

**IN THE INCOME TAX APPELLATE TRIBUNAL
CIRCUIT BENCH, VARANASI
BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.115/ALLD/2012
ITA No. 271/ALLD/2017
Assessment Year: 2008-09**

Smt. Anuradha Aslam, Prop. M/s Rohit Teppic Exports, Plot No. 695, By Pass Road, District Bhadohi, U.P. PAN-ACWPA8139N	v.	Dy. CIT, Range-1, Varanasi
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Sh. A.K. Singh, Sr. DR
Date of hearing:	20.04.2022
Date of pronouncement:	20.04.2022

ORDER

PER VIJAY PAL RAO, JUDICIAL MEMBER

These two appeals by the assessee are directed against the two separate orders of the CIT(A) dated 19.3.2012 and 28.8.2015 arising from the assessment order passed under section 143(3) and penalty order passed under section 271(1)(c) respectively for assessment year 2008-09.

2. Nobody has appeared on behalf of the assessee after filing these appeals. It transpires from the record that the notices issued by this Tribunal were received unserved with the postal remarks "Recipient is expired" as the assessee is not found at the given address. On 21.03.2022, the Bench directed the Assessing Officer to submit a report about the status of the assessee being alive. The learned DR has filed a report of the Assessing Officer alongwith a death certificate of the assessee which reveals that the assessee expired on 23.02.2019. The proceedings of appeal shall continue even after the death of the assessee-

appellant provided the assessee files revised Form No. 36 duly filled up giving revised names of the parties / legal representatives of the assessee and the same shall be duly verified in the manner as required by Rule 47 of the Income Tax Rules, 1962. The procedure for continuation of the appeals before the Tribunal after the death of the party is provided in Rule 26 of ITAT Rules, 1963 as under:-

[Continuation of proceedings after the death or insolvency of a party to the appeal.

“26. Where an assessee whether he be an appellant or the respondent to an appeal dies or is adjudicated insolvent or in the case of a company being wound up, the appeal shall not abate and may, if the assessee was the appellant, be continued by, and if he was the respondent be continued against, the executor, administrator or other legal representative of the assessee or by or against the assignee, receiver or liquidator, as the case may be:

Provided that:

(i) The assessee files a revised Form No. 36 duly filled up giving revised name of the party duly verified in the same manner as required by rule 47 of Income Tax Rules, 1962;

(ii) The revised Form No. 36 shall specify the appeal number as originally assigned or, in the event of non-availability of such number on the date of filing the appeal shall be mentioned in the covering letter to enable the Registrar to place fresh Form No. 36 in the original file.”]

3. Since more than three years has elapsed from the date of the death of the assessee and the legal representatives have not been brought on record by way of filing revised Form No. 36 as provided under Rule 26 of the ITAT Rules, 1963 therefore, these appeals stand abated and liable to be dismissed.

4. Further, the appeal in ITA No. 271/Alld/2017 is filed belatedly and there is a delay of 743 days. Though the assessee has filed a petition for condonation of delay however, the assessee has already expired and the legal representatives of the assessee are not brought on record to prosecute the present appeal therefore, in view of the facts and circumstances of the case, both these appeals are dismissed being abated.

5. In the result, the appeals of the assessee are dismissed.

Order was pronounced in the open court after a conclusion of hearing on 20.04.2022.

Sd/-

[RAMIT KOCHAR]
ACCOUNTANT MEMBER

DATED: 20/04/2022

Varanasi

Sh

Copy forwarded to:

1. Appellant- Smt. Anuradha Aslam
2. Respondent- Dy. CIT, Range-1, Varanasi
3. CIT(A), Varanasi
4. CIT
5. DR

Sd/-

[VIJAY PAL RAO]
JUDICIAL MEMBER

By order
Assistant Registrar