

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

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

ITA No. 1175/Bang/2025
Assessment Year : 2012-13

Ms. Snehalatha Singhi, No. 101, Pride Elite, No. 10, Museum Road, Bangalore – 560 001. PAN: AJMPS0427Q	Vs.	The Deputy Commissioner of Income Tax, Circle – 1(1)(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri K R Pradeep, Advocate & Ms. Girija G P, Advocate
Revenue by	:	Shri Muthu Shankar, CIT-DR

Date of Hearing	:	20-01-2026
Date of Pronouncement	:	17-04-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 07/05/2025 in respect of the A.Y. 2012-13 and raised the following grounds:

“1. That the order of the Authorities below in so far as it is against the assessee is opposed to law, facts, circumstances, natural justice, equity and all other known principles of law.

2. That the total income and total tax computed is hereby disputed.

3. That the Authorities below erred in not providing sufficient and adequate opportunity to the appellant as required under law, thereby violating the principles of natural justice, hence the order requires to be cancelled.

4. That the notice, initiation and all subsequent proceedings u/s 148 is bad in law, is without jurisdiction, barred by law and requires to be cancelled.

5. The notice u/s 148 and service thereof is bad in law and the reassessment requires to be cancelled.

6. The conditions precedent to justify the reopening of the assessment u/s 147 of the Act being absent, the reopening of the assessment is bad in law and the reassessment requires to be cancelled.

7. That the order u/s 143(3) r.w.s 147 of the Act is bad in law, as the appellant had disclosed the material facts fully and truly necessary for assessment and there is no new or fresh information or evidence warranting reopening of the assessment.

8. That the entire reassessment proceedings violates the procedure prescribed by the Supreme Court in 259 ITR 19 for 148 proceedings.

9. The reassessment proceedings is on a change of opinion on the same set of facts without there being any new evidence or information which is not permitted under law.

10. The reasons / findings of the Authorities below are unsustainable and untenable in law as there is no relationship to the facts emerging from the record.

11. That the Authorities below erred in relying on material/information without furnishing the same to the assessee before passing the assessment order.

1. That the Authorities below erred in relying on uncorroborated statement of persons namely Shri Dhruv Narayan Jha, Shri Jagdish Prasad Purohit, Shri Devesh Upadhyaya and Shri Anuj Agarwal without furnishing the same to the assessee before passing the assessment order.

13. That the Authorities below erred in relying on the following material without furnishing the same to the assessee before passing the assessment order.

- a) Findings of Kolkata Investigation Directorate and Mumbai Investigation Directorate
- b) SEBI order in the matter of First Financial Services Ltd dt.19.12.2014
- c) SIT Report on Black money

14. That the Authorities below erred in not providing complete details relied on before calling for objections from the assessee.

15. That the Authorities below erred in relying on statements without providing opportunity to cross examine.

16. That the Authorities below erred in relying on irrelevant material while ignoring the relevant material.

17. That the Authorities below erred in making addition of Rs.16,51,45,586/- as unaccounted cash credits u/s 68 of the Act.

18. That the Authorities below erred in treating the capital gains declared by the assessee from transfer of shares of M/s. Blue Circle Services Ltd u/s 68 of the IT Act.

19. That the Authorities below erred in resorting to section 68 of the Act.

20. That the Authorities below erred in refusing to apply the beneficial treatment provided under the Act of the Capital gains earned by the assessee from the transfer of shares in M/s. Blue Circle Services Ltd.

21. That the Authorities below erred in making addition of Rs.49,54,368/- as Unexplained Expenditure u/s 69C of the Act without adducing any evidence in support of the same.

22. That the Authorities below erred in estimating 3% of sale consideration of shares as the commission paid u/s 69C of the Act merely on surmise.

23. The appellant denies the liabilities for interest u/s 234A, 234B and 234C of the Act. Further prays that the interest if any should be levied only on returned income.

24. No opportunity has been given before levy of interest u/s 234A, 234B and 234C of the Act.

25. Without prejudice to the appellant's right of seeking waiver before appropriate authority, the appellant begs for consequential relief in the levy of interest u/s 234A, 234B and 234C of the Act.

26. For the above and other grounds and reasons which may be submitted during the course of hearing of the appeal, the assessee requests that the appeal be allowed as prayed and justice be rendered. The assessee craves leave to add, alter, vary, omit, substitute or amend the above grounds, at any time before or at the time of hearing.”

2. The brief facts of the case are as follows:

The assessee is an individual and filed her return of income belatedly and therefore the return filed by her was treated as invalid. The assessee is a Director of M/s. BMM ISPAT Ltd. and earned income from house property, Capital Gains and other sources.

3. Based on the information through AIMS (Actionable Information Monitoring System), penny stock issue was examined based on the return of income. In the invalid return, the assessee had declared Short Term Capital Gains u/s. 111A of the Act. The STCG declared was treated as undeclared and unassessed and treated as escapement of income u/s. 147 of the Act since the return of income was treated as invalid return.

4. After obtaining approval from the PCIT-1, Bangalore on 26/03/2019, a notice u/s. 148 was issued on 28/03/2019. The assessee had responded to the said notice and thereafter notice u/s. 142(1) was issued. The AO had stated that there are some technical issues and therefore a manual notice u/s. 148 was issued and after the technical issue was resolved, the said notice was converted into a system notice. Again AO issued another notice u/s. 142(1) of the Act in the month of August, 2019. The assessee replied that she never received any notice dated 28/03/2019 u/s. 148 but received the manual notice only on 27/08/2019 and therefore prayed 30 days time to comply with the notice and thereafter the assessee had not furnished any reply and another notice was issued in e-proceedings. The assessee had

sent an email on 11/12/2019 intimating that there are some technical problems in the e-proceedings and therefore they are not able to file any response to the notice issued u/s. 148. Subsequently, the AO had raised the technical issue with the ITBA helpdesk and after a period of 5 days, the said technical issue was resolved even though the assessee had complained that she was not able to upload the return. The AO had issued a show cause notice on 16/12/2019 and proposed to conclude the assessment by way of best judgment assessment u/s. 144 of the Act. In the said show cause notice, the AO had sought for the share transaction details along with the share purchase details. The AO had also proposed to consider the sale of the scrip of M/s. Blue Circle Services Ltd. as bogus transactions and therefore treated the same as unaccounted cash credit u/s. 69 of the Act. Similarly, the AO also sought for an explanation why 3% commission expenses provided for the penny scrip shall not be considered as bogus expenditure u/s. 69A of the Act. Subsequently, the AO called the assessee to his office on 20/12/2019 and asked him to login to the e-filing portal and at that time, the assessee was able to file the returns and also submitted her response to the show cause notice issued. Thereafter the AO generated the 143(2) notice on 23/12/2019 and the AO had also furnished the copy of the reasons recorded for initiating proceedings u/s. 148 of the Act on 24/12/2019.

5. Again another show cause notice was issued on 24/12/2019 granting time upto 27/12/2019 to file the submissions. The assessee also filed her objection to the 143(2) notice on 26/12/2019 which was disposed off by the AO on 27/12/2019. Again the assessee filed another objection letter dated 26/12/2019 requesting to drop the proceedings initiated u/s. 148 of the Act since the reasons for reopening does not support the issuance of notice u/s 148. The said letter was not disposed off by the AO. The AO had furnished the reasons that the issue is penny stock issue and also the assessee had not filed her original return of income and therefore the reassessment proceedings are necessary. Thereafter the AO had considered the financials of M/s. Blue Circle Services Ltd. in which the assessee was allotted 5,00,000

shares of Rs. 10/- each at a premium of Rs. 5/- per share on preferential basis on 14/09/2010. The AO relied on the price movement of the said company and also the financial details, had concluded that the price of the scrip of M/s. Blue Circle Services Ltd. had moved in absolute disregard to the general market sentiments. The AO has also relied on the Chart No. 2 which was extracted in the assessment order. The AO had also concluded that the scrip of M/s. Blue Circle Services Ltd. were manipulated to increase the price of the scrips by circular trading and thereafter the preferential allottees sold the shares at high prices to book profits in the form of bogus LTCG. The AO had also relied on the findings of the Investigation Directorate of Kolkata and Mumbai in which the Investigation Wing of the Directorate had elaborately conducted the investigation and also statements of the Director during the course of survey proceedings u/s. 133A was recorded and also the various statements recorded from Shri Jagdish Prasad Purohit who is floating M/s. Blue Circle Services Ltd. and who has also accepted that the said companies were floated for providing accommodation entries against commission income in the form of various entries like bogus billing, LTCG and providing bogus share capital to beneficiaries. The Investigation Directorate also relied on the statement recorded by them during the course of search and seizure operation at the residential premises of Shri Jagdish Prasad Purohit. The AO had also taken note of the action taken by the SEBI in which the SEBI had banned the company from accessing the securities market and buying, selling or dealing any securities either directly or indirectly in any manner. Based on the investigation report of the Directorate of Kolkata and Mumbai and also the findings of the SEBI, the AO had concluded that the long term capital gains booked by the assessee in his books were prearranged method to evade taxes and launder money. Therefore, the AO had not accepted the long term capital gains related to M/s. Blue Circle Services Ltd. and treated the same as unexplained credit u/s. 68 of the Act. On the same analogy, the commission claimed on the transactions of the scrips of M/s. Blue Circle Services Ltd. were also disallowed and treated as unexplained expenditure u/s. 69C of the Act.

6. As against the said order, the assessee filed an appeal before the Ld.CIT(A).

7. The assessee raised several grounds including the legal submissions and also submitted that the AO had not provided an authenticated copy of the reasons purportedly recorded before initiating proceedings u/s. 148 of the Act. Similarly, the assessee had raised limitation ground apart from the other grounds on merits. The Ld.CIT(A) had dismissed the appeal on merits. The assessee is challenging the said order of the Ld.CIT(A) before this Tribunal.

8. At the time of hearing, the Ld.AR submitted that the orders of the lower authorities are illegal on so many grounds including the limitation. The Ld.AR further submitted that the notice u/s. 148 was not served within the period of limitation and also the reasons for reopening the assessment u/s. 148 are absent and therefore the order is bad in law. The Ld.AR further submitted that the AO had erred in relying on the statements of various persons without furnishing the same to the assessee before passing the assessment order and therefore the assessment order is bad in law. Similarly, the Ld.AR submitted that the findings of the Investigation Directorate of Kolkata and Mumbai were not furnished to the assessee and also the order of the SEBI and the SIT report on the black money and therefore submitted that the assessment order is bad in law. The Ld.AR further submitted that the AO had not granted any opportunity to cross examine the persons who gave statements and therefore the proceedings are liable to be set aside. The Ld.AR also submitted that the disallowance of the expenditure incurred by way of commission and adding the same u/s. 69C of the Act is also not in accordance with the provisions. The Ld.AR also filed two paper books enclosing the copies of the various notices issued by the AO and the reply filed by the assessee and the judgments of the Hon'ble Supreme Court as well as other Hon'ble High Courts. The Ld.AR also submitted a list of dates and events and submitted that the assessee had filed two replies on 26/12/2019 to the notice issued u/s. 143(2) of the Act

and another reply on the very same date to the show cause notice issued on 24/12/2019 in which the assessee had objected for the reasons for reopening the assessment. The assessee also enclosed the acknowledgements for filing the two replies on 26/12/2019 and submitted that the AO had not considered the second reply filed on 26/12/2019 in which the assessee had objected the reassessment proceedings and therefore submitted that the non-disposal of the objections by the AO would treat the reassessment made u/s. 147 as bad in law by relying on the judgment of the Hon'ble Jurisdictional High Court reported in (2023) 294 Taxman 25 (Karnataka) in the case of Hewlett Packard Financial Services (India) vs. DCIT.

9. The Ld.DR submitted that the reassessment has been made as per the law and not based on valid documents and therefore the appeal of the assessee may be dismissed.

10. We have heard the arguments of both sides and perused the materials available on record.

11. Before proceeding the appeal and adjudicating the grounds on merits, we are inclined to consider the legal grounds raised by the assessee in which the assessee had made a submission that the order u/s. 148 as well as the order u/s. 147 are not sustainable since the AO had not disposed the objections filed by the assessee on 26/12/2019 as held by the Hon'ble Jurisdictional High Court reported in (2023) 294 Taxman 25 (Karnataka) in the case of Hewlett Packard Financial Services (India) v. DCIT. We have also perused the paper book and in page no. 303, the assessee had enclosed the response filed by the assessee to the notice issued on 23/12/2019 u/s. 143(2) of the Act. As seen from the said acknowledgment, the said response was filed on 26/12/2019 at about 01:51 pm. In page no. 304, we find the show cause notice issued by the AO on 24/12/2019. The assessee enclosed the acknowledgment at page no. 306 and also enclosed the objections at page no. 307 which was uploaded by the assessee on 26/12/2019 at about

07:36 pm. The AO had considered the objections filed by the assessee on 26/12/2019 at about 01:51 pm which was filed in response to the notice issued u/s. 143(2) of the Act in which the assessee had objected that the notice issued u/s. 143(2) without furnishing the copy of the reasons for initiating the proceedings u/s. 148 is bad in law and also against the judgment of the Hon'ble Supreme Court in the case of GKN Driveshafts (India) Ltd. vs. ITO reported in 259 ITR 19. The said proceeding was available in page no. 309 of the paper book. As seen from the said proceedings, the AO had considered the objections filed by the assessee on 26/12/2019 in which the assessee had objected that the proceedings initiated u/s. 148 without furnishing the reasons for the reopening is bad in law, alone has been considered. The AO had not considered the submissions made by the assessee on the very same date i.e. 26/12/2019 at about 07:36 pm in which the assessee had raised several grounds attacking the reasons for reopening the assessment and the illegality of the said reasons for reopening the assessment. We do not find any proceedings by the AO in which the AO had considered the objections filed on 26/12/2019 at 07:36 pm and therefore the contention of the assessee has to be looked into by relying on the Hon'ble Jurisdictional High Court judgment. The AO without considering the said objections had proceeded to pass the assessment order u/s. 147 of the Act.

12. We have also perused the judgment of the Hon'ble Jurisdictional High Court reported in (2023) 294 Taxman 25 (Karnataka) in the case of Hewlett Packard Financial Services (India) vs. DCIT wherein the Hon'ble Jurisdictional High Court had held as follows:

"11. In the present case, it needs to be kept in mind that the proceedings under s. 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 (India) Ltd. (supra). Admittedly, the reasons for reopening having been communicated as per Annex. F and reply to such reasons having been furnished by the petitioner, the AO is bound to dispose-off the same by passing a speaking order before proceeding to pass an order under s. 143(3) r/w s. 147 of

the Act. In light of the limitation expiring on 31st Dec., 2018, the practical difficulties of the AO could be of no reason to condone the non-adherence to the procedure in GKN Driveshafts (India) Ltd. (supra). The effect of non-following procedure has been dealt with by the judgment of the Division Bench of this Court in Deepak Extrusions (P) Ltd. (supra) wherein the Division Bench of this Court has rightly held that the mandatory procedure of disposal of objections by the AO not having been followed, the order of assessment cannot be sustained. If that were to be so, the assessment order issued under s. 143(3) r/w s. 147 requires to be set aside and the question of issuing notice under s. 148 would not arise.

13. In the present facts of the case, after the AO had furnished the reasons for reopening, the assessee filed objections for the said reasoning which was not at all disposed of by the AO by way of a speaking order. In such circumstances only, the Hon'ble Jurisdictional High Court had held that the notice u/s. 148 as well as the order u/s. 143(3) r.w.s. 147 would not survive. In coming to the above said conclusion, the Hon'ble Jurisdictional High Court had relied on the judgment in the case of GKN Driveshafts (India) Ltd. vs. ITO reported in 259 ITR 19 and also the Division Bench judgment of the Hon'ble Jurisdictional High Court reported in (2017) 80 taxmann.com 77 (Karnataka) and the unreported judgment of the Hon'ble Jurisdictional High Court in W.A. No. 919 of 2019 (T-IT) dated 24/01/2023 in the case of ACIT vs. Mphasis Ltd.

14. Respectfully following the above said judgment of the Hon'ble Supreme Court as well as the Division Bench judgment of the Hon'ble Jurisdictional High Courts, we are inclined to hold that the notice issued u/s. 148 as well as the order passed u/s. 143 r.w.s. 147 of the Act are bad in law and liable to be set aside for the sole reason that the AO had not disposed off the objections filed by the assessee to the reasons communicated for reopening the assessment.

15. Since we are setting aside the order of the AO based on the above said legal ground, we are not adjudicating the other grounds raised by the assessee including the ground of limitation.

16. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 17th April, 2026.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 17th April, 2026.
/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore