

**IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI**

**BEFORE SHRI ABY T. VARKEY, JM AND SHRI OM PRAKASH KANT, AM**

आयकर अपील सं/ I.T.A. No.4897/Mum/2015  
(निर्धारण वर्ष / Assessment Year: 2005-06)

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आयकर अपील सं/ I.T.A. No.4898/Mum/2015  
(निर्धारण वर्ष / Assessment Year: 2006-07)

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आयकर अपील सं/ I.T.A. No.4899/Mum/2015  
(निर्धारण वर्ष / Assessment Year: 2007-08)

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आयकर अपील सं/ I.T.A. No.4900/Mum/2015  
(निर्धारण वर्ष / Assessment Year: 2008-09)

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आयकर अपील सं/ I.T.A. No.4901/Mum/2015  
(निर्धारण वर्ष / Assessment Year: 2011-12)

Late Davendra Chetandas Ahuja Through Ravi Kiran Agarwal the executor/legal representative of the Estate/Will (Executor Shri Ravi K. Agrawal 502, Raheja Chambers, Nariman Pont, Mumbai-400021.	<b>बनाम/</b> Vs.	DCIT, Central Circle-12 Old CGO Building, Room No. 803, 8 <sup>th</sup> Floor, Mumbai-400020.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAPA8113G</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri Jay Bhansali
Revenue by:	Shri Bomakesh Pradip Kumar Panda (DR)

सुनवाई की तारीख / Date of Hearing: 29/12/2022

घोषणा की तारीख /Date of Pronouncement: 30/12/2022

**आदेश / ORDER**

**PER BENCH:**

These are appeals filed on behalf of assessee Late Davendra Chetandas Ahuja through executor Shri Ravi Kiran Agarwal against the



*ITA Nos. 4897 to 4901/Mum/2015  
A.Ys. 2005-06 to 2008-09 & 2011-12  
Late Davendra Chetandas Ahuja*

order of the Ld. CIT(A)-48, Mumbai dated 27.01.2015 for AY. 2005-06 to AY. 2008-09 and AY. 2011-12.

2. At the outset, it has been brought to our notice that the assessee Shri Davendra Chetandas Ahuja had expired on 20.08.2010 and the assessments before us are pertaining to AY. 2005-06 to AY. 2008-09 and AY. 2011-12. An affidavit has been filed before us, by Shri Ravi Kiran Agarwal son of Shri Suraj Bhan Aggarwal dated 28.09.2015. And from perusal of which (affidavit), it transpires that assessee late Shri Davendra Chetandas Ahuja/assessee had left a will dated 28.02.2008 which inter-alia appointed him as one of the executor of the will. And that he has filed probate petition before the Hon'ble High Court of Bombay (T.P. No. 790 of 2011); and that the will of the assessee has been challenged by one of the legal heir which is pending before the Hon'ble High Court. And it is noted that the affidavit has been filed for inter-alia for condonation of delay, which according to Shri Ravi Kiran Aggarwal happened, due to non-submission of the appeal papers even though the same were signed by him on 30.03.2015 in the capacity of the executor and which was handed over to the assessee's daughter Mrs. Tania Deol. However, he came to know that the assessee's daughter deliberately did not forward the appeal papers duly signed by him to the authorized representative (AR) MGB & Co. LLP. And therefore he got the papers filed on 10.09.2015 and thus there was delay of 157 days for filing of appeal before this Tribunal and therefore he sought condonation of delay. However, it has been brought to our notice that Shri Ravi Kiran Agarwal (executor) has withdrawn to represent the late assessee in the captioned appeals; and though Shri Jay Bhansali requested for adjournment of the appeals, the same has been opposed by the Ld. DR who



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pointed out to us that Form No. 36 filed before this Tribunal was by Shri Ravi Kiran Agarwal in the capacity of executor of will of late assessee and since he has now withdrawn himself to represent the late assessee, according to the Ld. DR, Shri Jay Bhansali AR cannot represent Shri Ravi Kiran Agarwal who himself has withdrawn to represent the late assessee. And therefore, he prays that all the appeals be dismissed. Per contra, the Ld. AR representing Shri Ravi Kiran Agarwal could not controvert the submission of the Ld. DR.

**3.** Having heard both the parties and after perusal of the records, we find that Form No. 36 has been signed by Shri Ravi Kiran Agarwal representing himself as the executor/legal representative of the estate/will of Late Shri Devendra Chetandas Ahuja, against whom assessments were framed. Now it has been brought to our notice that Shri Ravi Kiran Agarwal has withdrawn to represent the late assessee. And it has been brought to our notice that probate petition is sub-judice/lis-pendence before the Hon'ble High Court. We note that as on date, no one is representing the late assessee since Shri Ravi Kiran Agarwal representing himself as the executor and who has signed the Form 36 at the time of filing of appeal before this Tribunal has withdrawn his assent to represent the late assessee; and therefore, only after the Hon'ble High Court decide the probate petition the dispute regarding the legal heir would be sorted out. In such a scenario, there is no point in keeping the captioned appeals pending before this Tribunal. Therefore, we are inclined to dismiss the appeal subject to caveat that once the legal heir is decided by the Hon'ble High Court, the legal heir/executor can take steps to revive the appeals if they prefer to do so. With this observation, we dismiss all the appeals of the assessee.



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4. In the result, all the captioned appeals of the assessee are dismissed.

Order pronounced in the open court on this 30/12/2022.

Sd/-

(OM PRAKASH KANT)  
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 30/12/2022.  
Vijay Pal Singh, (Sr. PS)

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार //Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai