

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No.8329/Mum/2025
(Assessment Year: 2012-13)

M/s. Nova Home Appliances Private Limited, Office No.8, Second Floor Ashoka Shopping Center, G T Hospital Complex, LT Marg, Mumbai – 400 001	Vs.	Income Tax Officer 4(3)(1), Mumbai
PAN: AADCN0493N		
(Appellant)	:	(Respondent)

Assessee by	:	Shri Shyam Saboo, CA
Respondent by	:	Shri Swapnil Choudhari, Sr. AR

Date of Hearing	:	17.02.2026
Date of Pronouncement	:	24.02.2026

ORDER

Per Kavitha Rajagopal, JM:

This appeal has been filed by the assessee challenging the order of the Learned Commissioner of Income Tax Appeal, Mumbai ('Ld. CIT(A)' for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s 250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2012-13.

2. The assessee has raised the following grounds of appeal:

"1. CIT [A] has erred in confirming initiation of proceeding u/s 147 when valid condition of section 147 is not fulfilled.



2. *CIT[A] has erred in confirming the addition u/s 68 inspite of producing all documents in support of loan taken appellant has established all three ingredients u/s 68.*

3. *CIT [A] has erred in confirming addition u/s 68 when AO has come to conclusion these transaction squarely cover by the provision of section 69.*

4. *CIT[A] has erred in confirming addition u/s 68 when notice u/s 133[6] is served on creditor and creditors has positively confirmed in response to notice u/s 133[6] established the transaction.”*

3. Brief facts of the case are that the assessee is a private limited company engaged in the business of trading in home appliances and had filed its return of income for the year under consideration dated 01.09.2012 declaring total income at Rs.26,20,612/- and the same was processed u/s 143(1) of the Act. The assessee’s case was reopened u/s 147 of the Act based on the information received from DDIT (Investigation) Unit-2(2), Kolkata vide letter dated 28.02.2019 that income chargeable to tax has escaped assessment for the year under consideration. Notice u/s 148 of the Act dated 28.03.2019 was issued and served upon the assessee and the reasons recorded for reopening was also provided. The assessee filed its return of income dated 10.09.2019 in response to the notice u/s 148 of the Act declaring total income at Rs.26,20,612/-. Notices u/s 143(2) & 142(1) of the Act were issued and served upon the assessee. After considering the assessee’s submission the Learned Assessing Officer (‘Ld. AO’ for short) passed the assessment order dated 23.12.2019 u/s 143(3) r.w.s. 147 of the Act determining the total income at Rs.61,20,610/- after making an addition of Rs.35,00,000/- u/s 68 of the Act as unexplained cash credit pertaining to the unsecured loan received from M/s. LAN Finance Pvt. Ltd. amounting to Rs.35,00,000/-, which according to the Ld. AO was not substantiated by the assessee as to the identity, creditworthiness of the creditors and genuineness of the transaction.



4. Aggrieved, the assessee was in appeal before the first appellate authority who vide order dated 06.11.2024 upheld the addition made by the Ld. AO on the same finding as that of the Ld. AO along with the legal ground raised by the assessee challenging the reopening proceeding which was also dismissed by the Ld. CIT(A).

5. Aggrieved, the assessee is in appeal before us challenging the order of the Ld. CIT(A).

6. The Learned Authorised Representative ('Ld. AR' for short) for the assessee commenced his arguments on the legal ground challenging the reassessment proceeding to be invalid for the reason that conditions prescribed in the provision were not fulfilled by the Ld. AO. The Ld. AR contended that the reasons recorded by the Ld. AO were not in accordance with law as the same pertained to borrowed satisfaction since in the reasons recorded the Ld. AO has specified that the assessee has obtained loan from M/s. Kalyani Vincom P. Ltd. instead of M/s. LAN Finance Pvt. Ltd. who is the actual creditor in this case. The Ld. AR further contended that the assessee was not furnished with the copy of the sanction obtained by the Ld. AO for reopening the assessee's case and relied on the decision of the Hon'ble Delhi High Court in the case of *Tia Enterprises (P.) Ltd. vs. Income tax Officer (2024) 158 taxmann.com 63 (Delhi)* which had invalidated the reassessment proceeding on the ground that the copy of the sanction obtained by the Ld. AO was not provided to the assessee. The Ld. AR also relied on the decision of the Tribunal in the case of *Dharmil Anil Bodani vs. ACIT in ITA No.648/M/2024 order dated 25.03.2025* for the proposition that mere information from the investigation wing cannot

be reason for reopening since the Ld. AO has to arrive at his own reason to believe that income has escaped assessment. On the merits of the case, the Ld. AR contended that the loan obtained by the assessee from M/s. LAN Finance Pvt. Ltd. is a genuine transaction for the reason that the assessee had subsequently repaid the same to the creditors and had also paid interest towards the said loan after deducting TDS on the interest paid. The Ld. AR further contended that the Ld. AO has not made any addition/disallowance on the interest claimed by the assessee and when the interest has not been disallowed there can be no addition made on the principal amount as well, stating that these are bogus unsecured loans. The Ld. AR relied on the Tribunal's decision in the case of *SP Industries vs. ACIT in ITA No.3221/M/2024 order dated 21.08.2024* where on identical facts the Tribunal had deleted the addition towards unsecured loan on the ground that since the loan was repaid in subsequent years the same cannot be held to be non-genuine by relying on the decision of the Hon'ble Gujarat High Court in the case of *Commissioner of Income Tax, Rajkot -I vs. Ayachi Chandrashekhar Narsangji (Tax Appeal No. 992 of 2013, decided on December 2, 2013)*. The Ld. AR also relied on the decision of Hon'ble Gujarat High Court in the case of *Pr. CIT vs. Ambe Tradecorp (P.) Ltd. (2022) 145 taxmann.com 27 (Gujarat)* wherein it was held that the assessee when repaid the loan in the subsequent year would not amount to a bogus transaction. The Ld. AR prayed that the impugned addition be deleted and the assessment order be held to be invalid.

7. The Learned Departmental Representative ('Ld. DR' for short), on the other hand, controverted the said fact and stated that on the issue of reopening, the reasons recorded specifically mentions that the assessee was beneficiary of transaction undertaken by M/s.



Kalyani Vincom P. Ltd. and its interlinked companies which include the creditor in assessee's case namely M/s. LAN Finance Pvt. Ltd. The Ld. DR further stated that since the year under consideration is as per the pre-amended provision of section 147 of the Act the Ld. AO is required to only look into the available information and draw opinion on the basis of the same that income has escaped assessment. Further, the Ld. DR argued that the sanction copy need not be provided to the assessee in case where the assessee has not requested for furnishing the copy during the assessment proceeding and that the decisions relied upon by the Ld. AR have not dealt with the decision of the Hon'ble Apex Court in the case of *GKN Driveshafts (India) Ltd. vs. Income Tax Officer (2003) 259 ITR 19 (SC)* which has laid down the proposition in case of reassessment. On the merits of the case, the Ld. DR contended that there has been a circular transaction in the case of the creditors and further the creditor has not responded to notice issued u/s 133(6) of the Act. The assessee has failed to establish the primary onus casted upon it including the identity, creditworthiness of the creditors and genuineness of the transaction. The Ld. DR also distinguished the decision relied upon by the assessee in the case of *SP Industries (supra)* where there was no information received from the investigation wing and further it was also not a case of accommodation entry as in assessee's case. The Ld. DR relied on the order of the Ld. CIT(A).

8. We have heard the rival submissions and perused the materials available on record. The issue on reopening was argued by both the parties where it was contended that the reasons for reopening does not pertain to the addition that was made by the Ld. AO as the name of the creditor mentioned in the reasons for reopening was M/s. Kalyani Vincom P.

Ltd. and not M/s. LAN Finance Pvt. Ltd. On perusal of the reasons for reopening, it is evident that the Ld. AO has categorically mentioned that the transaction done with M/s. Kalyani Vincom P. Ltd. and its group companies would also include M/s. LAN Finance Pvt. Ltd. who is the creditor in the present case. Further, it is observed that the information that was received from DDIT (Investigation) Unit 2(2), Kolkata also pertained to three companies namely M/s. Kalyani Vincom P. Ltd., M/s. Frontier Tradecom Pvt. Ltd. and M/s. LAN Finance Pvt. Ltd. Therefore, the argument of the Ld. AR that the reopening was based on borrowed satisfaction does not hold good and hence the said contention is hereby rejected.

9. On the second issue pertaining to the sanction copy not provided to the assessee, it is observed that the Hon'ble Apex Court in the case of ***GKN Driveshafts (India) Ltd. (supra)*** has categorically laid down the proposition as to how the reassessment proceeding ought to be carried out. It is not the case of the assessee that there was no sanction obtained prior to reopening of the assessment neither was it a case where the assessee had requested for the copy of the sanction obtained and the same was not furnished by the Ld. AO. The decisions relied upon by the Ld. AR are distinguishable on the facts of the case. Hence, the ground challenging the reassessment proceeding is hereby dismissed.

10. The issue on the merits is now taken into consideration on the basis of the arguments enhanced by both sides. It is observed that the assessee has availed loan from M/s. LAN Finance Pvt. Ltd. amounting to Rs.10,00,000, Rs.,12,00,000/- and Rs.13,00,000/- aggregating to Rs.35,00,000/- in total. The assessee has paid interest amounting to



Rs.1,40,671/- after deducting TDS on the same and further the said amount was also repaid within six months from the date of availing the loan. The Ld. AO contends that the DDIT (Investigation), Kolkata had given a list of beneficiaries who have transacted with the alleged three companies and on enquiry it was found that money was routed through one or more companies prior to transferring to the beneficiary companies. The Ld. AO issued notice u/s 133(6) of the Act to the creditor M/s. LAN Finance Pvt. Ltd., which in fact had responded and submitted copy of ledger account pertaining to the assessee in its books of accounts along with bank statement. The Ld. AO's contention is that the amounts credited in the bank account are in round figures and prior to the transaction with the assessee Rs.1,00,00,000/- each was credited from M/s. Frontier Tradecom Pvt. Ltd., M/s. Rani Sati Dealer Pvt. Ltd., M/s. Cosmos Delcom Pvt. Ltd. on various dates subsequent to which Rs.10,00,000, Rs.,12,00,000/- and Rs.13,00,000/- were transferred to the assessee's bank account respectively. The Ld. AO held all these to be shell companies which were controlled and managed by the entry operator Shri Pravin Kumar Aggarwal with dummy directors for the group companies. The Ld. AO stated that the assessee has failed to produce the party M/s. LAN Finance Pvt. Ltd. and further in the address of M/s. LAN Finance Pvt. Ltd. there was none and the said premises was closed. The Ld. AO further stated that merely furnishing the PAN number for assessment details does not establish the identity of the person where no business was carried out and held the transaction to be merely routed money transaction through banking channels where their creditworthiness was not established.

11. The Ld. AR, on the other hand, controverted these facts and stated that the assessee has furnished the bank statement, the PAN, ITR, balance sheet along with the ROC of the said company and further the Ld. AR stated that the assessee had filed the ledger account of M/s. LAN Finance Pvt. Ltd. along with the confirmation. Pertinently, the creditor M/s. LAN Finance Pvt. Ltd. has written a letter to the Ld. AO stating that the premises was closed due to redevelopment of the building and that they were searching for a new office premises for shifting their registered office along with the contact number of the director. Further, the Ld. AR brought our attention to paper book, page No.22 where the ledger account of the loan interest paid by the assessee company to various creditors including M/s. LAN Finance Pvt. Ltd. which aggregates to Rs.24,29,553/- to establish the fact that the assessee was habituated in receiving unsecured loan from various parties for which interest towards the said loan was also paid. It is the contention of the assessee that the assessee has discharged its primary onus casted upon it to prove the identity, creditworthiness of the creditors and genuineness of the transaction through sufficient documentary evidences which has not been negated by the lower authorities. The Ld. AR also brought our attention to the assessment order where there has been no finding given by the Ld. AO disregarding the documentary evidences submitted by the assessee.

12. From the above factual matrix of the case, it is observed that the assessee, though, has contended that these documents were filed before the lower authorities neither the Ld. AO nor the Ld. CIT(A) has discussed about the same in their finding. The assessee has also not filed complete details of the documents pertaining to the assessee as well as the creditor before the lower authorities. For extending the assessee with one more opportunity



to substantiate its claim before the Ld. AO, we deem it fit to restore this issue back to the file of the Ld. AO for reconsidering the issue in hand on the basis of the documents and evidences filed by the assessee to establish the genuineness of the transactions. The Ld. AO has also not established the cash trail in the impugned transaction as to how the assessee was the beneficiary for the loan taken from M/s. LAN Finance Pvt. Ltd. which has been subsequently repaid by the assessee through banking channel. The Ld. AO is directed to decide this issue in accordance with the merits and the decisions relied upon by the assessee which is now a settled proposition of law. The assessee is also directed to cooperate with the proceeding before the Ld. AO without any undue delay from its side.

13. In the result, the appeal filed by the assessee is hereby partly allowed for statistical purpose.

Order pronounced in the open court on 24.02.2026

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated: 24.02.2026

* Kishore, Sr. P.S.

Copy of the Order forwarded to:

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

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai