

**In the Income-Tax Appellate Tribunal,
Agra Bench, Agra**

**Before : Shri A.D. Jain, Judicial Member And
Shri Dr. Mitha Lal Meena, Accountant Member**

**ITA No. 32/Agr/2014
Assessment Year: 2009-10**

ACIT/DCIT, Central Circle, Agra (Appellant)	vs.	Sh. Pramod Kumar Mittal, Prop. M/s Geeta Glass Works, 50-Bagh Chingamal, Firozabad PAN : AEKPM 5381 G (Respondent)
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**CO No.06/Agr/2014
[In ITA No. 32/Agr/2014]
Assessment Year: 2009-10**

Shri Anurag Mittal, Late Pramod Kumar Mittal, Prop. M/s Geeta Glass Works, 50-Bagh Chingamal, Firozabad PAN : AEKPM 5381 G (Appellant)	vs.	ACIT, Central Circle, Aaykar Bhawan, Agra (Respondent)
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Appellant by	Shri Waseem Arshad, Sr. DR
Respondent by	Shri Anurag Sinha, Advocate

Date of Hearing	18.06.2018
Date of Pronouncement	07/08/2018

ORDER

Per: Dr. Mitha Lal Meena, A.M:

The appeal by the Revenue and the cross objection by the assessee are filed against the order of Ld. CIT(A)-II, Agra dated 26.09.2013 for AY 2009-10.

2. As per death Certificate on record, the assessee expired on 23.12.2012, before passing of the CIT(A)'s order dated 29.09.2013. The death certificate which is annexed with P.B.1, filed by the assessee.
3. Section 253(2) of the I.T. Act provides that if the, CIT objects to any order passed by the CIT(A) u/s 250, he may direct the AO to file appeal to the ITAT against the order.
4. Rule 14 of the Income Tax (Appellate Tribunal) Rules, 1963 states that in an appeal by the AO u/s 253(2) of the Act, the appellant before the Id. CIT(A) shall be made a respondent to the appeal.
5. In the present case, Shri Anurag Mittal, the assessee, was the appellant before the Id. CIT(A). He, however, expired 23.12.2012, before passing of the CIT(A)'s order.
6. Vide order sheet entries dated 29.05.2018 and 30.05.2018, the Id. DR had sought time to bring the LRs of the deceased assessee on consulting the record. However, it was not so done and otherwise of no help to department because the order of Ld. CIT(A) passed against a dead person is a nullity as the appeal was finally heard on 18.06.2018.
7. The matter stands squarely covered by "CIT Vs. Smt. Santosh Rani", 219 ITR 301 (M.P.), which confirmed the order of the ITAT, holding that appeal against a dead person is a nullity. Accordingly, the impugned order being passed against a dead person and also the present appeal having been filed against a dead person is held to be incompetent and null and void ab initio.

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8. The cross objection is also not maintainable since the impugned order has been passed against a dead person and the cross objection filed by the assessee

contains the grounds challenging the impugned order. Therefore, the cross objection cannot survive and the same is also dismissed.

9. In the result, appeal of the Revenue and Cross objection of the assessee are dismissed.

Order pronounced in the open court on 07/08/2018.

Sd/-

**(A.D. JAIN)
JUDICIAL MEMBER**

Sd/-

**(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER**

Dated 07/08/2018

Aks

Copy of order forwarded to:

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|---------------------------------|--------------------|
| (1) The appellant | (2) The respondent |
| (3) Commissioner | (4) CIT(A) |
| (5) Departmental Representative | (6) Guard File |

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Agra Bench, Agra*

		Date		
1.	Draft dictated /	31.07.2018		PS
2.	Draft placed before author	01.08.2018		PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			PS/PS
6.	Kept for pronouncement on			PS
7.	File sent to the Bench Clerk			PS
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			