

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'D' BENCH, KOLKATA**

**Before**

**SHRI SONJOY SARMA, JUDICIAL MEMBER  
&  
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No.: 1936/KOL/2025  
Assessment Year: 2016-17**

Stream Suppliers Pvt. Ltd. <b>(Appellant)</b>	Vs.	ITO, Ward-7(1), Kolkata <b>(Respondent)</b>
<b>PAN: AABCF5480B</b>		

**Appearances:**

**Assessee represented by** : Avik Banerjee, Adv.,  
Himanshu Sharma, Adv. and  
Manish Pugalia, Adv.

**Department represented by** : S.B. Chakraborty, Addl. CIT, Sr. DR.

Date of concluding the hearing : 25-November-2025

Date of pronouncing the order : 28-January-2026

**ORDER**

**PER RAKESH MISHRA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2016-17 dated 07.07.2025.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

*"1. For That Appellate Authority failed to appreciate that the notice issued under Section 148 dated 13.07.2022 is invalid in law, as post Finance Act, 2021 (effective from 01.04.2021), reassessment proceedings are governed by Section 144B read with Sections 148 and 151A, requiring issuance by the Faceless Assessing Officer, whereas the impugned notice was wrongly issued by the Jurisdictional AO, Ward 7(1), Kolkata.*

*2. For That Appellate Authority failed to appreciate that the notice under Section 148 is barred by limitation in accordance with Section 149(1)(b) of*



*the Income Tax Act, which permits issuance beyond the period of three years but not beyond ten years only if the Assessing Officer is in possession of books of account or documents showing escaped income represented as assets of ₹50 lakhs or more. No such material was available in the present case. Trading in options and derivative contracts do not constitute "assets" as defined under Section 149(1)(b), and accordingly, the limitation period for reopening applies without exception.*

*3. For That Appellate Authority failed to appreciate that the notice under Section 148 dated 13.07.2022 was wrongly issued by the Assessing Officer of Ward 7(1), Kolkata, whereas the Appellant's registered office at 20A, British India Street, Kolkata 700069 falls under Ward 7(4), Kolkata. Further, the notice was incorrectly addressed to 70B, Lenin Sarani, Kolkata 700012, a place where the Appellant never had any office or presence. Hence, the notice is without jurisdiction, invalid in law, and vitiates all subsequent proceedings.*

*4. For That Appellate Authority failed to appreciate that the Appellant was denied procedural fairness, as the trading/resource information and brokers' statements relied upon were never furnished nor cross-examination allowed, violating the principle of "audi alteram partem". Further, even if reopening was based on information received, the Assessing Officer was duty-bound to conduct independent enquiries under Sections 133(6)/131, which was not done, leaving the alleged transactions and the Appellant's connection with the counterparty unproved.*

*5. For That Appellate Authority failed to appreciate that the assessment was mechanically based on unverified and vague SEBI adjudication orders and investigation wing reports without independent verification or due application of mind by the Assessing Officer.*

*6. For That Appellate Authority failed to appreciate that the appellant had transferred its registered office from Kolkata to Mumbai in the year 2018, which was known to the tax authorities. Yet, the notice was issued by the Kolkata jurisdictional officer, whose jurisdiction over the appellant had ceased. Notices were sent to incorrect addresses and the assessing officer did not conform to procedural safeguards such as issuance compliance with Section 151A.*

*7. For That the Appellate Authority failed to appreciate that the Appellant's trading in Futures & Options (F&O) segments was genuine, carried out through recognized stock exchanges in compliance with SEBI regulations, and the resultant losses were part of normal market risk. The Assessing Officer made additions merely on presumptions based on SEBI's order dated 26.12.2018, despite SEBI itself recording that it was not possible from the material available to quantify any disproportionate gain or loss from such*



*trades. No evidence was brought on record to show collusion with counterparties, making the disallowance arbitrary and unsustainable.*

*8. For That the Appellate Authority failed to appreciate that the Assessing Officer rejected detailed documentary evidence submitted by the appellant without examination and relied solely on third-party inputs and general observations.*

*9. For That the Appellate Authority failed to appreciate that the Appellant had earned a net surplus of ₹1,62,104/-, duly offered to tax, and losses incurred in the course of share trading cannot be selectively disallowed while profits are accepted. Only real income can be taxed, and in the absence of any inquiry into profit-making counterparties, the disallowance of losses is arbitrary, unjust, and contrary to law.*

*10. For That Appellate Authority failed to appreciate that the NFAC upheld the assessment order without proper evaluation of appellant's evidence and failed to address core issues related to jurisdiction and natural justice.”*

3. Brief facts of the case are that the assessee is a domestic company and had e-filed its return of income showing total income of ₹1,62,100/- on 12.10.2016. The same was processed u/s 143(1) of the Act. The earlier notice issued u/s 148 of the Act was treated as the show cause notice in response to which the assessee again filed its return of income showing the same income on 13.02.2023. The Assessing Officer (hereinafter referred to as Ld. 'AO') considered the submissions filed by the assessee and also noted that the loss of ₹1,49,38,316/- claimed by the assessee on non-genuine reversal trade in illiquid options was disallowable under the provisions of the Income Tax Act for being set-off against income under the other heads. Penalty proceedings under the provisions of the section 271(1)(c) of the Act for furnishing inaccurate particulars of its income of ₹1,49,38,316/- was initiated separately. Further, commission of ₹2,98,766/- was also added as unexplained expenditure of the assessee u/s 69C of the Act r.w.s. 115BBE of the Act. Accordingly, the Ld. AO assessed the total income of the assessee at ₹1,53,99,182/- u/s 147 read with section 143(3) and



144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who issued five notices for hearing which were not complied with by the assessee. The Ld. CIT(A) held that the assessee had not been able to show that the decision of the Ld. AO was arbitrary, irrational, vindictive or capricious or without any basis. There was no concrete evidence(s) on record to controvert the decision of the Assessment Unit and therefore, the Ld. CIT(A) confirmed the addition of ₹1,52,37,082/- and accordingly, dismissed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The Ld. AR drew our attention to page 245 of the paper book filed which is the appellate order of the Ld. CIT(A). It was submitted that the assessment order was *ex parte* as the Chartered Accountant could not represent the matter properly. It was also submitted that the Ld. CIT(A) has not decided the merits of the case and without going into the merits of the case, the appeal has been dismissed on account of non-prosecution as the notices were not complied with by the assessee. Our attention was drawn to pages 6 and 7 of the appeal order that although the emails were delivered but the Chartered Accountant appointed could not appear. Our attention was also drawn to the written submission at page 14 para 11 which is extracted as under:

*“11. The Appellant after filing the appeal before the NFAC appointed one Chartered Accountant to look after their matter interest in the pending appeal. The Chartered Accountant assured the Appellate that all necessary steps will be taken by him before the National Faceless. Assessment Centre (NFAC) and shall file necessary written response or submissions before the NFAC whenever situation warrants and all steps will be taken before the Appellate Authority for protecting the interest of the Appellant. Thus, the*



*Appellant imposed immense faith and trust upon the said appointed Chartered Accountant and was self-assured that their appointed Chartered Accountant had taken all necessary steps to represent them before the Appellate Body whenever the appeal is scheduled for hearing.*

*However, the order of NFAC was uploaded in the portal on 7th July, 2025. Upon perusal of the order the Appellate for the first time came to know that their appointed Chartered Accountant has taken undue advantage of their faith and trust imposed and on five occasions in spite of notices being issued, the Appellant has not been informed regarding the issuance notices and on every occasion, adjournment has been taken by the Chartered Accountant without having any instruction from the Claimant. Thus, it is evident that the Chartered Accountant has acted beyond the instruction of the Appellant and thus guilty of misconduct.*

*After coming to know of the order, the Appellant tried to contact the Chartered Accountant over phone. However, he was not reachable. After several attempts, on 18th August, 2025, the Appellant through some sources could gather the residential address of the Chartered Accountant. After visiting his home, the Appellant came to know that he has died was suffering from serious medical issues and as such, he could not on 11/07/2025 as for a long period he was suffering from various medical ailments. The Appellant came to know from the family members of the Chartered Accountant that from July 2024 till the time of his death he was suffering from serious medical issues and as such, he could not personally represent the Appellant at the time of hearings and sought for adjournments. Thus, the Appellant has suffered due to lackadaisical conduct and negligence on the part of the Chartered Accountant for which the Appellant as a bona fide litigant had to suffer. If the Appellant would have known earlier, the appointed could have appointed someone else to represent their case before the NFAC. However, such fact was beyond the knowledge of the Appellant and thus the Appellant should not suffer for no fault on their part. Unfortunately, the Chartered Accountant had died and in spite of several request being made to his family members, the Death Certificate was not given to the Appellant. The National Faceless Appeal Centre (NFAC) issued multiple notices of hearing u/s 250 between April 2024 and June 2025, all of which were shown as "delivered" on the ITBA system. The Id. CIT(A), therefore, proceeded to decide the appeal on the basis of the material available on record, holding that the Appellant had not produced any evidence to rebut the Assessing Officer's findings, and upheld the disallowance of loss as well as the addition u/s 69C in full vide order dated 07.07.2025. Copy of Order u/s 250 of Income Tax Act, 1961 passed by Commissioner of Income-tax (Appeals) is annexed as per Annexure H."*



6. The proceedings were initiated u/s 148 of the Act and the notice was issued by the jurisdictional Assessing Officer. As regards non-compliance before the Ld. CIT(A), it is also submitted in the written submission at para 12 as under:

*“12. From the order of NFAC dated 7th July, 2025, it is evident that the order of 7th July, 2025 is also without jurisdiction as the genesis on the basis of which the order was passed, is a notice under Section 148 of the L.T. Act, 1961. It is non est in the eye of law and without jurisdiction. As such, the order of 7th July, 2025 is also without jurisdiction and is bad and be set aside.*

*The Appellant states that even the email of the Company for accessing the information with regard to the pending appeal before the NFAC was operated by the appointed Accountant and he was accessing the emails. Thus, the entire responsibility of looking into the matter was given to the Chartered Accountant who in spite of having knowledge did not give the Appellant the information regarding the notices issued from the Authorities from time to time.”*

6. It is stated that the NFAC has not dealt with the contract notes produced by the assessee as well as the broker's ledger statement and bank statements which shows that all the transactions in derivative segments were located within the recognized stock exchange platform and duly routed through banking channels. The assessee has also produced the audited balance sheets and financial statements which show that none of the transactions were non-genuine in nature and transactions in stock option has been made on genuine basis. Supporting contract notes, broker ledger statement and bank statements had been duly audited in accordance with law which supports the computation in the appeal. These issues have not been dealt and the NFAC based on the order of the Assessing Officer and on its own surmises and conjecture had refused to interfere with the order of the Ld. Assessing Officer. The issue of jurisdiction regarding the



issuance of Section 148 notice which goes to the root of the matter, has not been considered by the NFAC and that issue was not taken up for adjudication. It is a point of law and it was a duty of the NFAC, being a statutory body, to look into the jurisdictional issue at the outset of the hearing of the appeal. The patent violation in issuing the notice under section 148 of the I.T. Act, 1961 would give rise to illegal proceedings initiated which has not been looked into by the Appellate authority. Thus, the Appellate authority has also acted in gross dereliction of the duties foisted upon their shoulders which makes the entire proceedings and the assessment order u/s 147 of the Act bad in law, it is vehemently submitted. The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

7. We have considered the facts of the case, the submissions made and the documents filed. Since there was no proper representation either before the Ld. AO or even before the Ld. CIT(A) and the Ld. CIT(A) has not considered the merits of the case but has dismissed the appeal *ex parte* on account of non-compliance, the Bench was of the view that in the interest of justice and fair play another opportunity needs to be provided to the assessee.

8. Hence, after examining the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal back to the Ld. CIT(A) for disposal of the grounds of appeal taken by the assessee on merit by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the IT Rules, 1962 shall also be followed and an opportunity of being



heard may be provided to the Ld. AO, if required. Accordingly, all the grounds taken by the assessee in its appeal are partly allowed for statistical purposes.

9. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

**Order pronounced in the open Court on 28<sup>th</sup> January, 2026.**

*Sd/-*

**[Sonjoy Sarma]**  
Judicial Member

*Sd/-*

**[Rakesh Mishra]**  
Accountant Member

Dated: 28.01.2026

*Bidhan (Sr. P.S.)*



*Copy of the order forwarded to:*

1. **Stream Suppliers Pvt. Ltd., Room No. 102, Shree Swamisamarthapth NT Dutta Mandir Road, Manvel Pada, Virar East, Maharashtra, 401305.**
2. **ITO, Ward-7(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

*// True copy //*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata