

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI

BEFORE SHRI PAWAN SINGH, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No.5874/Mum/2025
(Assessment Year: 2013-14)

Wandel Global Services Pvt. Ltd. (Struck off), 103, Gateway Plaza, Hiranandani Gardens, Powai, Mumbai - 400076 PAN: AAACW3522G	Vs.	ITO, Ward-15(3)(1), Aayakar Bhavan, Churchgate, Mumbai-400020.
Assessee -अपीलार्थी / Appellant	:	Revenue - प्रत्यर्थी / Respondent

Assessee by : Shri Manish Sheth, CA
Revenue by : Shri Sunil Mathews, Sr. DR
Date of Hearing : 19.01.2026
Date of Pronouncement : 27.01.2026

ORDER

Per Arun Khodpia, AM:

The present appeal of the assessee, is directed against the order of Commissioner of Income Tax(Appeals) / National Faceless Appeal Centre (NFAC), Delhi dated 24.07.2025 for the Assessment Year (AY) 2013-14), in turn arises from the assessment order passed u/s 144 r.w.s. 147 of Income Tax Act, 1961 (for short “The Act”), dated 29/11/2019, by ITO-15(3)(2), Mumbai

(for short “the Ld. AO”). The grounds of appeal raised by the assessee are as under:

“1) On the facts and in the circumstances of the case and in law, the Ld. CIT(A)-NFAC, ought to have considered that the company name has been unilaterally struck off by ROC-MCA from the register of corporate affairs vide its notice No. ROC-MUM/Section 248/2017/STK-7/6 dtd. 18-08-2017 and hence no reassessment proceedings can be conducted on the assessee and reassessment proceeding initiated u/s 148 dtd. 27-03-2019, is void ab initio.

2) On the facts and in the circumstances of the case and in law, the Ld. CIT(A)-NFAC, erred in setting aside matter back to the file of ld. Assessing Officer for fresh assessment based on the original illegal and void assessment order is illegal and void.”

2. Briefly stated, the assessee-company has not filed its return for the AY 2013-14. However as per NMS Module of ITD System, it is revealed that the assessee –company has deposited cash of Rs. 3,50,000/- in Karnataka Bank. The case of assessee was reopened under section 147 of the Act, notice issued under section 148 of the Act. The assessee-company thereafter was informed through email repeatedly to file the return in response to the notice under section 148 of the Act, however the Company remained non-responsive on all the occasions. Finally, the ld. AO deemed it fit to dispose of the matter by passing an order under section 144 r.w.s. 147 of the Act by making an addition of cash deposit for Rs. 3,50,000/- and credit entries in the Bank A/c of assessee to the tune of Rs. 17,47,000/-.

3. The assessee preferred an appeal before the Id. CIT(A) with a delay of 782 days which after deliberations was condoned and the appeal of assessee was admitted for adjudication.

4. While adjudicating the grounds of appeal, it is observed by the Id. CIT(A) that the name of assessee-company was struck off by the MCA/ROC unilaterally and the assessee company was nonexistent at the point of time when reopening was initiated, therefore, the notice issued to the non-existing company are invalid and illegal. Such contention of assessee was considered by the Id. CIT(A), also referred to the CBDT's Circular Number 225/423/2017/ITA.II dated 29.12.2017, thus, had set-aside the assessment order under section 144 of the Act dated 29.11.2019, for fresh assessment to the file of Id. AO.

5. Before us, it was the contention of assessee that no re-assessment proceedings can be conducted on the assessee, as the name of assessee was already been unilaterally strike off by ROC/MCA from the register of Corporate Affairs vide its notice no. ROC-Mum/sec. 248/2017/stk-7/6 dated 18.08.2017, thus the re-assessment proceedings initiated, much later, under section 148 dated 27.03.2019 on a nonexistent assessee would be void ab-initio. Copy of aforesaid notice of ROC/MCA dated 18.08.2017 along with copy of Company Master data showing strike off are furnished before us.

6. Ld. AR further placed before us the copy of CBDT Circular dated 19.12.2017 referring to para-2 of the said Circular, which is reads as under:

“2. On consideration of the matter, Board has decided that request/appeal for restoration of name of the 'struck off company with retrospective date from the date of being 'struck off shall be made by the income-tax department in following situations:

- i. where proceedings under section 143(3)/144/147/153A/153C/set-aside cases were already in progress; or
- ii where proceedings under section 143(3)/144/147/153A/153C are contemplated in near future; or
- iii. where Departmental Appeals were pending; or
- iv. where Penalty proceedings already initiated were pending; or
- v. where Prosecution proceedings were initiated /launched.”

7. It was the submission that the pre-condition mentioned in para-2 for restoration of name of strike off company are not satisfied in the present case, as the name of assessee company was already struck off w.e.f. 18.08.2017, whereas the re-assessment proceedings by issue of notice under section 148 was issued much afterwards on 27.03.2019. Under such circumstances case of assessee is squarely covered by the decision of **Hon’ble Bombay High Court** in the case of **Erangal Comtrade and Consultancy LLP vs. Asstt. CIT, Circle-2(1)(1), Mumbai Writ Petition No. 2033 of 2022 (Bom. HC) dated 03.11.2025**, the Hon’ble Bombay High Court, wherein, has held as under:

Q: (a) The impugned action has been taken against a non-existent entity rendering the same to be illegal and bad in law.

“16. Considering the law laid down as discussed above, we are clearly of the view that in the present case, the notice issued under section 148 to the erstwhile company, namely, Erangal Comtrade and Consultancy Private Limited, cannot be allowed to stand and is hereby quashed and set aside. Once we have quashed the notice issued under section 148, then naturally the impugned assessment order dated 30th March 2022 also cannot be allowed to stand and is hereby quashed and set aside. This is for the simple reason that the said assessment order emanates from the notice issued under section 148.”

8. The Id. AR further placed his reliance on the following decisions, having adjudication on the identical issue with similar findings:

“b. Ultima Realtors Private Limited v. ITO, 3 (3) (3), Mumbai, I.T.A. No. 2628/Mum/2025, dtd. 20-06-2025.

c. M/s. Anujay Hycare Products (P) Ltd. v. The Income Tax Officer, Ward-2(4), New Delhi. ITA.No.4411/Del./2017, (Assessment Year 2009-2010).

d. Capco Finance & Investment Pvt. Ltd. (Struck Off) v. ITO-15(1)(3) ITAT Mumbai, I.T.A. No. 2538/Mum/2022, Order dtd. 16-12-2022.

e. M/s. Mehta Air Travels Pvt. Ltd. v. The Income Tax Officer Ward 2(1)(4), Ahmedabad. ITA No.3300/Ahd/2016 (Assessment Year: 2008-09), Order dtd. 02-02-2022,

f. Ekvira Hotels Private Limited (struck off) v. ACIT 6(2)(3), Mumbai, ITAT Mumbai Order date: 09-09-2025, ITA No.4453/Mum/2025 (Assessment Year: 2012-13)”

9. On the basis of aforesaid submissions, it was the prayer by ld. AR that the re-assessment in the present matter initiated on a company whose name is already struck off from the register of Corporate Affairs by ROC-MCA, therefore the notice issued under section 148 would be treated as a notice issued in the name of a non-existing entity, this fact was although not brought on record before ld. AO, however was very much placed before the ld. CIT(A), therefore following the Judicial discipline, the order under section 147 dated 29.11.2019, passed in the present matter would qualify to be void ab-initio and liable to be annulled.

10. Per contra, the ld. DR vehemently supported the orders of revenue authorities and submitted that before the ld. CIT(A) the assessee himself has requested the ld. CIT(A) to restore the matter back to the file of ld. AO to reconsider under Rule 46A and that request of the assessee was permitted by the ld. CIT(A). Further, the revenue has made the application to NCLT for restoration of the name of assessee, therefore the re-opening of assessment in present matter shall not be treated as void ab-initio or without jurisdiction, the action of Ld. CIT(A) to restore the matter for fresh adjudication is thus justified and deserves to be upheld.

11. We have considered the rival submissions, perused the material available on record and Jurisprudence relied upon by the assessee, we find that at the time when re-opening was initiated by invoking provisions of section 147 in

the present matter, the name of assessee was struck off from the register of the Companies by ROC vide notice of striking off dated 18.08.2017 (supra) and such information being on record was not contradicted by the revenue.

12. Further as per CBDT Circular dated 29.12.2017 the Board has directed to request / appeal for restoration of name of the 'struck off' Companies under specific conditions, according to which (i) there should be certain proceedings under section 143(3)/144/147/153A/153C/set-aside cases were already in progress, or (ii) such proceedings are contemplated in the near future or (iii) the Departmental appeals were pending or (iv) where penalty proceedings are already initiated and pending or (v) where prosecution proceedings are initiated/launched. On a careful reading of the facts on record in the present case, we find that such pre-conditions are not fulfilled in the present case, also not information that the request for restoration was made by the Department cannot not help the case of revenue *de hors* any evidence of such request before the NCLT, in adherence to the direction as per relevant CBDT circular (supra). Further, since the name of assessee was not in existence as on the date when the notice under section 148 was issued for initiation of proceedings in the case of assessee, we are inclined to respectfully follow the principle laid down by **Hon'ble Bombay High Court** in the case of ***Erangal Comtrade and Consultancy LLP (supra)*** and hold that the reopening of assessment in the name of a non-existing entity would be at nullity and the proceedings

completed on the foundation of such invalid initiation would also be bad-in-law. Accordingly, in the present matter, the notice under section 148 and the assessment made thereafter, under section 147 are liable to be set-aside.

13. In the factual backdrop of the case, in terms of aforesaid observations, we hold that the proceedings initiated under section 148 on a non-existing entity/company was without Jurisdiction of law and the assessment passed on the basis of such notice cannot sustained in the eyes of law. Accordingly, the impugned order of Ld. CIT(A) is set aside and the impugned assessment order u/s 144 r.w.s. 147 dated 29.11.2019, stands quashed.

14. In result the appeal of assessee is **allowed**, in terms of our aforesaid observation.

Order pronounced in the open court on 27-01-2026.

Sd/-
(PAWAN SINGH)
Judicial Member

Mumbai, Dated : 27-01-2026.
**SK, Sr. PS*

Sd/-
(ARUN KHODPIA)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai