आयकर अपीलीय अधिकरण, बेंगलुरू पीठें, बेंगलुरू
INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE

BENCH: B

BEFORE SHRI BALAKRISHNAN S, ACCOUNTANT MEMBER AND SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.2798/Bang/2025 निर्धारण वर्ष/Assessment Year: **2018-19**)		
Santhosh Sagar Reddy No. 385, Rainbow Drive Sarjapur Road, Junnasandra Varthur, Bengaluru-560035, Karnataka	Vs.	Income Tax Officer, Ward-4(2)(3) Bangalore-560095, Karnataka
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**AHGPR2781Q**

अपीलार्थी द्वारा/Appellant represented by:	**Shri. K. N. Srikanta Prasad - CA**
प्रत्यर्थी द्वारा/Respondent represented by:	**Shri. Pradeep S - Addl. CIT**

सुनवाई की तारीख / Date of conclusion of hearing:	**22.06.2026**
घोषणा की तारीख / Date of pronouncement:	**23.07.2026**

आदेश / O R D E R

Per Balakrishnan S, Accountant Member :

This appeal is filed by the Assessee against the order of Ld. NFAC vide DIN: ITBA/NFAC/S/250/2025-26/1081284288(1) dated 29.09.2025 for the Assessment Year 2018-19 arising out of the penalty order passed under section 270A of the Act, dated 23.03.2022.

2. Briefly stated facts of the case are assessee filed its original return of income on 31.12.2018 for the Assessment Year 2018-19 admitting total income of Rs.11,50,000/- by opting for presumptive taxation under section 44ADA of the Act. The case was selected for limited scrutiny for the issue of “remuneration paid by the firm”. The

assessee received Rs.30 lakhs from the partnership firm as remuneration and has declared 50% of the gross receipts under section 44ADA of the Act. Statutory notices under sections 143(2) and 142(1) of the Act were issued and served on the assessee. The learned AO observed that the assessee is not entitled for claiming remuneration under section 44ADA of the Act and thereby made an addition of Rs.15 lakhs to the total income of the assessee. The assessee did not contest the addition however paid the tax demanded by the learned AO on 10.04.2021 and also filed Form No.68 seeking immunity from the penalty. The learned AO thereafter initiated penalty proceedings under section 270A of the Act for under reporting of income in consequence of misreporting thereof and therefore issued a notice under section 274 r.w.s. 270A of the Act on 17.03.2021. The assessee submitted its reply on 30.04.2021 stating that assessee has already paid tax demanded on 10.04.2021 vide challan No.1016 which is within the time allowed by the AO. He also submitted that he has filed Form 68 prescribed under section 270AA of the Act seeking immunity from penalty proceedings. The learned AO in the absence of any immunity order duly passed by the concerned AO, proceeded to levy penalty of Rs.9,27,000/- being 200% of the tax payable by the assessee.

3. On being aggrieved by the Order of the penalty, assessee carried the matter before the learned CIT(A). Similar submissions were made before the learned CIT(A). The learned CIT(A) therefore upheld the Order of the learned AO passed under section 270A of the Act.

4. On being aggrieved by the Order learned CIT(A), assessee is in appeal before us by raising various grounds. The only issue agitated by the assessee is with respect to levy of penalty under section 270A of the Act for misreporting of the income. The learned AR submitted that the assessee has fulfilled the conditions under section 270A of the Act and therefore penalty cannot be levied for misreporting of the income. He also further submitted that assessee has also filed immunity petition before the learned AO in Form 68 which remains to be disposed by the learned AO. He therefore prayed that penalty may be deleted since there is no underreporting as a consequence of misreporting as envisaged by the learned AO.

5. Per contra, the learned DR relied on the Orders of the learned CIT(A).

6. We have heard the rival contention and perused the material available on record. It is an admitted and undisputed fact that assessee has received remuneration of Rs.30 lakhs from the partnership firm which provides software services and has claimed the same under the presumptive taxation by admitting 50% of the remuneration as income of the assessee under section 44ADA of the Act. However, assessee has made the payment of the disputed tax which was raised by the learned AO by Assessment Order under section 143(3) of the Act, dated 17.03.2021. Further, we also find on record that the assessee has filed Form No.68 on 30.04.2021 seeking immunity from the penalty proceedings. The learned AO however has not disposed off the petition filed for seeking immunity under section 270AA of the Act. The learned CIT(A) observed that immunity can be granted to the assessee only with respect to ‘under reporting’ of income and not with respect of ‘underreporting as a consequence of misreporting of income’. In the instant case, the assessee has disclosed the entire remuneration received from the partnership firm but has wrongly claimed it under section 44ADA of the Act. Therefore, in our opinion, there is no under reporting of income in consequence of misreporting. We also note that there is no willful concealment by the assessee where the assessee was under bonafide belief that assessee was entitled for opting presumptive taxation under section 44ADA of the Act. There is no suppression of facts by the assessee. Further, the assessee has fulfilled the conditions imposed under section 270AA of the Act with respect to the immunity available to the assessee. In these circumstances, we are of the view that no penalty can be levied against the assessee and we therefore direct the learned AO to grant immunity to the assessee as detailed in Form 68 filed by the assessee on 30.04.2021. Thus, the grounds raised by the assessee are allowed.

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

Pronounced in the court on the date mentioned on the caption page.

Sd/-	Sd/-
(KESHAV DUBEY)	**(BALAKRISHNAN S)**
Judicial Member	**Accountant Member**

Bangalore,
Dated : 23.07.2026.
/NS/*

Copy to:

1. Appellant 2. Respondent 3. Pr.CIT 4.CIT(A)
5. DR, ITAT.

By order

Assistant Registrar
ITAT, Bangalore.