

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No.7248/Mum/2025
(Assessment year: 2014-15)

Nova Elevators Private Limited 402, Dimple Apts., 4E, Asha Nagar, Kandivali East, Mumbai-400101 PAN: AADCN0305K	vs	ITO -13(1)(1), Mumbai Maharashtra-400020
APPELLANT		RESPONDENT

Assessee by : Shri Sharad Patel, CA
Respondent by : Shri Leyaqt Ali Aafaqui, (SR AR)

Date of hearing : 29/01/2026
Date of pronouncement : 09/02/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the assessee filed against the order of the Ld. Commissioner of Income Tax (Appeal)-51, Mumbai [for brevity 'the Id. CIT(A)], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for assessment year 2014-15, date of order 12.09.2025. The impugned order emanated from the order of the Ld. Income-tax Officer Ward-13(1)(1), Mumbai

(for brevity the 'Ld. AO'), order passed under section 143(3) r.w.s. 147 of the Act date of order 31.12.2018.

2. The assessee has taken the following grounds & additional grounds:

"1. Misapplication of Section 68-Failure to Apply Settled Onus Framework

The CIT(A) erred in sustaining addition u/s 68 despite the assessee having discharged the primary onus by proving the identity, credit-worthiness, and genuineness of the lender through bank-routed transactions, response of lender to the notice u/s 133(6) alongwith Bank Statement, Audited Annual Accounts, Confirmation of Ledger Account, Tax returns and Assessment Order with substantial capital and income proving the creditworthiness.

Mere suspicion cannot justify the addition once these ingredients are met.

2. Denial of Natural Justice During Assessment Proceedings

The Appellate proceeding and assessment were completed in breach of natural justice, as-

(a) The Assessing Officer issued the notice under section 143(2) for the first time only three days prior to passing the assessment order, at the fag end of the proceedings, rendering it a mere technical formality rather than a genuine opportunity of hearing, thereby indicating that the additions were pre-determined;

(b) The CIT(A) Order contains incorrectly quoted facts and findings inconsistent with the record;

(c) The show-cause notice dated 10.12.2018 allowed only four days for response, which was wholly inadequate and unreasonable;

(d) The Assessing Officer relied upon third-party information received from the DCIT (CC)-2(2), Mumbai, and replies under section 133(6) from M/s Yantra Natural Resources Ltd. dated 28.12.2018, without furnishing copies to the assessee;

(e) The assessee was neither confronted with such third-party material nor afforded any opportunity for cross-examination, violating the settled principles of fair hearing;

(f) During appellate proceedings, no effective hearing was granted by the CIT(A), as notices under section 250 merely directed submission of written arguments without scheduling a personal hearing; and

(g) The CIT(A) completely ignored multiple written submissions and documentary evidences filed during the course of appeal, rendering the appellate order non-speaking and unsustainable in law.

3. Reopening Bad in Law

The CIT(A) and Assessing Officer erred in the reopening under section 147 of the Act.

The reasons recorded were based merely on borrowed satisfaction from the Investigation Wing/ DCIT (Central Circle) without any independent application of mind or a live nexus to the assessee's own transaction.

Accordingly, the reassessment is invalid in law.

4. Additional Ground on reopening of assessment beyond jurisdiction

a. The Assessing Officer erred both in law and on facts in reopening the assessment under section 148 merely on borrowed satisfaction, without any independent application of mind to the assessee's own transactions and factual records.

b. The reasons recorded for reopening were not furnished at the time of issuance of notice under section 148 and were supplied only at the fag end of the assessment proceedings, thereby denying the assessee a fair and reasonable opportunity to raise objections. Consequently, the assessee could not contest the same during the appellate proceedings before the CIT(A). The assessee now seeks admission of this ground before this Hon'ble Tribunal, as it pertains to jurisdiction.

c. The reassessment proceedings thus initiated and concluded are without jurisdiction and the resultant order is liable to be quashed in law.

d. It is therefore prayed that this additional ground of appeal be kindly admitted by this Hon'ble Tribunal in the interest of justice, considering its fundamental and jurisdictional nature.

ADDITIONAL GROUND

1. ASSESSMENT ORDER NON-EST AS SERVED BEYOND STATUTORY LIMITATION.

The Assessing Officer erred in law in dispatching the Assessment Order only on 02.01.2019 and serving it on the Appellant on 03.01.2019, i.e., beyond the statutory limitation period of 31.12.2018. The Assessment Order having been communicated after expiry of limitation is time-barred, invalid and non-est in the eyes of law.

2. ASSESSMENT VOID FOR NON-SERVICE OF VALID MANDATORY JURISDICTIONAL NOTICE U/S 143(2)

The Assessing Officer erred in law in completing the reassessment without valid service of mandatory jurisdictional notice u/s 143(2). The said notice, though stated to be issued on 28.12.2018 fixing the hearing on 31.12.2018, was never served physically prior to completion of assessment in a non-NFAC proceeding and was merely uploaded on the ITBA portal and emailed late at night at 10:24 PM on 28.12.2018 fixing hearing on the first hour at 11 AM of the very next working day. Such issuance of notice at the fag end of limitation, without valid physical service and without affording any real or effective opportunity of hearing, cannot confer jurisdiction. A notice issued just one working day before limitation, served only electronically, and after all assessment processes were virtually completed, is illusory and defeats the very purpose of section 143(2).

Section 292BB does not cure the absence of valid service of this jurisdictional notice. The assessment framed in absence of a duly served and valid notice u/s 143(2) is therefore void ab initio and liable to be quashed.

3. APPROVAL U/S 151 MECHANICAL AND NON-SPEAKING.

The Additional Commissioner of Income-tax erred in granting approval u/s 151 in a mechanical and non-speaking manner. The approval consists merely of a one-line endorsement "the proposal is hereby approved" and "the approval for reopening is accorded", without demonstrating any independent examination or application of mind to the reasons recorded by the Assessing Officer. Such mechanical approval is invalid in law and renders the entire reassessment void."

3. We have heard the rival submissions and perused the material available on record. The assessee had filed the original return of income declaring nil income. Subsequently, the assessment was reopened by issuance of notice under section 148 of the Act. In the reassessment proceedings, the Ld. AO made an addition of Rs.53,00,000/- on account of unexplained cash credits under section 68 of the Act and taxed the same under section 115BBE of the Act. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A). Although opportunities of hearing were

granted, none appeared on behalf of the assessee. Consequently, the Ld. CIT(A) dismissed the appeal for non-prosecution. Being aggrieved by the said order, the assessee has filed the present appeal before us.

4. The Ld. AR filed a paper book containing **pages 1 to 215**, which has been taken on record. The Ld. AR submitted that at both the stages, the assessee's case was not adjudicated on merits, as no opportunity was effectively granted to file documentary evidence before the Ld. CIT(A). It was further submitted that the assessee had raised an additional ground challenging the jurisdiction of the Ld. AO for completing the reassessment without issuance of a mandatory notice under section 143(2) of the Act. However, none of the grounds, including the additional ground, were adjudicated by the Ld. CIT(A).

On perusal of the record, we find that reasonable opportunity was denied to the assessee to place evidence on record before the Ld. CIT(A). We also note that a serious jurisdictional issue has been raised regarding completion of reassessment proceedings without issuance of notice under section 143(2) of the Act, which goes to the root of the matter. Accordingly, we admit the additional ground raised by the assessee.

5. The Ld. DR did not raise any substantial objection to the admission of the additional ground; however, no cogent facts were brought on record to controvert the assessee's contention regarding non-issuance of notice under section 143(2) of the Act.

6. In view of the above, we restore the matter to the file of the Ld. Assessing Officer with a direction to adjudicate all the grounds, including the additional ground relating to jurisdiction and issuance of notice under section 143(2) of the Act, and to pass a reasoned and speaking order in accordance with law. We clarify that we have not expressed any opinion on the merits of the case, and all issues are left open for fresh consideration.

Needless to say, the assessee shall be afforded a reasonable opportunity of being heard, and any evidence sought to be filed shall be considered in accordance with law. At the same time, the assessee is directed to remain diligent and fully cooperative to ensure expeditious disposal of the assessment proceedings.

7. In the result, the appeal of the assessee bearing **ITA No. 7248/M/2025** allowed for statistical purpose.

Order pronounced in the open court on 09th day of February 2026.

Sd/-

(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 09/02/2026
SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar), **ITAT, MUMBAI**