

Sections 270A and 270AA

as they stand after the Finance Act, 2026

Section 270AA was substituted in part by the Finance Act, 2026 (Act No. 4 of 2026) with effect from 1 March 2026. Sub-sections (1), (2), (3) and (3A) were substituted for sub-sections (1), (2) and (3). Section 270A was not amended by that Act. This annexure sets out the text that the accompanying note turns on.

WHAT THIS CONTAINS

Part A reproduces section 270AA in full: sub-sections (1) to (3A) in the pre-amendment and post-amendment columns, and sub-sections (4), (5) and (6), which the amendment left untouched.

Part B reproduces the operative penalty provisions of section 270A: sub-sections (1), (2), (6), (7), (8) and (9). The computation machinery in sub-sections (3) to (5) and (10) to (12) is arithmetical and is not reproduced; it should be read from the Act itself.

SOURCES

The comparative table in Part A is reproduced from the table set out by the High Court of Judicature at Bombay at pages 6 to 8 of its order dated 5 October 2026 in Farah Khurshed Titina v. Income Tax Officer, Ward 22(1)(6), Mumbai and Others, Writ Petition No. 4002 of 2026. The remaining text is taken from the Department's published text of the sections. Emphasis in the post-amendment column is the Court's.

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Section 270AA: Immunity from imposition of penalty, etc.

Sub-sections (1), (2) and (3) as they stood before 1 March 2026, against sub-sections (1), (2), (3) and (3A) substituted for them by the Finance Act, 2026 with effect from that date.

PRIOR TO THE FINANCE ACT, 2026	POST AMENDMENT BY THE FINANCE ACT, 2026
(1) An assessee may make an application to the Assessing Officer to grant immunity from imposition of penalty under Section 270A and initiation of proceedings under Section 276C or Section 276CC, if he fulfils the following conditions, namely:— (a) the tax and interest payable as per the order of assessment or reassessment under sub-section (3) of Section 143 or Section 147, as the case may be, has been paid within the period specified in such notice of demand; and (b) no appeal against the order referred to in Clause (a) has been filed.	(1) An assessee may make an application to the Assessing Officer to grant immunity from imposition or, as the case may be, waiver of penalty under Section 270A and immunity from initiation of proceedings under Section 276C or Section 276CC, if he fulfils the following conditions, namely:— (a) the tax and interest payable as per the order of assessment under sub-section (3) of Section 143 or reassessment under Section 147 has been paid within the period specified in the notice of demand; (b) where penalty has been levied or, as the case may be, leviable under the circumstances referred to in sub-section (9) of Section 270A, additional income-tax amounting to one hundred per cent of the amount of tax payable on under-reported income has been paid within the period specified in the notice of demand, in lieu of such penalty; and (c) no appeal has been filed against the order referred to in Clauses (a) and (b).
(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in Clause (a) of sub-section (1) has been received and shall be made in such form and verified in such manner as may be prescribed.	(2) An application referred to in sub-section (1) shall be made within one month from the end of the month in which the order referred to in Clause (a) and Clause (b) of the said sub-section has been received by the assessee, in such form and verified in such manner, as may be prescribed.
(3) The Assessing Officer shall, subject to fulfilment of the conditions specified in sub-section (1) and after the expiry of the period of filing the appeal as specified in Clause (b) of sub-section (2) of Section 249, grant immunity from imposition of penalty under Section 270A and initiation of proceedings under Section 276C or Section 276CC, where the proceedings for penalty under Section 270A has not been initiated under the circumstances referred to in sub-section (9) of the said Section 270A.	(3) The Assessing Officer shall, on fulfilment of the conditions specified in sub-section (1) and after the expiry of the period of filing the appeal as specified in Clause (b) of sub-section (2) of Section 249, grant immunity from imposition or, as the case may be, waiver of penalty under Section 270A and initiation of proceedings under Section 276C or Section 276CC.
—	(3A) No immunity or, as the case may be, waiver under sub-section (3) shall be granted where any proceedings has been initiated under Chapter XXII.

Emphasis supplied, as in the Court's order. The bold text in the left column is the misreporting carve-out that the substitution removed; the bold text in the right column is the condition that replaced it. Note also the opening words of sub-section (3), which the comparative table in the order does not mark: "subject to fulfilment of the conditions" in the left column, "on fulfilment of the conditions" in the right.

Sub-sections (4), (5) and (6), unchanged by the Finance Act, 2026

(4) The Assessing Officer shall, within a period of three months from the end of the month in which the application under sub-section (1) is received, pass an order accepting or rejecting such application:

Provided that no order rejecting the application shall be passed unless the assessee has been given an opportunity of being heard.

(5) The order made under sub-section (4) shall be final.

(6) No appeal under section 246 or section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment, referred to in clause (a) of sub-section (1), in a case where an order under sub-section (4) has been made accepting the application.

In sub-section (4), "three months" was substituted for "one month" by Act No. 7 of 2025 with effect from 1 April 2025. Rule 129 of the Income-tax Rules, 1962 prescribes Form No. 68 for an application under sub-section (2).

Second proviso to section 249(2), which protects the appeal

Provided further that where an application has been made under sub-section (1) of section 270AA, the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded.

Section 249(2)(b) gives thirty days from the date of service of the notice of demand relating to the assessment or penalty. The proviso suspends that period for the life of a section 270AA application, so applying does not cost the assessee his appeal.

PART B

Section 270A: Penalty for under-reporting and misreporting of income

The operative provisions. Section 270A was not amended by the Finance Act, 2026.

Sub-section (1): the charge

(1) The Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Principal Commissioner or Commissioner may, during the course of any proceedings under this Act, direct that any person who has under-reported his income shall be liable to pay a penalty in addition to tax, if any, on the under-reported income.

Sub-section (2): when income is under-reported

(2) A person shall be considered to have under-reported his income, if—

- (a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;
- (b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 148;
- (c) the income reassessed is greater than the income assessed or reassessed immediately before such reassessment;
- (d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;
- (e) the amount of deemed total income assessed as per the provisions of section 115JB or section 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been furnished or where return has been furnished for the first time under section 148;

- (f) the amount of deemed total income reassessed as per the provisions of section 115JB or section 115JC, as the case may be, is greater than the deemed total income assessed or reassessed immediately before such reassessment;
- (g) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

Sub-section (6): what is not under-reported income

(6) The under-reported income, for the purposes of this section, shall not include the following, namely:—

- (a) the amount of income in respect of which the assessee offers an explanation and the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, is satisfied that the explanation is bona fide and the assessee has disclosed all the material facts to substantiate the explanation offered;
- (b) the amount of under-reported income determined on the basis of an estimate, if the accounts are correct and complete to the satisfaction of the Assessing Officer or the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Commissioner or the Principal Commissioner, as the case may be, but the method employed is such that the income cannot properly be deduced therefrom;
- (c) the amount of under-reported income determined on the basis of an estimate, if the assessee has, on his own, estimated a lower amount of addition or disallowance on the same issue, has included such amount in the computation of his income and has disclosed all the facts material to the addition or disallowance;
- (d) the amount of under-reported income represented by any addition made in conformity with the arm's length price determined by the Transfer Pricing Officer, where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X, and, disclosed all the material facts relating to the transaction; and
- (e) the amount of undisclosed income referred to in section 271AAB.

Sub-sections (7) and (8): the two rates

(7) The penalty referred to in sub-section (1) shall be a sum equal to fifty per cent of the amount of tax payable on under-reported income.

(8) Notwithstanding anything contained in sub-section (6) or sub-section (7), where under-reported income is in consequence of any misreporting thereof by any person, the penalty referred to in sub-section (1) shall be equal to two hundred per cent of the amount of tax payable on under-reported income.

Sub-section (9): the six cases of misreporting

(9) The cases of misreporting of income referred to in sub-section (8) shall be the following, namely:—

- (a) misrepresentation or suppression of facts;
- (b) failure to record investments in the books of account;
- (c) claim of expenditure not substantiated by any evidence;
- (d) recording of any false entry in the books of account;
- (e) failure to record any receipt in books of account having a bearing on total income; and
- (f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction, to which the provisions of Chapter X apply.

Two provisions that sit outside this text and decide many files. Section 271AAC(2) provides that no penalty under section 270A shall be imposed in respect of income referred to in section 271AAC(1), that is income under sections 68, 69, 69A, 69B, 69C and 69D. Section 158BF provides that no penalty under section 270A shall be levied or imposed in respect of undisclosed income assessed or reassessed for the block period. In both cases section 270AA has nothing to operate on.

This annexure is a working reproduction prepared for the accompanying note and is not a substitute for the Act. Verify against the bare Act before relying on it in a proceeding.