

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

**BEFORE SH. SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SH. NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA No. 7258/Del/2025
(Assessment Year : 2012-13)**

M/s. Meramandali Finvest Ltd. Cabin-1, 1205, 89-Hemkunth Chamber, Nehru Place, New Delhi - 110 019 PAN No. AAECM 5007 E (APPELLANT)	Vs.	Income Tax Officer Ward - 17(1) New Delhi (RESPONDENT)
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Assessee by	Shri Ashwani Kumar, C.A. & Shri Ankur Aggarwal, C.A.
Revenue by	Shri Dayainder Singh Sidhu, CIT-D.R.

Date of hearing:	22.04.2026
Date of Pronouncement:	09.07.2026

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER :

This captioned appeal has been filed by the assessee against the order of the learned Commissioner of Income Tax (Appeals)-NFAC, Delhi ['CIT(A)' in short] dated 23.09.2025 arising from the assessment order dated 30.12.2019 passed by the ITO, Ward - 17(1), Delhi under Section 143(3) r.w.s 147 of the Income Tax Act, 1961 ('the Act') concerning Assessment Year (A.Y.) 2012-13.

2. The grounds raised by the assessee are as under :

1. *“That the order dated 23.09.2025 passed u/s 250 of the Income Tax Act, 1961 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he was not justified to uphold the action of the Ld. Income Tax Officer, Ward - 17(1), Delhi in computing the total income of the Appellant Company at Rs. 75,00,00,000/- as against returned income of Rs. Nil.*
2. *That the order dated 23.09.2025 passed u/s 250 of the Income Tax Act, 1961 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he was not justified to uphold the action of the Ld. Assessing Officer, Ward - 17(1), Delhi in resorting to reassessment proceedings and issuing notice under section 148 of the Act.*
3. *That the order dated 23.09.2025 passed u/s 250 of the Income-Tax Act,1961 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he was not justified to uphold the action of the Ld. Assessing Officer, Ward - 17(1), Delhi in adding back a sum of Rs.75,00,00,000/- received by the Appellant Company on account of share capital and share premium from M/s Concise Exim Private Limited as an alleged unexplained cash credit entry by resorting to the provisions of section 68 of the Act.*
4. *That the order dated 23.09.2025 passed u/s 250 of the Income Tax Act, 1961 by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi is against law and facts on the file in as much as he was not justified in framing the assessment by ignoring the basic principles of natural justice as the assessment was framed without disposing of objections filed by the Appellant Company to the issue of reassessment notice.*
5. *That the Appellant craves to add, amend, alter, modify or delete any or all of the grounds of appeal before or at the time of hearing.”*

3. Brief facts of the case are that the assessee is a company and filed its return of income on 26.09.2012 declaring Nil income. Subsequently, on the basis of information from the Investigation Wing that the assessee during the year, had received a sum of Rs. 75,00,00,000/- from M/s Concise Exim Pvt. Ltd as share capital of Rs 10/- at a premium of Rs 190/-, the case was re-opened u/s 148 r.w.s 147. Accordingly, a notice u/s 148 was issued to the assessee company

on 18.03.2019. In response to the said notice u/s 148 of the Act, the assessee company filed its return of income on 15.04.2019 declaring nil income. In the course of the assessment proceedings, after considering the response of the assessee, the Ld. Assessing Officer framed the assessment order u/s 143(3) r.w. 147 dated 30.12.2019 and added back a sum of Rs.75,00,00,000/- received by the assessee-company from M/s Concise Exim Pvt. Ltd. as share capital and share premium under Section 68 of the Income-tax Act, 1961 on the ground that the assessee company has failed to discharge the onus cast upon it and also failed to prove the identity and creditworthiness of the Creditor and genuineness of the transaction.

4. Upon appeal, the CIT(A) upheld the addition. The aggrieved assessee is now before us.

5. At the outset, the ld counsel of the assessee vehemently argued that the reopening is invalid as the AO did not dispose off the objection raised by the assessee. The ld counsel submitted that in response to the notice u/s 148 of the Act the assessee filed its return of income on 15-04-2019 and made a request for the supply of reasons recorded for re-opening of the assessment proceedings which were subsequently provided to it. The Appellant Company's has filed objection on 08.08.2019 for reopening the case under section 148 of the Income-tax Act 1961. Subsequently without disposing objection

raised by the assessee, notices u/s 143(2) and 142(1) of the Act along with questionnaire(s) were issued from time to time. In response thereto, the (re)-assessment proceedings were attended from time to time, replies furnished and the relevant details as asked for filed.

6. The ld AR submitted that the issue of non-disposal of objection has vitiated the reassessment order and relied on following cases:

- i) GKN Driveshafts (India) Ltd v. ITO [(2003) 259 ITR 19(SC)]
- ii) Mphasis Ltd v ACIT, [(2019) 104 taxman.com 62 (Karnataka)];
- iii) Deepak Extensions (P) Ltd v DCIT [(2017) 80 taxmann.com 77 (Karnataka)]

7. The ld counsel stated that this issue was raised before the CIT(A) as ground no 3 who called for a remand report where the AO, on the issue of non-disposal of objection, commented that the objections were met in the assessment order dated 30.12.2019. It is further submitted that the CIT(A), dismissed this ground on the pretext that the assessee failed to furnish a copy of “objection” dated 01.07.2019.

8. Per contra, the ld DR relied on the orders of the AO and the CIT(A).

9. We have heard the rival submissions and have carefully perused the materials on record. We shall first adjudicate ground 4 with respect to the issue of failure to dispose the “objections’ filed by the assessee against the reopening of the assessment. In this context, the

hon'ble Supreme Court in the case of GKN Driveshafts (India) Ltd v. Income Tax Officers and Others [(2003) 259 ITR 19(SC)] has laid down the judicial mandate as follows:-

“.....we clarify that when a notice under section 148 of the Income-tax Act, is issued, the proper course of action for the notice is to file a 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 notice 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 above said five assessment years.”

In view of the above judicial mandate, the Assessing Officer is bound to dispose the objections filed by the assessee by passing a “speaking order”. We however, find in the instant case, that the Id. Assessing Officer has proceeded to frame the assessment without disposing the objections raised by the assessee. In fact, the Id AO accepts this position in his remand report filed with the CIT(A), wherein, on the issue of non-disposal of objections, he comments as follows:

In the present case, the assessee filed its reply to the show cause notice on 27.12.2019. The assessment order, dated 30.12.2019, explicitly and extensively addresses the assessee's explanation regarding the investment from Mis Concise Exim Pvt. Ltd. It provides detailed reasons for rejecting the assessee's submissions, specifically citing the critical lack of creditworthiness of Mis Concise Exim Pvt. Ltd. due to its meagre income. This detailed discussion, analysis, and

reasoned rejection within the body of the assessment order itself constitutes a clear, explicit, and speaking disposal of the assessee's objections. The Assessing Officer considered the assessee's submissions, applied his mind to them, and provided cogent reasons for not accepting them, thereby fully fulfilling the requirement of natural justice as laid down by the Supreme Court. There is no requirement for a separate, distinct order for disposing of objections; their consideration and disposal within the final assessment order are sufficient.

10. From the aforesaid remand report, we find that the Id. Assessing Officer holds that considering the assessee's objections, in the body of assessment order, is sufficient compliance of the Supreme Court laid law and there is no requirement of separate distinct order for disposing of objections. We are of the considered view that the stand of the Id AO is contrary to the law laid down on this subject. It is now settled law by a series of judicial precedents that the failure of the Assessing Officer to dispose of objections filed by the assessee against the reopening notice by passing a speaking order, becomes fatal to the assumption of jurisdiction under Section 147 and renders any reassessment order passed thereafter null and void. The Hon'ble Delhi High Court in *Pr. CIT v. Tupperware India (P) Ltd.* [(284 CTR 68)] and *Samsung India Electronics Pvt. Ltd. v. DCIT* [(362 ITR 460)] has reiterated that non-compliance with the mandatory procedure laid down in *GKN Driveshafts* renders the entire reassessment process

invalid. The Hon'ble Delhi High Court in **Pr. CIT v. Tupperware India**

(P) Ltd had held as follows:

“ The CIT (A) accordingly held that by stating that no objections had been filed, the AO had "very conveniently disregarded the guidelines" laid down by the Supreme Court in GKN Driveshafts (India) Ltd. v. ITO [\[2003\] 259 ITR 19/\[2002\] 125 Taxman 963](#). The CIT (A), therefore, agreed with the Assessee that since the procedure laid down by the SC in the aforementioned decision was mandatory, the AO had in fact not disposed of the objections by a speaking order. Nevertheless, the CIT (A) held that the said defect "does not make the assessment order illegal and hence it cannot be quashed. It is a technical mistake which is curable."

6. The Court is of the considered view that after having correctly understood the decision of the Supreme Court in GKN Driveshafts (India) Ltd. (supra) as mandatorily requiring the AO to comply with the procedure laid down therein and to dispose of the objections to the reopening order with a speaking order, the CIT (A) committed an error in not quashing the reopening order and the consequent assessment.”

The above view has been reiterated by various other High Courts such as **Mphasis Ltd v ACIT**, [(2019) 104 taxman.com 62 (Karnataka)], **Deepak Extensions (P) Ltd v DCIT** [(2017) 80 taxmann.com 77 (Karnataka), **Allana Cold Storage Ltd. v. ITO** [(287 ITR 1) (Bom)], **CIT v. Trend Electronics** [(379 ITR 456) (Bom)] and **General Motors India v. DCIT** [(257 CTR 123)(Guj)],

11. From the order of the CIT(A), we note that the CIT(A) dismissed this ground of assessee on the pretext that the assessee could not file the copy of objection before the CIT(A). We find that the CIT(A) has ignored the explicit comment of the AO in the remand report, as noted above, wherein the AO had commented on the disposal of the objections. The CIT(A) also conveniently ignored the assessee's request

that CIT(A) may obtain the objections from the AO which he could easily have obtained from the AO. In such facts and circumstances, the only inference we can draw from the remand report of the AO is that assessee had filed an objection before the AO against the issuance of notice u/s 148 which remained undisposed off as mandated by law. As such therefore, the ld AO has committed a fatal legal and procedural error in as much as the reassessment was framed without disposing of the objections, as per law and as also affirmed by various judicial authorities. In view of the discussion as above, it is held that in the instant case wherein the objections filed on behalf of the assessee to the issue of notice u/s 148 were not disposed off vide a distinct and separate order, the issue of notice u/s 148 of the Act and the consequent reassessment framed u/s 143(3)/147 is bad in law, void ab-initio and unsustainable in law. Ground 4 is allowed.

12. As the appeal has been decided on legal ground, no adjudication is made on merits.

13. In the result, the appeal of the assessee in ITA 7258/Del/2025 is allowed.

Order pronounced in the open court on 09.07.2026.

Sd/-

(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Date:- 09.07.2026

Sd/-

(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

*Priti Yadav, Sr. Ps**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI