

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER**

**I.T.A. No. 665/Kol/2025  
(Assessment Year 2012-2013)**

**Chandrani Commotrade Private Limited,**

39, Tara Chand Dutta Street,

Kolkata - 700073

[PAN: AADCC8563E]

..... **Appellant**

**vs.**

**ITO, Ward-13(1), Kolkata,**

110, Shantipally, Aayakar Bhawan,

(Poorva), Kolkata - 700107

..... **Respondent**

**Appearances by:**

Assessee represented by : Sunil Surana, FCA

Department represented by : Sanjib Kumar Paul, Addl. Sr. DR

Date of concluding the hearing : 17.02.2026

Date of pronouncing the order : 05.03.2026

**ORDER**

**Per Rajesh Kumar, AM**

The present appeal filed by the assessee arise from order dated 30.01.2025 passed u/s 250 of the Income Tax Act, 1961 (hereafter referred to as "the Act") by the Ld. Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi [hereafter referred to "the Ld. CIT(A)] for AY 2012-13.

2. The issue raised in Ground No. 3 is against the order of Ld. CIT(A) confirming reopening of assessment when the approval u/s 151 of the Act was mechanical in nature.

3. The facts in brief are that the assessee filed return of income on 17.09.2012 declaring total income at 'Nil'. Thereafter, the case of the assessee was reopened u/s 147 of the Act by issuing of notice u/s 148 of the Act after the AO received information from ITO, Investigation Unit-1, AIU, Kolkata, wherein it was stated that the assessee is a beneficiary of accommodation entries. Accordingly, notice u/s 148 of the Act was issued and was also complied. The assessee replied the queries of the AO during the assessment proceedings and finally, the addition of Rs. 84,00,000/- was made on account of accommodation being received from the shell companies having more creditworthiness. In the appellate proceedings, the Ld. CIT(A) dismissed the appeal of the assessee on this issue.

4. After hearing the rival submission and perusing the material available on record, we find that the notice u/s 148 of the Act was issued after recording reasons to believe u/s 148(2) of the Act after obtaining approval u/s 151 from PCIT-3, Kolkata. We observe from the approval granted that in para No.12 which is qua the comment of the PCIT for granting approval u/s 151 of the Act for issuing notice u/s 148 of the Act. We note that the PCIT stated "Yes, I am satisfied". In our opinion the said approval so granted is without application of mind and is a mechanical approval. The granting of such mechanical approval, the very purpose of providing inbuilt safeguard in section 151 of the Act against the wrong initiation of proceedings u/s 147 r.w.s. 148 of the Act would be defeated. Therefore, the reopening made on the basis of the said approval is invalid and renders assessment framed as invalid. For the sake of ready reference, we extract the approval granted by the Ld. PCIT as under:

1. Name & Address of the assessee	M/s. Chandrani Commotrade Pvt Ltd
2. PAN	AALDC1856H
3. Status	Domestic Company
4. Ward/Circle	HO Ward 9(3), Kol
5. Assessment Year in respect of which it is proposed to issue Notice u/s 148	2012-13
6. The quantum of income which has escaped assessment	Exceeding Rs. (Lakh)
7. Whether the provision of Section 147(a) or 147(b) are applicable or both the sections are applicable	Yes
8. Whether the assessment is proposed to be made for the First Time, if the reply is in the affirmative, please state	Yes
(a) Whether any voluntary return has already been filed, and	a) Yes
(b) If so, the date of filing of the said return	b) 17.09.2012
9. If the answer to item 8 is negative please state	
(a) The income originally assessed	
(b) Whether it is a case of under assessment, assessment too low a rate, assessment which has been made the subject of excessive relief or allowing of excessive loss or depreciation	
10. Whether the provision of Section 150(1) are applicable, if the reply is in the affirmative, the relevant facts may be stated against item No. 11 and it may also be sought out that provisions of sections 150(2) would not stated in the way of initiation proceedings u/s 148	
11. Reasons for the belief that income has escaped assessment	As per separate sheet.
12. Comments of the Pr. Commissioner of Income Tax-3, Kolkata for initiation of proceedings u/s 148 of the I. T. Act 1961.	ITO, Ward-9(3), Kolkata Yes I am satisfied Pr. CIT-3, Kolkata

In our opinion the approval granted by the PCIT is mechanical and without application of mind. Hence the approval granted , notice issued u/s 148 of the act and assessment framed by AO are nullity in the eyes of law. The case of the assessee is squarely covered by the decision of the coordinate bench in the case of Advance Commotrade (P) Ltd. Vs ITO Ward-1(1) , Kolkata. Therefore considering the facts of the case , we are inclined to quash the approval granted u/s 151 of the Act, notice u/s 148 of the Act and the assessment framed, consequently. Ground No. 3 is allowed.

5. The issue raised in Ground No. 5 is against the order of Ld. CIT(A) confirming the assessment when no notice u/s 143(2) of the Act was issued.

6. The facts in brief are that as stated above, notice u/s 148 of the Act was issued and the assessee complied the said notices vide letter dated 27.03.2019 submitting that the return already filed on 17.09.2012 u/s 139(1) of the Act may be treated as return filed in response to notice u/s 148 of the Act. However, the AO did not issue any notice u/s 143(2). There was no mention of such notice having been issued to the assessee in the

assessment order. Even the copy of notice for e-proceeding furnished by the assessee did not mention or confirm the issuance of such notice by the AO. The assessment framed was affirmed by the Ld. CIT(A).

7. After hearing the rival submissions and perusing the material available on record, we find that no notice u/s 143(2) of the Act was issued after the assessee complied with the notice issued u/s 148 of the Act vide letter dated 27.03.2019, wherein it was stated that the return filed originally u/s 139(1) of the Act on 17.09.2012 may be treated as return filed in response to notice u/s 148 of the Act. We note that despite that the AO has not issued any notice u/s 143(2) of the Act as is apparent from the assessment order and e-proceedings statement for notice also confirmed that after compliance to section 148 of the Act ,no notice u/s 143(2) of the Act was issued. In our opinion the issuance of notice u/s 143(2) of the Act is mandatory requirement for assuming jurisdiction to frame the assessment failing which the assessment itself is rendered invalid and nullity in the eyes of law. The case of the assessee is squarely covered by the following decision in the case of Dynamo Realcom Pvt Ltd. Vs ITO Ward-1(1), ITA No. 1999/Kol/2024 A.Y. 2013-14 order dated 14.01.2026. Therefore, Ground No. 5 is also allowed.

8. Since, we have allowed the appeal of the assessee on legal issues and the other grounds raised on merit are not being decided at this stage and are being left open to be decided if the need arises for the same in future.

9. In result, appeal of the assessee is allowed.

Order pronounced on 05.03.2026

Sd/-  
**(Pradip Kumar Choubey)**  
**Judicial Member**

Sd/-  
**(Rajesh Kumar)**  
**Accountant Member**

Dated: 05.03.2026  
AK. Sr. PS

*Copy of the order forwarded to:*

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

