

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.1506/M/2025
Assessment Year: 2013-14**

NNM Securities Private Limited, 1111, Stock Exchange Tower, Dalal Street, Maharashtra - 400023.	Vs.	Assessing Officer, Mumbai, Maharashtra - 400020.
(Appellant)		(Respondent)

PAN: AAACN 8070 G

Present for:

Assessee by : Shri Hansaraj Sanghavi
Revenue by : Shri.Leyaqat Ali Aafaqui, (SR.A.R)

Date of Hearing : 09.01.2026
Date of Pronouncement : 09.03.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 02.01.2025, impugned herein, passed by the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2013-14.

2. In this case, the Assessee had declared its income at Rs.12,41,210/- by filing its return of income on dated 28.09.2013 which was processed and completed u/s 143(3) of the Act, on 17.02.2016. Thereafter the following information was received by the Assessing Officer.

**REASONS RECORDED FOR RE-OPENING THE ASSESSMENT
U/S 147 OF THE INCOME TAX ACT, 1963**

In this case, assessee has e-filed ROI on 28.09.2013 declaring total income at Rs.12,41,210/- and assessment u/s 143(3) was completed on 17.02.2016.

In this case, information is received with regard to the fact that assessee has entered into sale/purchase of equity share with or without actual delivery in recognized stock exchange, the details are under

SL Lakh	Information code	Description	Amount in
1 22.81	STT-01	Purchase of equity share in a recognized stock exchange	
2 3.04	STT-02	Sale of equity share in recognized stock exchange	
3 42.10	STT-03	Sale of equity share (otherwise than by actual delivery) in recognized stock exchange	
4 271.67	STT-04	Sale of option in securities(derivative) in recognized stock exchange	
5 14984.81	STT-05	Sale of Future (derivative) in recognized stock exchange	

Total 15324.43

In view of the above facts and after due application of mind after analyzing all the relevant information in the case of the assessee in totality assessment for AY 2013-14 and the same is therefore required to be reopened have reason to believe that income of Rs.15324.43/-Lakh has escaped for scrutiny assessment.

3. Thus, on the basis of afore-mentioned information, the reasons for reopening of the case were recorded and accordingly the case was reopened u/s. 147 of the Act, by issuing a notice dated 31.03.2021 u/s. 148 of the Act.

4. The Assessee in response to such notice u/s 148 of the Act, filed its return of income on 28.07.2021. Thereafter, various statutory notices were issued to the Assessee including dated 29.11.2021 and 21.12.2021 {last notice}. However, the Assessee failed to comply with such notices and filed no details and documents. Therefore, in the absence of details/information, the Assessing Officer was constrained to proceed with the assessment, as per the provisions of section 144 of the Act, and issued a notice u/s 144B(1)(xi) of the Act, to the Assessee, with the intimation that owing to continuous non-compliance to the notices, the Assessment would be completed as ex-parte.

5. However, the Assessee still made no compliance in pursuance to such notice and therefore the Assessing Officer in the absence of relevant submissions/documents and in the constrained circumstances, ultimately made the addition of **Rs.1,91,00,000/-** being unexplained cash credit u/s. 68 of the Act, and as a accommodation entry taken by the Assessee from M/s. Fragrant Multi Trading Private Limited through M/s. Hitendra Commercial Private Limited.

6. The Assessee being aggrieved challenged the aforesaid addition and the reopening proceeding before the Ld. Commissioner by filing first appeal and during the appellate proceedings before the Ld. Commissioner filed various written submissions, who in order to verify the submissions made by the Assessee and for just and proper decision of the case, forwarded the written submissions as reproduced in Para No.4 of Page Nos.7-23 of the impugned order to the Assessing Officer for remand report, who in pursuance to the same filed its remand report dated 21.11.2024, as reproduced by the Ld. Commissioner in Para No.7 {Page Nos.24-26} of the impugned order.

7. The Ld. Commissioner forwarded the remand report to the Assessee for filing Rejoinder, by issuing a notice dated 26.11.2024 and posting the case on 10.12.2024. The Assessee made no compliance. Therefore the Ld. Commissioner also sent a reminder dated 11.12.2024 posting the case for hearing on 26.12.2024, but the Assessee neither made any compliance nor filed any rejoinder and therefore the Ld. Commissioner in the constrained facts and circumstances and finding no option, decided the case of the Assessee on the basis of the material available on record and ultimately affirmed the aforesaid addition of Rs.1,91,00,000/- received by the Assessee from alleged jamakharchi companies as made by the Assessing Officer u/s 68 of the Act.

8. The Assessee has raised various grounds including additional vide letter dated 22.09.2025.

9. We have heard the parties and considered the rival contentions of the parties and perused the relevant material on record. Admittedly the Assessee not only before the Assessing Officer made non-compliance to the statutory notices dated 29.11.2021 and 21.12.2021 (last notice) u/s. 142(1) of the Act, which resulted into creating the peculiar and constrained circumstances and passing the Assessment order as ex-parte u/s. 144 r.w.s 144B of the Act, but also it is a fact that the Assessee despite affording reasonable opportunities for making rejoinder to the remand report, made non-compliance and/or failed to substantiate its case.

10. From the aforesaid peculiar facts and circumstances, the conduct of the Assessee prima-facie appears to be non-compliant and therefore we are inclined not to entertain the claim of the Assessee. However, considering the peculiar facts and

circumstances of the case in totality, specific to the effect that in the absence of relevant submissions and documents and specifically the rejoinder to the remand report, which is otherwise against the Assessee and remained to be controverted by the Assessee, as even during the hearing of this appeal, the Assessee said nothing about the same, the Assessee before the Ld. commissioner failed to substantiate its case and therefore for just and proper decision of the case and substantial justice, we deem it appropriate to afford one more opportunity to establish its case, by remanding the instant case to the file of the Ld. Commissioner for decision afresh, suffice it to say by affording reasonable opportunity of being heard to the Assessee.

11. We also deem it appropriate to direct the Assessee to make effective compliance before the Ld. Commissioner and file the relevant submissions and documents, which would be essentially required for just and proper decision of the case. We clarify that in case of subsequent default, the Assessee shall not be entitled for any leniency. Further, the Assessee would be at liberty to raise additional grounds, including legal, in addition to already raised before the Ld. Commissioner.

12. Thus, in the above terms, the case is accordingly remanded to the file of the Ld. commissioner for decision afresh.

13. In the result, the Assessee's Appeal is allowed for statistical purposes.

Order pronounced in the open court on 09.03.2026.

**Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

M. Ranganath Vithal
Sr. Private Secretary.

Copy to: The Appellant

The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.

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