IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF SEPTEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

INCOME TAX APPEAL No. 431 OF 2022

BETWEEN:

1. THE PR.COMMISSIONER OF
INCOME TAX,
KORAMANGALA, BANGALORE.

2. THE ASSISTANT COMMISSIONER OF
INCOME TAX,
LTU, BMTC COMPLEX,
KORAMANGALA, BANGALORE.

...APPELLANTS

(BY SRI. E.I. SANMATHI, SENIOR STANDING COUNSEL)

AND:

Digitally signed by VALLI MARIMUTHU
Location: HIGH COURT OF KARNATAKA

1. M/S. YOKOGAWA INDIA LTD.,
PLOT No.96, ELECTRONIC CITY,
BENGALURU,
PAN: AAACY0840P.

...RESPONDENT

(BY SRI. D.D. NAGESWAR RAO, ADVOCATE)

THIS ITA/INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT, 1961, ARISING OUT OF ORDER DATED 11/03/2021 PASSED IN ITA No.692/BANG/2016, FOR THE ASSESSMENT YEAR 2012-2013 PRAYTING TO DECIDE THE FOREGOING QUESTION OF LAW AND / OR SUCH OTHER QUESTIONS OF LAW AS MAY BE FORMULATED BY THE HON'BLE COURT AS DEEMED FIT AND SET ASIDE THE APPELLATE

ORDER DATED 11/03/2021 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, BENGALURU, AS SOUGHT FOR, IN THE RESPONDENT ASSESSEE'S CASE, IN APPEAL PROCEEDINGS IN IT(TP)A No.692/BANG/2016 FOR ASSESSMENT YEAR 2012-2013 (ANNEXURE-A).

THIS ITA/ INCOME TAX APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.09.2025, THIS DAY ***K. V. ARAVIND J.,*** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri E.I. Sanmathi, learned Senior Standing Counsel for the appellants, and Sri D.D. Nageswar Rao, learned counsel for the respondent.

2. The Revenue has preferred this appeal under Section 260-A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), assailing the order dated 11.03.2021 passed by the Income Tax Appellate Tribunal, 'C' Bench, Bengaluru (for short, 'the Tribunal'), in ITA(TP)A No.692/Bang/2016, relating to the assessment year 2012-13.

3. The following substantial questions of law arise for consideration before this Court:

"1. "Whether in the present facts and circumstances of the case, the Tribunal is correct in law in allowing appeal of the assessee by holding that the Final Assessment order passed by assessing authority under section 144C(13) of the Act on 31/8/2016 was beyond period of limitation by erroneously placing reliance on Pune Tribunal Bench in case of TDK Electornics AS V/s ACIT in ITA No.1810/PON/2019 without appreciating the facts particularly when this is a case where assessee had misinformed the assessing officer and also the dRP about the date of receipt of Draft Assessment Order which is crucial for deciding period of limitation"?

2. "Whether in the present facts and circumstances of the case, the order passed by Tribunal can be said as perverse in law in setting aside the final assessment order passed under section143(3) read with section 144C(13) of the Act as Tribunal has assigning priority to Section 144C(4) over the Sections 144C(2)(b) & 144C(3)(b) when the alter have been circumvented by assessee insofar as objections were filed before DRP on a wrong premise of date of receipt of Draft Assessment Order which is vital factor in deciding period of limitation"?

3. "Whether in the present facts and circumstances of the case, the Tribunal is correct in law in not dismissing the appeal of assessee on ground that assessee had not approached Tribunal with clean hands, on account of misrepresentation of facts/misinforming the DRP and assessing authority"?"

Brief facts:

4. The assessee, engaged in the business of manufacture, trading and distribution of process control instruments, filed its return of income for the assessment year 2012-13. The case was selected for scrutiny by issuance of notice under Section 143(2) of the Act. In view of the international transactions, the Assessing Officer referred the matter to the Transfer Pricing Officer (TPO) for determination of the arm's length price. The TPO, by order dated 29.01.2016 passed under Section 92CA of the Act, determined the adjustment. Thereafter, the Assessing Officer passed a draft assessment order on 10.03.2016. The assessee preferred objections before the Dispute Resolution Panel (DRP) on 13.04.2016. The DRP, by order dated 24.08.2016, rejected the objections as being belated. Consequently, the Assessing Officer passed the final assessment order under Section 144C(13) of the Act on 31.08.2016. The assessee preferred an appeal before the Tribunal questioning the said final assessment order. The Tribunal, under the impugned order, held that the final assessment order dated 31.08.2016 was beyond the period of limitation prescribed under Section 144C(13) of the Act.

5. Sri E.I. Sanmathi, learned Senior Standing Counsel appearing for the appellants-Revenue, submitted that the draft assessment order dated 10.03.2016 was served on the assessee on 12.03.2016. However, the assessee intimated the Assessing Officer on 13.04.2016 regarding the filing of objections before the DRP, wherein the date of receipt of the draft assessment order was stated as 14.03.2016. Relying upon the said date mentioned in the intimation, the Assessing Officer did not proceed further to pass the final assessment order, awaiting the directions of the DRP. It is submitted that only when the DRP, by its order dated 24.08.2016, rejected the objections as time-barred, the Assessing Officer proceeded to pass the final assessment order on 31.08.2016. The misleading statement of the assessee was believed *bona-fide* by the Assessing Officer, and therefore, the final assessment order dated 31.08.2016 cannot be held to be time-barred. The assessee, having misled the Assessing Officer by furnishing an incorrect date of service of the draft assessment order, cannot take advantage of its own misstatement to claim statutory protection of limitation. Hence, it is submitted that the impugned order of the Tribunal be set aside and the final assessment order be restored.

6. *Per contra*, Sri D.D. Nageswar Rao, learned counsel appearing for the respondent-assessee, submitted that the draft assessment order was received by the Company's Security Personnel on 12.03.2016, being a Saturday, and was handed over to the concerned officer on 14.03.2016, i.e. the following Monday. Accordingly, the assessee considered 14.03.2016 as the date of service and mentioned the same both in the objections filed before the DRP and in the intimation to the Assessing Officer. It is submitted that the Assessing Officer had with him the details of the date of the draft order, the date of filing of objections before the DRP, and the date of service of the draft order on the assessee. The draft order having been served through speed post, the consignment tracking clearly reflected the date of delivery/service as 12.03.2016. Hence, the failure of the Assessing Officer to properly apply his mind cannot be attributed to the respondent-assessee. Learned counsel would further submit that even assuming an incorrect date of service was mentioned, unless the final assessment order is passed within the time prescribed under Section 144C of the Act, it cannot be sustained in law. It is therefore submitted that the Tribunal, upon appreciation of

the facts, has rightly held that the final assessment order dated 31.08.2016 was barred by limitation.

7. We have considered the submissions of the learned counsel for the parties, perused the appeal papers, and meticulously examined the dates furnished by them.

8. Before proceeding further, we record that the dates mentioned hereinafter are not in dispute between the learned counsel for the parties. The sequence of relevant dates is as follows:

Date of draft assessment order	*:10/03/2016*
Date on which draft assessment order was received by assessee	*:12/03/2016*
Date on which objections were filed before DRP	*:13/04/2016*
Date on which DRP passed directions	*:24/08/2016*
Date on which the final assessment order was passed under section 144C(13)	*:31/08/2016*

9. These dates are now to be examined in the light of the provisions of Section 144C of the Act. Section 144C of the Income Tax Act, 1961, reads as under:

> ***"[Reference to dispute resolution panel.***
>
> ***144C****. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he*

proposes to make, on or after the 1st day of October, 2009, any variation [***] which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order-

(a) file his acceptance of the variations to the Assessing Officer, or

(b) file his objections, if any, to such variation with,-

(1) the Dispute Resolution Panel; and

(ii) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if-

(a) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(b) no objections are received within the period specified in sub-section (2).

(4) The Assessing Officer shall, notwithstanding anything contained in section 153 [or section 153B], pass the assessment order under sub-section (3) within one month from the end of the month in which,-

(a) the acceptance is received; or

(b) the period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:-

(a) draft order,

(b) objections filed by the assessee;

(c) evidence furnished by the assessee;

(d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;

(e) records relating to the draft order,

(f) evidence collected by, or caused to be collected by, it; and

(g) result of any enquiry made by, or caused to be made by, it.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5).-

(a) make such further enquiry, as it thinks fit; or

(b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.

(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.

[Explanation.- For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.]

(9) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.

(10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(11) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue. respectively.

(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 [or section 153B], the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.

(14A) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the [Principal Commissioner or] Commissioner as provided in sub-section (12) of section 144BA.]

(14B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel, so as to impart greater efficiency, transparency and account-ability by-

(a) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation:

(c) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.

(14C) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (14B), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:
Provided *that no direction shall be issued after the 31st day of March, [2025].*

(14D) Every notification issued under sub-section (14B) and sub-section (14C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.]

(15) For the purposes of this section,-

(a) "Dispute Resolution Panel" means a collegium comprising of three [Principal Commissioners or] Commissioners of Income-tax constituted by the Board for this purpose;

(b) "eligible assessee" means,-

(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and

(ii) any non-resident not being a company, or any foreign company:]]

*[**Provided** that such eligible assessee shall not include person referred to in sub-section (1) of section 158BA or other person referred to in section 158BD.]"*

10. An analysis of Section 144C of the Act reveals that sub-section (1) mandates the forwarding of the draft assessment order to the eligible assessee if the Assessing Officer proposes to make any variation prejudicial to the interest of the assessee. Sub-section (2) provides that, upon receipt of the draft order, the assessee may, within thirty days from such receipt, either accept the proposed variations and communicate the same to the Assessing Officer or file objections before the DRP and the Assessing Officer. Sub-section (3) mandates the Assessing Officer to complete the assessment if the assessee accepts the variations or if no objections are received within the period specified under sub-section (2). Sub-section (4) prescribes the limitation for passing the final assessment order in cases where the assessee accepts the variations or no objections are received, which is one month from the end of the month in which acceptance is received or the period for filing objections expires. Sub-sections (5) and (6) deal with the procedure before the DRP when objections are received and the powers of the DRP, respectively. Sub-section (10) provides for the binding nature of directions issued by the DRP on the Assessing Officer, while sub-section (11) mandates an opportunity of hearing to both

the assessee and the Assessing Officer when issuing directions prejudicial to the interest of either party. Sub-section (12) prescribes the time limit within which the DRP must issue its directions. Finally, sub-section (13) imposes a corresponding duty on the Assessing Officer to pass the final assessment order within one month from the end of the month in which directions of the DRP under sub-section (5) are received.

11. In the present case, we are primarily concerned with the scope of sub-sections (2), (3), and (4) of Section 144C of the Act. The facts before us reveal that the draft assessment order was served on the assessee, who chose to file objections before the DRP and intimated the Assessing Officer regarding the same. Pursuant to this, the Assessing Officer did not pass the assessment order under sub-section (4). An interconnected issue that arises is the consequence of the assessee incorrectly stating the date of service of the draft order, when the objection before the DRP was ultimately rejected as time-barred.

12. The Revenue contends that the draft assessment order was served on the assessee on 12.03.2016, whereas in the intimation dated 13.04.2016, the date of service is shown

as 14.03.2016, which fell within the thirty-day period. Consequently, it is submitted that the Assessing Officer did not pass the final assessment order under sub-section (4) of Section 144C of the Act. The assessee, on the other hand, contends that although the notice was received by the Company's Security Personnel on 12.03.2016, the concerned officer actually received it on 14.03.2016, and accordingly, the date of service of the draft order was stated as 14.03.2016.

13. The correctness or otherwise of the date of receipt stated in the objection before the DRP and the intimation to the Assessing Officer is immaterial and does not bear upon the interpretation of sub-sections (2), (3), and (4) of Section 144C of the Act. Sub-section (2) clearly prescribes a period of thirty days from the date of receipt of the draft order within which the assessee may either accept the proposed variations or file objections before the DRP. Sub-section (3) mandates that the Assessing Officer complete the assessment if neither acceptance nor objections are filed within the stipulated period. In the present case, where an objection has been filed, the Assessing Officer has two obligations. First, upon passing the draft assessment order, the Assessing Officer must ascertain whether an objection has been filed before the DRP and

second, whether such objection is within the thirty-day period prescribed under sub-section (2). The Assessing Officer cannot remain inactive upon the filing of an objection without fully applying the provisions of sub-section (2). He is duty-bound to verify both the date of service of the draft order and the date of filing of the objection to determine its validity. Only when objection is filed within the period specified under sub-section (2), the Assessing Officer is precluded from completing the assessment. If the objection is not filed within the prescribed period, mere filing before the DRP will not bar the Assessing Officer from completing the assessment. In other words, the Assessing Officer is entitled to disregard any objection not filed within thirty days from the date of receipt of the draft order, as contemplated under sub-section (2).

14. A perusal of the communication dated 13.04.2016 to the Assessing Officer regarding the filing of objections to the draft assessment order before the DRP indicates that the thirty-day period was computed from 14.03.2016, although service was effected on 12.03.2016. It appears that the Assessing Officer, relying on the date of service as 14.03.2016, was satisfied that the objection was filed within thirty days, without verifying the date of service from his own records. The

Assessing Officer is not bound by the date of service as acknowledged by the assessee; what is required is the actual service of the communication, which the Assessing Officer effectuated. The draft assessment order was communicated through speed post, and the date of delivery through speed post is the proper basis to compute the thirty-day period. There is no case from the Revenue that the Assessing Officer was handicapped or lacked the means to verify the actual date of service, and it cannot be said that he had no alternative but to rely on the statement of the assessee. The postal tracking status of Indian Post was available to the Assessing Officer to ascertain the correctness of the assessee's claim regarding service. Had due diligence been exercised, the Assessing Officer would have determined the actual date of service and assessed the validity of the objection filed on 13.04.2016. The Assessing Officer, having failed to exercise such diligence, cannot rely on the date of service as stated by the assessee, and it is therefore not open to him to compute the thirty-day period from 14.03.2016.

15. The question whether the assessee's interpretation of the date of service is to be accepted, or whether the incorrect mention of the date was intended to mislead the

Assessing Officer, and that the assessee cannot take advantage of its own mistake, is altogether a new aspect and is not relevant at this stage. Even if it were to be held that the assessee misled the Assessing Officer, the plain language of Section 144C(3) of the Act remains unaffected and must be given its ordinary meaning.

16. Before concluding, we reiterate that if an objection before the DRP is not filed within thirty days from the date of receipt of the draft assessment order, the Assessing Officer is not required to await the DRP's disposal of the objection as belated. The mere pendency of an objection before the DRP, if not filed within the prescribed thirty-day period, does not constitute a legal impediment for the Assessing Officer to proceed with the completion of the assessment. It is not the mere filing of an objection before the DRP, but its filing within thirty days, that restrains the Assessing Officer from finalising the assessment. In the present case, the material on record clearly indicates that the objection before the DRP was filed beyond the thirty-day period. Had the Assessing Officer properly applied his mind to determine the date of service, he ought to have proceeded with the final assessment disregarding the objection. Having failed to do so, the Tribunal was justified

in holding that the final assessment order dated 31.08.2016 is barred by limitation.

17. We find no error or illegality in the order of the Tribunal. Consequently, no substantial question of law arises for consideration by this Court. Accordingly, the appeal is ***dismissed***.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

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