आयकर अपीलीय अधिकरण, बेंगलुरू पीठें, बेंगलुरू

INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE

BENCH: B

BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No. 676/BANG/2026 निर्धारण वर्ष/**Assessment Year: 2018-19)**		
M/s. Vande Matharam Vividhoddesha Souharda Sahakari Limited, 4-41(E), 1st Floor, Magarantha complex Moodbidri, Mangaluru-574227, Karnataka.	Vs.	The Income Tax Officer, Ward – 1(1), Mangaluru.
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee:		**AAAAV9488L**
अपीलार्थी द्वारा/Appellant represented by:		Shri. Sriram V Rao, CA
प्रत्यर्थी द्वारा/Respondent represented by:		Shri. Pradeep S., Addl.CIT-DR

सुनवाई की तारीख / Date of conclusion of hearing:	21-07-2026
घोषणा की तारीख / Date of pronouncement:	04-08-2026

आदेश / ORDER

PER SHRI SOUNDARARAJAN K., JUDICIAL MEMBER:

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 10/12/2025 in respect of the A.Y. 2018-19.

2. The brief facts of the case are that the assessee is a co-operative society filed the return of income on 30/09/2018. The assessee had claimed the entire income as deduction u/s. 80P(2)(a)(i) of the Act. Subsequently, the case of the assessee was selected for limited scrutiny and after verifying the details, the AO had accepted the return of income filed by the assessee by passing an order u/s. 143(3) of the Act. Thereafter, the AO had issued a notice for rectification and in the rectification order also, the AO had accepted the return of income and allowed the deduction claimed by the assessee u/s. 80P(2)(a)(i) of the Act. Again the AO had initiated rectification proceedings u/s. 154 of the Act and denied the deduction claimed u/s. 80P(2)(a)(i) of the Act on the ground that the assessee had received interest from the Co-operative banks and Scheduled banks. The AO had relied on the judgment of the Hon'ble Supreme Court as well as the Hon'ble Jurisdictional High Court and denied the deduction claimed u/s. 80P(2)(a)(i) of the Act. In the said order, the AO had proposed to initiate penalty proceedings u/s. 270A of the Act for underreporting the income.

3. The AO had issued a show cause notice on 21/05/2024 seeking the explanation against the proposal to levy penalty u/s. 270A of the Act. The assessee submitted in their reply, that as against the rectification order made u/s. 154 of the Act, in which the deduction claimed u/s. 80P(2)(a)(i) was disallowed, an appeal has been filed before the CIT(A). In spite of the said fact, the AO had confirmed the penalty u/s. 270A of the Act for underreporting of income.

4. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and contended that the penalty levied u/s. 270A is not in order by considering the facts and circumstances of the present case. The Ld.CIT(A) had dismissed the appeal and confirmed the penalty levied by the AO.

5. As against the said order, the assessee is in appeal before this Tribunal.

6. At the time of hearing, the Ld.AR submitted that, no penalty u/s. 270A could be imposed on the facts and circumstances of the present case and further submitted that the assessee had claimed deduction u/s. 80P(2)(a)(i) of the Act on the interest income earned from the co-operative and other banks which was also accepted in the order passed u/s. 143(3) of the Act. The Ld.AR further submitted that in the subsequent rectification order dated 08/04/2021 also, the AO had accepted the deduction claimed by the assessee. The Ld.AR further submitted that subsequently by way of an another rectification order, the AO had reversed the deduction granted by him by relying on the judgments of the Hon'ble Supreme Court as well as the Hon'ble Jurisdictional High Court. The Ld.AR therefore submitted that whether the penalty levied u/s. 270A is in order particularly with reference to sub-clause (6) of section 270A of the Act. The Ld.AR also submitted that the show cause notice as well as the penalty order does not indicate under which clause of section 270A, the penalty has been imposed and therefore the entire proceedings are liable to be set aside. The Ld.AR also draw our attention to section 270A of the Act, in which the word "may" has been used and therefore the legislature had granted discretionary powers to the authorities to levy or not to levy penalty in the given facts and circumstances of the cases. The Ld.AR also filed a paper book enclosing the written submissions and also furnished some judgments of Hon'ble Jurisdictional High Court to the proposition that the penalty proceedings have to be kept in abeyance when the assessee had challenged the quantum proceedings.

7. The Ld.DR submitted that the assessee had underreported the income by claiming wrong deduction and therefore the penalty levied u/s. 270A is in order.

8. We have heard the arguments of both sides and perused the materials available on record.

9. We have considered the facts involved in this appeal before proceeding to adjudicate the penalty issue.

10. In the present case, the assessee is admittedly a co-operative society and also earned interest income from the deposits made with the co-operative banks and other banks and claimed deduction u/s. 80P(2)(a)(i) of the Act. The said return was accepted as such and subsequently, in the scrutiny assessment also, the AO had accepted the deduction claimed by the assessee. Subsequently, an order u/s. 154 was made on 08/04/2021 in which also the AO had not disturbed the deduction claimed by the assessee. All of a sudden, a show cause notice was issued proposing to deny the deduction since the interest income earned from the co-operative banks are not entitled for deduction either u/s. 80P(2)(a)(i) or 80P(2)(d) of the Act. In spite of the reply, the AO had made the order u/s. 154 of the Act reversing the deduction already granted by him. It is the case of the assessee that they have challenged the said order before the Ld.CIT(A).

11. In these circumstances, the AO had proposed to levy penalty u/s. 270A of the Act for underreporting of income. The above said facts would establishes that the assessee had claimed the deduction while filing the return of income u/s. 80P(2)(a)(i) of the Act which was also accepted by the AO. Subsequently, in the rectification order dated 08/04/2021, the AO had again accepted the said deduction claimed by the assessee. Therefore, it is clear that the AO satisfied himself that the deduction claimed u/s. 80P(2)(a)(i) is in order while passing the orders u/s. 143(3) as well as u/s. 154 of the Act. In such circumstances, the question of underreporting by the assessee would not arise.

12. We have also perused section 270A(6) of the Act in which the circumstances under which it should not be treated as underreported income has been explained. As per the said provision, if the explanation offered by the assessee about the income seems to be a genuine one, it could not be treated as underreporting of income. In the present case, we find that the assessee had made a genuine belief and on that basis, claimed the deduction which was also accepted by the AO while passing the orders u/s. 143(3) and 154 of the Act. Therefore, as per the sub-clause (6) of section

270A, the income could not be treated as an underreported income in the peculiar facts and circumstances of the case.

13. Further, as rightly contended by the Ld.AR, the section 270A(1) of the Act has granted discretionary powers and therefore used the word "may" without using the word "shall". Therefore, before imposing the penalty, the entire circumstances should be considered and on that basis, the AO can levy penalty u/s. 270A of the Act. The facts as stated earlier indicates that there is a bonafide belief which was also accepted by the AO and therefore, the levy of penalty u/s. 270A should not be an automatic one and liable to be set aside.

14. In addition to the above said findings, we have also considered the fact that the AO had simply mentioned section 270A in the notice as well as in the order, without mentioning the sub-clause or the limb in the said sub-clause and therefore as held by the various Coordinate Bench of this Tribunal, the penalty could not be sustained for the above said reason also. We therefore, set aside the orders of the lower authorities and directed the AO to delete the penalty imposed u/s. 270A of the Act.

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

Order pronounced in the open court on 04th August, 2026.

Sd/-	**Sd/-**
PRASHANT MAHARISHI	**SOUNDARARAJAN K.**
VICE – PRESIDENT	**JUDICIAL MEMBER**

Bangalore,
Dated: 04th August, 2026.

Copy to:

1	M/s. Vande Matharam Vividhoddesha Souharda Sahakari Limited, 4-41(E), 1st Floor, Magarantha complex Moodbidri, Mangaluru-574227, Karnataka.
2	The Income Tax Officer, Ward 1 (1), Mangaluru, Mangaluru-575001, Karnataka.
3	The PCIT / CIT,
4	The D.R., ITAT, Bangalore Bench

BY ORDER

ASSISTANT REGISTRAR,
I.T.A.T., BANGALORE.