IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH MUMBAI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 2552/Mum/2026
(Assessment Year: 2020-21)

Blossom Nandi [Legal Representative of the deceased Assessee – Mr. Santanu Nundy] 2, A-Wing, Avni Villa, Panch Marg, Versova Andheri, West, Mumbai Maharashtra – 400061.	Vs.	**Income Tax Officer – Ward 31(1)(1)**, 254C, 2nd Floor, Kautilya Bhavan, C-41, to C-43, G Block, Bandra Kurla Complex, Bandra (East), Mumbai, Maharashtra- 400051
PAN/GIR No. AAAPN4897Q		
(Applicant)		(Respondent)

Assessee by	Shri Shashank Mehta
Revenue by	Shri Yogesh Kamat, CIT DR

Date of Hearing	25.06.2026
Date of Pronouncement	13.08.2026

आदेश / ORDER

PER: MAKARAND VASANT MAHADEOKAR, AM

This appeal has been preferred by the assessee, through Ms. Blossom Nandi, stated to be the legal representative of Late Shri

Santanu Amalendu Nundy, against the order dated 10.02.2026 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [“the learned CIT(A)”], under section 250 of the Income Tax Act, 1961 [“the Act”]for the assessment year 2020-21. The impugned order arose from the assessment order dated 27.03.2025 passed by the Income Tax Officer, Ward 31(1)(1), Mumbai[“the Assessing Officer”], under section 147 read with section 144 of the Act.

2. The assessee has raised the following grounds of appeal:

1) In the facts and circumstances of the case and law,the Learned Commissioner of Income Tax- (Appeals)[“the CIT(A)”] has erred in upholding the action of the Ld. Assessing Officer who erred in issuing notice under section 148 in the name of deceased assessee; which itself vitiates the entire re-assessment proceedings including the consequential assessment order- as held by the Hon’ble Jurisdictional High Court in the case of :

a. Devendra vs.ACIT [2024] 461 ITR 463 (Bombay)

b. Mary Gene Gracious vs. ITO [2025] 170 taxmann.com 82 (Bombay)

c. Sumit Balkrishna Gupta vs. ACIT [2019] 414 ITR 292 (Bombay)

and several other binding judicial precedents.

2) In the facts and circumstances of the case and law, the Learned CIT(A) has erred in dismissing the legal jurisdictional ground raised by the Appellant that the notice issued under section 148 was issued in the name of the deceased Assessee by holding that the said jurisdictional ground was a “technical and procedural” ground in gross contravention of the ratio laid down by Hon’ble Jurisdictional High Court in the case of Sumit

Balkrishna Gupta vs. ACIT [2019] 414 ITR 292 (Bombay) and several other binding judicial precedents.

3) *In the facts and circumstances of the case and law, the Learned CIT(A) has erred in restoring the matter for de-novo adjudication by exercising the power under the proviso to clause (a) of section 251(1) without specifically adjudicating the jurisdictional grounds/issues raised by the Appellant and dismissing it inlimine by considering such jurisdictional grounds as merely technical in nature; consequently, the jurisdictional errors/defects committed by the Ld. Assessing Officer has been given an immunity/go-by.*

4) *In the facts and circumstances of the case and law,the Learned CIT(Appeals) has erred in upholding the action of the Ld. Assessing Officer who erred in initiating and concluding the re-assessment proceedings without providing the impugned information with the impugned notice issued under section 148 and providing it just 5 days prior to the date of passing of the impugned order of re-assessment; thereby violating the express directions and binding guidelines [para 2.1.xvi and others] issued by the Central Board of Direct Taxes on 01.08.2022.*

5) *In the facts and circumstances of the case and law,the Learned CIT(Appeals) has erred in upholding the action of the Ld. Assessing Officer who erred in not disposing of the jurisdictional objections in the order disposing objection dated 12.03.2025 thereby not only violating the directions/principle laid down by Hon'ble Supreme Court in the case of GKN Driveshafts (India) Ltd., v. ITO [2003] 259 ITR 19(SC) and also the guidelines issued by the Central Board of Direct Taxes on 01.08.2022.*

6) *In the facts and circumstances of the case and law,the Learned CIT(Appeals) has erred in upholding the action of the Ld. Assessing Officer who erred in initiating and concluding the re-assessment proceedings without providing any material which can corroborate/ substantiate the impugned information based on which the case was reopened.*

7) In the facts and circumstances of the case and law,the Learned CIT(Appeals) has erred in upholding the action of the Ld. Assessing Officer who erred in initiating and concluding the re-assessment proceedings without providing the impugned approval note as required under clause (c) of the proviso to section 148A and under section 151 along with the notice issued under section 148; thereby violating the express directions and binding guidelines [para 2.2 and others] issued by the Central Board of Direct Taxes on 01.08.2022.

8) In the facts and circumstances of the case and law,the Learned CIT(Appeals) has erred in upholding the action of the Ld. Assessing Officer who erred in initiating and concluding the re-assessment proceedings in gross violation of the express provisions of section 151A and in express defiance of several binding judicial precedents of the Hon'ble Jurisdictional High Court.

9) In the facts and circumstances of the case and in law, the Ld. CIT(Appeals) has erred in upholding the action of the Ld. Assessing Officer who erred in framing the re-assessment under section 144 of the Act, despite the conditions precedent to invoke the said provision were not fulfilled in the facts and circumstances of the present case.

10) In the facts and circumstances of the case and in law, the Ld. CIT(Appeals) has erred in not adjudicating the ground that the Ld. Assessing Officer erred in assessing the Long Term Capital Gains of Rs. 33,18,820/- in the hands of the deceased Assessee, disregarding the factual and legal matrix of the case inter-alia the following:

(a) that the deceased Assessee was not the owner (pursuant to the provision of section 45 of the Transfer of Property Act, 1882) of the impugned capital asset (being the said property) as he had not contributed even a single penny for the acquisition of the said property.

(b) that the entire capital gains on transfer of the said property was already subjected in the hands of the owner (Mrs. Blossom

Nandi); hence cannot be doubly taxed in the hands of the deceased Assessee.

11) *In the facts and circumstances of the case and in law, the Ld. CIT(Appeals) has erred in not adjudicating the ground that even if assuming but not admitting that the capital gains were assessable in the hands of the deceased Assessee; in the facts and circumstances of the case and in law, the Ld. Assessing Officer erred in not allowing deduction under section 54 of the Act.*

12) *In the facts and circumstances of the case and in law, the Ld. CIT(Appeals) has erred in not adjudicating the ground that the Ld. Assessing Officer erred in making addition of Rs. 18,15,750/- (on substantive basis) and Rs. 18,15,750/- (on protective basis) alleging it to be unexplained money in the form of cash receipt; disregarding the factual and legal matrix of the case; inter-alia the following:*

(a) that such addition is made merely based on unfounded information having no nexus to the deceased Assessee

(b) that such addition is made solely and merely based on whatsapp messages between two independent parties.

(c) that such addition is made wholly based on surmises and conjectures drawn from uncorroborated and un-confronted statements / material/ documents without any substantiating evidence to support such allegations.

13) *In the facts and circumstances of the case and in law, the Ld. CIT(Appeals) has erred in not adjudicating the ground that the Ld. Assessing Officer erred in making addition of Rs. 18,15,750/- (on a protective basis); despite there being no substantive assessment/ addition in the case of other party.*

14) *The appellant craves leave to add, alter, delete or modify all or any of the above grounds of appeal. All the above grounds are without prejudice to each other.*

3. The assessee filed the return of income for the assessment year 2020-21 on 24.11.2020, declaring total income of Rs.2,01,970/-. On the basis of information received from the Investigation Wing pursuant to a search conducted on 12.06.2023 in the cases of entities belonging to the Isprava Group and other persons, the Assessing Officer issued a notice dated 20.03.2024 under section 148 of the Act in the name of Shri Santanu Amalendu Nundy.

4. During the assessment proceedings, the authorised representative informed the Assessing Officer that Shri Santanu Amalendu Nundy had expired on 07.01.2022, prior to the issuance of the notice under section 148 of the Act. A copy of the death certificate was furnished on 05.11.2024. The assessment proceedings were, however, continued in the name of "Legal Heir of Late Santanu Amalendu Nundy".

5. The information received from the Investigation Wing related to the sale of an immovable property situated at Anjuna, Goa, jointly standing in the names of the deceased assessee and Ms. Blossom Nandi. The property was sold to M/s Casa Luxury Realty Seven LLP under a sale deed dated 24.12.2019 for a stated consideration of Rs.84,73,500/-. Relying upon certain WhatsApp messages, a statement recorded under section 131A of the Act and other material found during the search, the Assessing Officer alleged that cash consideration of Rs.36,31,500/- had also been

received over and above the consideration recorded in the sale deed.

6. The assessee's representative contended that the property belonged to Ms. Blossom Nandi, who had paid the entire purchase consideration, and that the name of the deceased assessee had been included in the title documents only for convenience. It was also submitted that Ms. Blossom Nandi had offered the entire capital gain arising from the transfer. The Assessing Officer rejected these contentions and treated the deceased assessee as a 50 per cent co-owner of the property.

7. By the assessment order dated 27.03.2025 passed under section 147 read with section 144 of the Act, the Assessing Officer made an addition of Rs.33,18,820/- towards the deceased assessee's alleged 50 per cent share of long-term capital gain. The Assessing Officer further made an addition of Rs.18,15,750/- under section 69A read with section 115BBE of the Act on a substantive basis and another addition of Rs.18,15,750/- on a protective basis in respect of the alleged cash consideration. The total income was accordingly assessed at Rs.71,52,290/-.

8. The assessee preferred an appeal before the learned CIT(A). By order dated 10.02.2026 passed under section 250 of the Act, the learned CIT(A) rejected the jurisdictional and procedural grounds concerning the validity of the reassessment proceedings. However, considering that the assessment had been completed

under section 144 of the Act, the learned CIT(A) set aside the assessment order and restored the issues on merits to the Assessing Officer for a de novo assessment after granting due opportunity of hearing. The appeal was consequently treated as allowed for statistical purposes. Aggrieved by the dismissal of the jurisdictional grounds and the restoration of the matter, the assessee is in appeal before us.

9. During the course of hearing before us, the learned AR reiterated the facts and submitted that Late Shri Santanu A. Nundy died intestate on 07.01.2022. His surviving brothers, Shri Aniruddha Nandi and Shri Utpal Nundy, were his actual legal heirs. Ms. Blossom Nandi, his sister-in-law, had been registered as legal representative on the e-filing portal merely to facilitate compliance. A joint application had been made for transferring the deceased assessee’s e-filing account to Shri Aniruddha Nandi.

10. On merits, the learned AR submitted that the property was purchased entirely out of funds contributed by Ms. Blossom Nandi. The name of the deceased assessee was included only for convenience. The property was subsequently sold to M/s Casa Luxury Realty Seven LLP. Though the purchaser divided the consideration between Ms. Blossom Nandi and the deceased assessee, the amount received in the deceased assessee’s account was transferred to Ms. Blossom Nandi. She disclosed the entire capital gain and claimed the corresponding TDS credit in her

return of income. The deceased assessee neither offered any capital gain nor claimed the TDS credit.

11. The learned AR further submitted that the sale proceeds were reinvested in another residential property purchased under an agreement dated 17.08.2021 for Rs.65,03,339/-, the entire consideration for which was contributed by Ms. Blossom Nandi.

12. The learned AR further submitted that the notice under section 148 of the Act was invalid as it had been issued in the name of a deceased person and, therefore, the entire reassessment proceedings and the consequential assessment order were without jurisdiction. It was further submitted that the statutory procedure prescribed under sections 148A, 151 and 151A of the Act had not been followed, the relevant information and supporting material were not furnished with the notice, and the jurisdictional objections were not properly disposed of.

13. The learned AR also submitted that the learned CIT(A) erred in treating the jurisdictional objections as merely technical and in restoring the matter to the Assessing Officer without first adjudicating the validity of the reassessment proceedings. On merits, it was submitted that the deceased assessee was not the beneficial owner of the property and the entire capital gain had already been offered to tax by Ms. Blossom Nandi. The addition towards alleged cash consideration was stated to be based entirely on uncorroborated third-party material having no

established nexus with the deceased assessee. It was accordingly prayed that the reassessment proceedings and the additions made therein be quashed.

14. Per contra, the learned DR relied upon the orders of the authorities below. He pointed out that, even after the stated date of death of the assessee, the return of income for the assessment year 2022-23 was filed on 30.07.2022 through the assessee's e-filing account and was electronically verified in the name of the assessee. He accordingly supported the impugned order and submitted that the grounds raised by the assessee deserved to be dismissed.

15. We have considered the rival submissions and perused the material available on record. The assessee had raised specific grounds before the learned CIT(A) challenging the validity of the reassessment proceedings, inter alia, on the grounds that the notice under section 148 of the Act was issued in the name of a deceased person, the prescribed procedure under sections 148A, 151 and 151A of the Act was not followed, the relevant material was not furnished, and the jurisdictional objections were not properly disposed of by the Assessing Officer.

16. The learned CIT(A), however, treated these objections as technical and procedural in nature and rejected them by making a general reference to the discussion contained in paragraphs 2 to 10 of the assessment order. No independent and specific

findings were recorded on the legal grounds raised by the assessee. At the same time, the learned CIT(A) set aside the assessment and restored the issues on merits to the Assessing Officer for a de novo assessment.

17. In our considered view, the jurisdictional grounds raised by the assessee go to the very root of the reassessment proceedings and require specific adjudication before the additions on merits are examined. The power conferred upon the learned CIT(A) by the proviso to section 251(1)(a) of the Act to set aside an assessment made under section 144 of the Act is discretionary. The exercise of such power does not dispense with the obligation to adjudicate the substantive legal grounds raised in the appeal. A challenge to the very assumption of jurisdiction cannot be rejected merely by describing it as technical or procedural.

18. Further, section 250(6) of the Act requires the appellate order to state the points for determination, the decision thereon and the reasons for such decision. The impugned order does not contain a ground-wise examination of the legal objections or a reasoned conclusion regarding their effect upon the validity of the reassessment proceedings. If the jurisdictional challenge is ultimately found to be sustainable, the question of undertaking a fresh assessment on merits may not survive. Therefore, directing a de novo assessment without first deciding the foundational legal objections may result in avoidable and potentially futile proceedings.

19. We are also conscious of the submission of the learned DR that the return of income for the assessment year 2022-23 was filed on 30.07.2022 through the e-filing account of the deceased assessee and was electronically verified in his name. The effect of this circumstance, together with the explanation offered by the assessee that the return was inadvertently filed by the tax consultant after the death of the assessee, requires examination on the basis of the relevant record. We express no opinion on the merits of either contention.

20. In these circumstances, we set aside the impugned order dated 10.02.2026 and restore the entire appeal to the file of the learned CIT(A) for fresh adjudication. The learned CIT(A) shall first decide all the jurisdictional and legal grounds raised by the assessee by passing a reasoned and speaking order. If the reassessment proceedings are held to be valid, the learned CIT(A) shall thereafter adjudicate the grounds relating to the additions on merits, after considering the evidence and contentions of both sides in accordance with law.

21. The learned CIT(A) shall afford adequate opportunity of hearing to the assessee as well as the Assessing Officer. The assessee is directed to furnish the relevant documents and extend full cooperation in the appellate proceedings. All the contentions of both sides are kept open, and nothing stated herein shall be construed as an expression of opinion on the

validity of the reassessment proceedings or on the merits of the additions.

22. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

23. In the result, the appeal filed by the assessee is **allowed** for statistical purposes.

Order pronounced in the open court on. 13.08.2026.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 13.08.2026
ANKIT, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai