

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "B" : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.900/PUN/2023  
Assessment Year 2011-2012

Shri Shivjeet Vijaysingh Ghatge [Karta of smaller HUF] successor of Bigger HUF Vijaysingh Yeshwantrao Ghatge, Yeshwant Bhavan, Nagala Park, Near Sanjay Ghodawat University, Kolhapur – 416 003 State of Maharashtra. PAN AOTPG6363B	vs	The Income Tax Officer, Ward – 2 (1), Aaykar Bhavan, 31-C/2 E Ward, Tarabai Park, Kolhapur. Maharashtra. PIN – 416 003
Appellant		Respondent

For Assessee :	Shri MK Kulkarni
For Revenue :	Shri M.G. Jasnani

Date of Hearing :	07.11.2023
Date of Pronouncement :	08.11.2023

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee's appeal for assessment year 2011-12, arises against the National Faceless Appeal Centre [in short [the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1052642604(1), dated 08.05.2023, involving proceedings u/s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. It emerges during the course of hearing that a very clinching issue of the maintainability of the instant appeal itself; preferred by the appellant viz., Shri Shivjeet Vijaysingh Ghatge, has arisen. This is for the precise reason that he claims himself to be the “Karthā” of the alleged smaller HUF who is stated to successor Shri Vijaysingh Yeshwantrao Ghatge i.e., the deceased assessee/Individual, in whose name, the Assessing Officer had framed his assessment dated 27.12.2018 u/sec.143(3) r.w.s. 147 of the Act. We note from a perusal of the NFAC’s lower appellate discussion that the deceased-assessee was very much the appellant therein as well. Mr. Kulkarni submits in light of all these facts that the appellant has rightly filed the instant appeal thereby claiming himself to be “Karthā” of the alleged smaller HUF under the provisions of the Act.

3. We find no merit in the appellants submissions at this stage. We wish to make it clear first of all that sec.2(29) of the Act imports definition of a “legal representative” u/sec.2(11) of the Code of Civil Procedure, 1908 reading as under :

*“.....”legal representative” means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued.”*

4. Learned counsel could hardly dispute in light of the foregoing statutory definition that there is no material in the case file which could indicate the appellant to have been representing the estate of the deceased-assessee or intermeddling therein; in any manner; whatsoever. The very factual position continues regarding succession of the deceased-assessee's estate as well as we do not find any record to the effect indicating that this appellant is the latter's successor in very terms. Faced with the situation, we hold the appellant's instant appeal as not maintainable since not fulfilling the statutory requirement(s) u/sec.2(29) of the Act r.w.s. 2(11) of the "CPC" at this stage subject to the rider that it shall be very much open for him to revive the same as and when he satisfies the foregoing statutory parameters subject to all just and exceptions. Ordered accordingly.

5. All other remaining issues are kept open at this stage.

6. This assessee's appeal is dismissed as not maintainable in above terms.

Order pronounced in the open Court on 08.11.2023.

Sd/-  
(DR. DIPAK P. RIPOTE)  
ACCOUNTANT MEMBER

Sd/-  
(SATBEER SINGH GODARA)  
JUDICIAL MEMBER

Pune, Dated 08<sup>th</sup> November, 2023

VBP/-

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The NFAC, Delhi.
4. The Pr. CIT-1, Pune.
5. DR, ITAT, "B" Bench, Pune.
6. Guard File.

BY ORDER,

// TRUE COPY //

Senior Private Secretary  
ITAT, Pune.