IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH ‘SMC’ AGRA

(Through Physical/Virtual Hearing)

BEFORE, SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No. 310/AGR/2025
(Assessment Year: 2018-19)

Bundelkhand University, Financial Officer, New Building, Near Medical College, Jhansi, Uttar Pradesh-284128	Vs.	Assessment Unit/DCIT (Exemption), Income Tax Department CGO, Complex-II, Purani Hapur Chungi Ghaziabad, Uttar Pradesh-201001
(Appellant)		(Respondent)
PAN: AAAJB0690D		

Assessee by :	Shri P.K. Sahgal, Adv.
Revenue by:	Shri Anil Kumar, Sr. DR
Date of Hearing	18/08/2025
Date of pronouncement	03/09/2025

O R D E R

1. The appeal in ITA No.310/AGR/2025 for AY 2018-19, arises out of the National Faceless Appeal Centre, Delhi [hereinafter referred to as ‘ld. CIT(A)’, in short] in Appeal No.NFAC/2017-1810292998 dated 30.04.2025 against the order of assessment passed u/s 147 r.w.s. 144/144B of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) dated 13.03.2022 by the Assessment Unit (hereinafter referred to as ‘ld. AO’).

2. The only issue to be decided in this appeal is as to whether the Learned NFAC was justified in confirming the levy of penalty under section 272A(1)(d) of the Act in the facts and circumstances of the instant case.

3. I have heard the rival submissions and perused the materials available on record. The Assessee University has been formed and enacted through the Uttar Pradesh State University Act , 1973 and fully governed by the Bundelkhand University First Statutes, 1977 as enacted by the Governor of Uttar Pradesh under the powers conferred under the provisions of the Uttar Pradesh State University Act, 1973. The Assessee University is existing solely for educational purposes only and not for the purpose of profit. The surplus of receipts over expenditure are accumulated over the years and such surplus had been ploughed back to the coffers of the Assessee University for educational purposes. The Assessee University had received direct grant from the Government of Uttar Pradesh at the time of formation of University whereby land and expenditure incurred to create building, other infrastructure facilities etc was wholly funded by Government of Uttar Pradesh to run educational institution and University is regularly receiving the grant from Government from time to time in every financial year. The Learned AO however observed that the Assessee had received only 2.39 percent of total receipts as grant from the Government and hence would not comply with the provisions of section 10(23C)(iiiab), (iiiac) and (iiiad) of the Act. The Learned AO observed that the Assessee had not filed its return of income for assessment year 18-19 under section 139(1) of the Act which was mandatory for the Assessee trust or society to claim exemption under section 10(23C) of the Act. Accordingly the Learned AO proceeded to frame the assessment of the Assessee University as an Association of Persons (AOP). Even though there were certain failures on the part of the Assessee in furnishing the requisite information before the Learned AO, but ultimately all the details relevant for framing of assessment had indeed been filed by the Assessee University before the completion of assessment proceedings which fact is also admitted by the Learned AO in page 3 of his order. But still penalty was initiated and levied by the Learned AO under section 272 A(1)(d) of the Act for initial failure on the part

of the assessee to furnish the requisite details at the time of assessment proceedings. I find that ultimately the assessment was completed only under section 143(3) of the Act after taking into account all the requisite details filed by the assessee. Even the fact of assessee furnishing all the details had been conceded by the Learned AO in page 3 of his order. Hence, for a mere technical venial breach committed by the Assessee, in my considered opinion, the Assessee should not be invited with the levy of penalty under Section 272A(1)(d) of the Act in the facts and circumstances of the instant case. My view is further fortified by the decision of the Coordinate Bench of Delhi Tribunal in the case of Akhil Bhartiya Pratmik Shamshak Sangh Bhavan Trust v ADIT reported in 115 TTJ 419. Similar view was also taken by the Coordinate Bench of Raipur Tribunal in the case of Mrs. Bhavna Modi v ITO in ITA No. 298 /Rpr/ /2024 for assessment year 20-21 and Coordinate Bench of Cochin Tribunal in the case of Jomon John v NFAC in ITA No. 578/ Coch / 2024 for assessment year 2017-18 dated 29-04-2025.

4. In view of my aforesaid observations and respectfully following the judicial precedents relied upon herein above, I hold that this is not a fit case for levy of penalty under Section 272A(1)(d) of the Act and accordingly direct the Learned AO to cancel the same. Accordingly, the grounds raised by the Assessee are allowed.

5. In the result, the appeal of the Assessee is allowed.

Order pronounced in the open court on 03/09/2025.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 03/09/2025
Shekhar/A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi