

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, MUMBAI**

**BEFORE HON’BLE SANDEEP GOSAIN, JUDICIAL MEMBER**

**I.T.A. No. 3400/Mum/2025  
A.Y: 2017-18**

Mr. Iqbal Issa Patel Flat No. 902, 9 <sup>th</sup> Floor, Fatima Tower, Beside Noorani Masjid, MH Pathan Road, Malad (E), Mumbai – 400 097.	Vs	ITO – 41(3)(2) Koutilya Bhavan Mumbai - 51
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Subhash Chhajer a/w Shri Sunil Vakawala
Revenue by	Shri Vikash Chandra, Addl.CIT

Date of Hearing	03.09.2025
Date of Pronouncement	23.09.2025

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the assessee challenging the impugned order dt. 11.03.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2017-18.

2. Ld. AR has filed an application for seeking permission to raise additional ground of appeal.

3. From the contents of the application I noticed that assessee has raised legal ground thereby challenging the ground of validity of the noticed issued for reopening of the

assessment as the same has been issued beyond the period of limitation prescribed u/s 149(1)(a) of the Act and the approval has not been sought from the appropriate authority specified u/s 151(ii) of the Act. Since this ground now raised by the assessee is legal in question and goes to the roots of the case and no separate documents or verification is required at this stage to adjudicate the said ground. Therefore, while relying upon the decision of the Hon'ble Supreme Court in the case of **NTPC V/s. CIT(1998) 229 ITR 383 (SC)** . I allow the application for raising additional ground and consequently the said ground is admitted to be heard on merits.

4. Since the assessee has raised legal ground thereby challenging the validity of notice in question therefore I have decided to take this issue firstly as it goes to the roots of the case.

5. At the very outset it is an admitted fact that the alleged income in the present case is of Rs. 36,03,504/- i.e less than Rs. 50 lakhs therefore as per provisions of Sec. 149(1)(a) of the Act no notice for reopening be issued after the lapse of three years from the end of the assessment year if the income escapement is less than Rs. 50 lakhs. In the present case the facts are not disputed or controverted. Thus on the very first day the notice issued by the revenue dated 23.07.2022 is barred by limitation. Therefore taking in to consideration the decision referred

before me of Jurisdictional High Court of Bombay in the case of ***Ramesh Bachulal Mehta Vs. ITO in Writ Petition No. 271 of 2023*** and considering the facts of the case, I quash the notice dated 23.07.2022 as the same is barred by limitation, thus allow this ground of appeal.

6. Since I have allowed Ground No. 1 raised by the assessee and quashed the notice therefore consequential assessment order passed in the present case also stands quashed. Other grounds raised by the assessee are kept open.

7. In the result the appeal filed by the assessee stands partly allowed with no orders as to cost.

Order pronounced in the open court on 23/09/2025

Sd/-

**(SANDEEP GOSAIN)**  
**(JUDICIAL MEMBER)**

Mumbai:

Dated: 23/09/2025

*KRK, Sr. PS.*

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)

**ITAT, Mumbai**

		Date	Initial	
1.	Draft dictated on	03.09.25		Sr.PS/PS
2.	Draft placed before author	04.09.25		Sr.PS/PS
3.	Draft proposed & placed before the Second Member			JM/AM
4.	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr. P.S./P.S.			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS/PS
7.	File sent to the Bench Clerk			Sr.PS/PS
8.	Date on which file goes to the Head Clerk			
9.	Date on which file goes to the AR			
10.	Date of dispatch of Order			