIT, ITA No. 727/RJT/2025, dated 12.01.2026), wherein, on identical facts arising from RUPP donations, the respective Benches deleted the additions/disallowances and rejected the penalty on the ground of absence of assessee-specific evidence. These co-ordinate Bench decisions, being directly on poi nt, ought to have been followed in the present case.*

*9. Without prejudice, assuming but not admitting, that penalty is at all leviable, the learned CIT(A) [NFAC] erred in confirming penalty at 200%, whereas at best, the case could only fall under simple under-reporting u/s 270A(7) attracting penalty of 50%, and not misreporting at 200%. The pre-condition for invoking section 270A(8) read with (9) - i.e., a finding that the has not under-reporting was in consequence of misreporting been established by the Revenue. The penalty, if any, cannot exceed 50% of the tax on the under-reported income.*

*10. The learned CIT(A) [NFAC] erred in not appreciating that initiation of reassessment proceedings itself was legally questionable, being based on information borrowed from third-party search proceedings without any independent application of mind to the Appellant's specific facts. When the foundation of the reassessment (i.e., "information suggesting escaped assessment") was derived entirely from generalized investigation findings with no assessee-specific nexus, the penal proceedings built on such reassessment partake of the same infirmity.*

*11. The Appellant craves leave to add, amend, alter or withdraw any ground at or before the time of hearing.*

3. The brief facts of the case are that assessee is an individual who filed his original return of income for Assessment Year 2019-20 on 19.08.2019, declaring total income of Rs. 13,86,810/-. In the said return, the assessee claimed a deduction of Rs. 5,00,000/- under Section 80GGC of the Act in respect of donations made to political parties. According to the assessee, the donations were made through banking channels and were supported by donation receipts and bank statements. Subsequently, based on information arising from investigations conducted in the cases of certain registered unrecognised political parties (RUPPs), proceedings under Section 148A of the Act were initiated in the assessee's case in connection with a donation of Rs. 2,00,000/- made to Apan Desh Party.

4. The Assessing Officer initiated penalty proceedings under Section 270A of the Act and levied a penalty of Rs. 3,12,000/- by treating the case as one of misreporting of income under Section 270A(8) read with Section 270A(9). The assessee challenged the levy of penalty before the Ld. CIT(A), but the appeal was dismissed, thereby confirming the penalty.

5. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred the present appeal before the Tribunal.

6. Heard the argument of both the parties and perused the material available on record.

7. At the outset, both the parties fairly submitted that the issue raised by the assessee in the present appeal stands covered by the order of the Tribunal in the case of **Hiro Mulchand Tanwani Vs Income Tax Officer Vs. ITO for A.Y 2019-20 in ITA No.110/Ahd/2026 dated 15.05.2026.** For the sake of ready reference, the operative portion of said order is reproduced as under:

> *"…The assessee challenged the levy of penalty under Section 270A of the Income-tax Act, 1961, contending that the Assessing Officer was not justified in treating the disallowance of deduction claimed under Section 80GGC as a case of "misreporting of income." The facts reveal that the assessee had filed the return of income for Assessment Year 2019-20 declaring total income of Rs.13,25,710 after claiming deduction of Rs.1,50,000 under Section 80GGC in respect of donation made to a political party, namely Manvadhikar National Party. Subsequently, the assessment was reopened under Section 148 to verify the genuineness of the said donation. In the reassessment completed under Section 147 read with Section 144B, the Assessing Officer disallowed the deduction and assessed the total income at Rs.14,75,710, and thereafter levied penalty of Rs.93,600 under Section 270A on the ground that the assessee had under-reported income in consequence of misreporting.*
>
> *4. The contention of the Assessing Officer that the assessee had accepted the addition by not filing an appeal against the disallowance cannot, by itself, be a valid basis for concluding that there was misreporting of income. The mere fact that the assessee chose not to challenge the quantum addition due to the relatively small amount involved and in order to avoid prolonged litigation does not amount to an admission of concealment or furnishing of false particulars. It is well settled that penalty proceedings are distinct and independent from assessment proceedings, and the findings in the assessment order are not conclusive for the purpose of levy of penalty. Section 270A draws a clear distinction between "under-reporting of income" and "misreporting of income." Misreporting is attracted only in specific circumstances enumerated in sub-section (9), such as misrepresentation or suppression of facts, failure to record investments, claiming of expenditure not substantiated by evidence, recording false entries, or failure to report receipts. In the present case, the assessee had duly disclosed the donation in*

*the return of income and claimed deduction under Section 80GGC based on the belief that the payment qualified for deduction. The disallowance arose because the Assessing Officer was not satisfied about the genuineness or eligibility of the donation. However, there is no material on record to establish that the assessee had furnished any false evidence, suppressed any facts, or made any deliberate misrepresentation. A claim of deduction made in the return, even if ultimately found to be inadmissible, does not automatically lead to the conclusion that the assessee has misreported income. Unless the Revenue demonstrates with cogent evidence that the claim was bogus and knowingly made on the basis of false particulars, penalty for misreporting cannot be sustained. At best, the case may fall within the ambit of under-reporting of income, but even that would require the Assessing Officer to establish that the conditions prescribed under Section 270A are satisfied. In the absence of any finding that the assessee deliberately furnished inaccurate particulars or fabricated documents, the higher penalty prescribed for misreporting is not legally tenable. Accordingly, considering that the deduction was claimed transparently in the return of income and that the disallowance was based solely on the Assessing Officer's adverse view regarding its admissibility, the levy of penalty under Section 270A on misreporting of income is unsustainable in law. The penalty of Rs.93,600 is therefore directed to be deleted…"*

8. Respectfully following the aforesaid decision of the Co-ordinate Bench, and in the absence of any contrary decision or distinguishing facts, it is hereby held that the penalty levied under Section 270A for misreporting of income is not sustainable. Accordingly, the penalty levied by the Assessing Officer and confirmed by the Ld. CIT(A) is hereby deleted.

9. In the result, the appeal filed by the assessee is allowed.

**The order pronounced in the open Court on 21.10.2026.**

**Sd/-**
**(DR. B.R.R. KUMAR)**
**VICE-PRESIDENT**

(True Copy)

Ahmedabad; Dated 21.10.2026

MV

**<u>आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to</u> :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) /The CIT(A)-
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, अहमदाबाद/ DR, ITAT, Ahmedabad
6. गार्डफाईल /Guard file.

**आदेशानुसार**/ BY ORDER,

**सहायकपंजीकार** (Dy./Asstt. Registrar)
**आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad**