

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 961/Ahd/2023
(निर्धारण वर्ष / Assessment Year : 2009-10)

Charumatiben Jitendra Mehta Legal Heir of Late Jitendra Narottamdas Mehta Tropical Lagoon, Tower No.2, Flat No.2604, G.B. Road, Anandnagar, Kevesar, Thane (West) – 400615, Maharashtra	बनाम/ Vs.	The Income Tax Officer Ward-1(2), Bhavnagar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : ACKPM9382P		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Rushin Patel, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri V. K. Mangla, Sr. DR

Date of Hearing	12/02/2024
Date of Pronouncement	14/02/2024

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed at the instance of the assessee is directed against the order dated 22.11.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, arising out of the penalty order dated 13.03.2019 passed by the ITO, Ward-1(2), Bhavnagar, under Section 271(1)(c) r.w.s. 274 of the Income Tax Act, 1961, (hereinafter referred to as ‘the Act’) for Assessment Year 2009-10.

2. The appellant has come up in appeal on the ground that the order impugned has been passed in the name of deceased person, namely, Jitendra Narottamdas Mehta, husband of the appellant who was expired on 06.02.2013. This particular fact is also mentioned in the assessment order, to this effect, Jitendra Narottamdas Mehta Late husband of Charuben Jitendra Mehta i.e. the appellant before us. In spite of that, the order of penalty dated 13.03.2019 was issued in the name of deceased followed by the order impugned passed on 22.11.2023 by the NFAC, Delhi. In that view of the matter, the order is liable to be quashed as was the crux of the submissions made by the Ld. AR before us which has not been able to be controverted by the Ld. DR.

3. Having heard the Ld. Counsels appearing for the parties and having regard to the facts and circumstances of the case, particularly, the order impugned passed in the name of the deceased who passed away long back on 06.02.2013 which is also known to the Revenue authorities, we find the order is not sustainable in the eye of law and, thus, the impugned order of penalty by the Ld. AO upheld by the Ld. CIT(A), is quashed. Appeal preferred by the appellant is allowed.

4. In the result, the appeal preferred by the appellant is allowed.

This Order pronounced on 14/02/2024
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Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad; Dated 14/02/2024
S. K. SINHA

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

True Copy

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

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

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad