Sri Venkataramanappa v. The Income Tax Officer, Ward-3(2)(3), Bangalore

Income Tax Appeal No. 284 of 2022

ITA No. 284 of 2022 (Kar HC, decided 31.07.2026) | 2026-07-31

Failure by AO to pass a speaking order disposing of assessee's objections to section 148 reopening as required by GKN Driveshafts vitiates the reassessment order but does not obliterate initial section 148 jurisdiction; ITAT rightly remanded to AO to dispose of objections first.

Income-tax Act,1961: sections 143(3), 147, 148, 260A

High Court of Karnataka at Bengaluru | 2-judge bench (Division Bench) | S.G. Pandit, J. | Rajesh Rai K, J.

Assessment years: 2009-10

01 FACTS OF THE CASE

For AY 2009-10, the AO issued a section 148 notice on 29.03.2016 and supplied reasons for reopening, to which the assessee, Sri Venkataramanappa, filed detailed objections on 24.10.2016. Without passing a speaking order disposing of the objections, the AO passed the reassessment order under section 143(3) r/w section 147 on 30.12.2016, which the CIT(A) affirmed on 01.12.2017. By order dated 17.09.2021 (ITA No. 304/Bang/2018), the ITAT set aside the reassessment order dated 30.12.2016 and remanded the matter to the AO to first dispose of the objections. The assessee appealed under section 260A contending that non-disposal of objections rendered the entire proceeding a nullity and citing an ITAT order in the co-owner's case (Shri Lakshmana v. ITO) as well as coordinate bench rulings including Deepak Extrusions and Hewlett Packard Financial Services.

Source: PDF pp.2–7, paras 1–6

02 DISCUSSION BY THE HON'BLE COURT

Analysing GKN Driveshafts (India) Ltd. v. ITO, (2003) 1 SCC 72 and four coordinate bench decisions (Deepak Extrusions, Swadesh Trading Co., Mphasis Ltd., and Hewlett Packard Financial Services), the Division Bench held that none of the earlier coordinate bench rulings had framed or adjudicated the legal question whether, upon setting aside a reassessment order for non-disposal of objections, the proceedings must be restored to the stage of objections or quashed in toto (applying M. P. Gopalakrishnan Nair v. State of Kerala, (2005) 11 SCC 45). The Court held that the section 148 notice is the statutory foundation for assuming jurisdiction, and failure to dispose of objections is a procedural supervening defect in continuing the reassessment that does not obliterate validly assumed jurisdiction. Restoring the proceedings to the stage immediately after filing of objections fully achieves the object of GKN Driveshafts.

Source: PDF pp.8–16, paras 8–15

03 JUDICIAL DECISION

Answering Substantial Questions of Law Nos. 1 and 2 against the assessee and in favour of the Revenue (and holding that Question No. 3 did not arise), the High Court upheld the ITAT's remand order and dismissed ITA No. 284 of 2022.

Source: PDF p.16, paras 15–16

04 OUTCOME / IN WHOSE FAVOUR

In favour of the Revenue; Questions 1 & 2 answered against assessee, upholding ITAT remand to AO to dispose of reopening objections.

Source: PDF p.16, para 16

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

The mandatory safeguard and the remedy are separate questions: The Court accepted that the AO had to decide the 24 October 2016 objections by a speaking order before assessment and that the 30 December 2016 assessment could not stand. The contested point was whether that failure also destroyed the whole reopening. Upholding remand therefore did not excuse the breach; it restored the stage at which the safeguard had to be performed. (PDF pp.8–10, paras 8–9; p.16, para 15)

Restoration rests on the premise of valid initial jurisdiction: The Court distinguished the section 148 notice founding jurisdiction from a later procedural defect in continuing reassessment. Its remedy assumes jurisdiction had been validly taken and requires the AO to decide objections before proceeding. It should not be cited as curing an independently invalid notice or as authorising the AO simply to repeat the earlier assessment without answering the objections. (PDF pp.14–16, paras 13–15)

A different earlier result did not settle the remand issue: The Court examined the four coordinate decisions and the co-owner's Tribunal order. Although they addressed failure to decide objections, they had not consciously decided the particular choice between restoration and total quashing now argued. That distinction explains rejection of the consistency objection; it does not deny the importance of binding precedent on an issue actually determined. Questions 1 and 2 failed, while question 3 did not arise. (PDF pp.10–14, paras 10–12; p.16, para 16)

Source: PDF pp.8–10, paras8–9; p.16, para15

SOURCE & VERIFICATION

Original judgment PDF (20260731_KAHC010238002022.pdf)

All 16 original pages read and visually reviewed; SHA-256 verified. Source-based analysis, not current-law clearance.

All five panels re-reviewed against the original on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Only provisions expressly stated in this order are indexed. Subsequent treatment and current law have not been independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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