

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

<b>ITA No. 316/Bang/2025</b>
<b>Assessment Year : 2015-16</b>

Ms. Nisha Dudheria, 66, Navniketan, KR Road, Basavanagudi, Bangalore – 560 004. <b>PAN: BKRPD5938G</b>	<b>Vs.</b>	The Income Tax Officer, Ward-5(2)(3), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri K.R. Pradeep, Advocate and Ms. Girija G.P., Advocate
Revenue by	:	Shri Subramanian – JCIT DR

Date of Hearing	:	09-02-2026
Date of Pronouncement	:	12-03-2026

**ORDER**

**PER PRASHANT MAHARISHI, VICE – PRESIDENT**

1. ITA No. 316/Bang/2025 for Assessment Year 2015 – 16 is filed by Ms. Nisha Dudheria, Bangalore (the Assessee/Appellant) against the Appellate Order passed by the National Faceless Appeal Centre, Delhi (the Ld. CIT(A)) dated 04.02.2025 wherein the Appeal filed by the Assessee against the Reassessment Order passed u/s. 143 (3) r.w.s. 147 of the Income Tax Act, 1961 dated 28.12.2018 passed by the Income Tax Officer, Ward – 5 (2) (3), Bangalore (the Ld. Assessing Officer) was dismissed.

2. The Assessee has preferred Appeal against the Appellate Order wherein the Assessee challenges the reopening of the assessment in violation of the principles of the natural justice as well as the principles enunciated by the Hon'ble Supreme Court in 259 ITR 19. The Assessee has also challenged several aspects of the reopening of the Assessment as well as the addition on the merits of the case.
3. Briefly stated the facts of the case shows that Assessee is an individual earning salary and income from business, filed return of income on 31.08.2015 atRs. 19,91,870/-. The return of income was processed u/s. 143 (1) of the Act. However, as per the information received by the Ld. Assessing Officer, that Assessee has earned the long-term capital gain in some of the companies, as per the report of the investigation wing, the case of the Assessee was reopened by issuance of notice u/s. 148 of the Income Tax Act on 31.03.2018. The Assessee as per letter dated 20.04.2018 submitted that the return originally filed on 31.08.2015 may be treated as the return in response to a notice u/s. 148 of the act. The Assessee sought the reasons for reopening of the Assessment which was supplied to the Assessee on 08.05.2018. Subsequently, the notice u/s. 143 (2) was issued to the Assessee on 09.05.2018 and notice u/s. 142 (1) was also issued on 12.12.2018. The Assessee submitted certain details. In her letter dated 21.12.2018, Assessee submitted that the profit made by the Assessee is of Rs. 1.67 crores and not Rs. 1.34 crores as mentioned in the reasons for reopening of the Assessment. The Ld. Assessing Officer passed the Reassessment Order on 28.12.2018 determining the total income of the Assessee at Rs. 1,87,46,474/- against the returned income of Rs. 19,91,872/- making an addition of Rs. 1.67 crores u/s. 68 of the Income Tax Act.
4. The Assessee aggrieved with the order of the Assessment preferred an Appeal before the Ld. CIT(A) challenging the reopening of the

Assessment as well as the addition on the merits of the case. The main ground of the challenge to the reopening was that the reassessment proceedings initiated by the Ld. Assessing Officer violates the procedure prescribed by the Hon'ble Supreme Court in 259 ITR 19. The learned CIT(A) dismissed the Appeal of the Assessee holding that the proceedings u/s. 148 are valid and further the addition is also correctly made by the Ld. Assessing Officer. Thus, the Appeal of the Assessee was dismissed and therefore the Assessee is in appeal before us.

5. The Ld. Authorised Representative Shri KR Pradeep, Advocate and Ms. Girija GP, Advocate filed a paper book containing 198 pages. The main argument of the Ld. Authorised Representative was that the Assessee has objected to the proceedings u/s. 148 of the Act as per letter dated 21.12.2018 placed at page No. 68 – 69 of the paper book wherein the Assessee has objected to the reopening of the proceedings, the Ld. Assessing Officer without disposing of the objections raised by the assessee. It was the claim of the Ld. Authorised Representative that when the reopening of the proceedings is initiated by issue of a notice u/s. 148 and the Assessee raises an objection; the Ld. Assessing Officer is duty-bound to pass a speaking order on rejecting or accepting the objections raised by the Assessee. It is the claim of the Ld. Authorised Representative that no order has been passed by the Ld. Assessing Officer rejecting the objections raised by the assessee and therefore the whole of the assessment order during reassessment proceedings passed by the Ld. Assessing Officer is not sustainable. He further referred to the decision of the Hon'ble Karnataka High Court in case of Hewlett Packard Financial Services India private limited V/s. Deputy Commissioner of Income Tax (2023) 294 taxmann.com 25 (Karnataka) stated that it is a mandatory procedure of disposal of objection by the Ld. Assessing Officer, if not followed, the order of

Assessment cannot be sustained. He therefore submitted that the order passed by the Ld. Assessing Officer is not sustainable. It was his submission that as the order passed by the Ld. Assessing Officer cannot be sustained, there is no need to discuss the merits of the case.

6. The Ld. Departmental Representative vehemently contested the argument of the Ld. Authorised Representative and submitted that the Assessee has been granted the reasons for reopening of the Assessment and further the objections were filed by the Assessee which is just before completion of the Assessment Proceedings and therefore the ground raised by the Ld. Authorised Representative is not sustainable.
7. We have carefully considered the rival contention and perused the orders of the Ld. lower authorities. In this case the assessee filed her return of income on 31.08.2015. The notice u/s. 148 was issued to the Assessee on 31.03.2018. The Assessee on 20.04.2018 by way of a letter reiterated her return of income filed originally. The Assessee asked for the reasons recorded for reopening of the assessment on 07.05.2018 which were provided to the assessee on 08.05.2018. Subsequently, on 21.12.2018, the assessee objected to the reopening of the Assessment. Meanwhile, on 09.05.2018, the notice u/s. 143 (2) was issued to the Assessee and the Assessment was passed on 28.12.2018. Thus, it is apparent that the Assessee has raised an objection before the Ld. Assessing Officer on 21.12.2018. The same have not been disposed of by the Assessee by a speaking order. The excuse raised by the revenue is that the Assessee objected the same at the fag end of the Assessment Proceedings is not sustainable for the reason that the Ld. Assessing Officer could have disposed of those reasons at any time after 21.12.2018 by passing a speaking order prior to passing of the Reassessment Order.

Even otherwise the Assessing Officer was having the time for passing the final assessment order up to 31.03.2019.

8. The Hon'ble Supreme court in Deputy Commissioner of Income-tax vs. Hewlett Packard Financial Services (India) (P.) Ltd. [2026] 183 taxmann.com 696 (SC)[16-02-2026] dismissed SLP against decision of Honourable Karnataka High court in Deputy Commissioner of Income-tax vs. Hewlett Packard Financial Services (India) (P.) Ltd. [2026] 183 taxmann.com 596 (Karnataka) [12-02-2025] has categorically held that it is mandatory for the Ld. Assessing Officer to dispose of the objection raised by the Assessee against the reopening of the Assessment and then he has to pass the order of reassessment thereafter. If the above procedure is not followed, the order of reassessment passed u/s. 143 (3) r.w.s. 147 of the Act cannot be sustained. The Hon'ble Karnataka High Court followed the decision of the Hon'ble Supreme Court in case of GKN Driveshafts (India) Ltd (2003) 259 ITR 19 (SC) (2002) 125 taxmann.com 963 (SC) in passing of the above order. Honourable High court held as under:-

*4. Having heard the learned counsel for the parties and having perused the Appeal Papers, we decline indulgence in the matter broadly agreeing with the views of learned Single Judge. The submission of learned Sr. Advocate appearing for the Assessee that the reasons for issuing Notice under Section 143(2) of the 1961 Act are once communicated and Objections filed by the Assessee have not been considered, then the proceedings of re-Assessment are liable to be voided, is supported by the decision in GKN DRIVESHAFTS supra, wherein the Apex Court has observed as under:*

*"We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice*

*under Section 148 of the Income tax Act is issued, the proper course of action for the noticee is to file return and if he so desires, to seek reasons for issuing notices. The assessing officer is bound to furnish reasons within a reasonable time. On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the assessing officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the assessing officer has to dispose of the objections, if filed, by passing a speaking Order before proceeding with the assessment in respect of the abovesaid five assessment years."*

**5.** *Learned Single Judge at Paragraph Nos. 11 & 12 of the impugned order has rightly observed as follows:*

*"11. In the present case, it needs to be kept in mind that the proceedings under Section 148 will have the effect of reopening the assessment. It is in this context, the Court has to decide while construing the effect of non-following of the procedure under GKN Driveshafts (supra). Admittedly, the reasons for reopening having been communicated as per Annexure-F and reply to such reasons having been furnished by the petitioner, the Assessing Officer is bound to dispose off the same by passing a speaking order before proceeding to pass an order under Section 143(3) read with Section 147 of the Act. In light of the limitation expiring on 31.12.2018, the practical difficulties of the Assessing Officer could be of no reason to condone the nonadherence to the procedure in GKN Driveshafts (supra). The effect of nonfollowing such procedure has been dealt with by the judgment of the Division Bench of this Court in Deepak Extrusions,*

*wherein the Division Bench of this Court has rightly held that the mandatory procedure of disposal of objections by the Assessing Officer not having been followed, the order of assessment cannot be sustained. If that were to be so, the assessment order issued under Section 143(3) read with Section 147 requires to be set aside and the question of issuing notice under Section 148 would not arise.*

*12. The contention of the learned counsel for the revenue relying on the judgment of the Madras High Court in the case of Home Finders (supra) cannot be accepted in light of the declaration of the Division Bench of this Court in the case of Deepak Extrusions stating that the procedure prescribed in GKN Driveshafts (supra) is a mandatory procedure which would vitiate the assessment order and the same having been concurred with in another judgment of the Division Bench in W.A.No.919/2019 disposed off on 24.01.2023. It is impermissible for this Court to accept the contention of the revenue and pass orders contrary to that of the Division Bench orders referred to above. Even otherwise, a perusal of the observations made by the Apex Court in GKN Driveshafts (supra) clearly records a finding that the Assessing Officer is bound to dispose off the objections filed by passing a speaking order."*

*In the above circumstances, this Appeal being devoid of merits is liable to be rejected and accordingly it is, costs having been made easy.*

9. In view of the above facts, respectfully following the decision of the Hon'ble Karnataka High Court, we quash the Reassessment Order

passed by the Ld. Assessing Officer on 20.12.2018 and also reverse the order of the Ld. CIT(A) upholding the reassessment of the income in case of the Assessee as valid.

10. In the result the ground No. 8 raised by the assessee is allowed quashing reassessment proceedings and consequent order. Therefore, the Appeal is not required to be adjudicated on merits of the case.

11. In the result Appeal filed by the Assessee is allowed.

Order pronounced in the open court on 12<sup>th</sup> March, 2026.

Sd/-  
(SOUNDARARAJAN K.,)  
JUDICIAL MEMBER

Sd/-  
(PRASHANT MAHARISHI)  
VICE-PRESIDENT

Bangalore,  
Dated, the 12<sup>th</sup> March, 2026.

\*TNTS\*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. CIT(A)

By order

Assistant Registrar,  
ITAT, Bangalore