

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE “SMC” BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.274/PUN./2024
Assessment Year 2012-2013

Shahaji Tukaram Patil [Deceased] repto. by representative-assessee Smt. Sangeeta Shahaji Patil, House No.464, Patil Galli, Village-Kapuskhed, Taluka-Walwa, Dist. Sangli. PIN - 415 409 PAN AMHPP4079M	vs.	Income Tax Officer, Ward-5, Income Tax Office, Opp. Birnale Medical College, Off Sangli Miraj Road, Sangli. Maharashtra. PIN - 416 416
(Appellant)		(Respondent)

For Assessee :	Shri Amol Kulkarni
For Revenue :	Shri Manish Mehta

Date of Hearing :	19.03.2024
Date of Pronouncement :	17.04.2024

ORDER

This assessee’s appeal for assessment year 2012-13, arises against the National Faceless Appeal Centre [in short the “NFAC”] Delhi’s Din and Order No. ITBA/NFAC/S/250/2022-23/1043669659(1), dated 29.06.2022, 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 at the outset with the able assistance coming from both the parties that the appellant herein Smt. Sangeeta Shahaji Patil is stated to be the wife of the deceased assessee Shri Shahaji Tukaram Patil. Her case all along is that she is the “legal representative” of her husband in light of sec.2(29) of the Income Tax Act, 1961 read with the corresponding provision i.e., sec.2(11)

of the Code of Civil Procedure, 1908. There could be hardly any dispute that the legislature has adopted the definition of a “legal representative” in sec.2(11) of the Code of Civil Procedure *mutatis mutandis* in the Income-tax law. The Code of Civil Procedure defines a “legal representative” as under :

“Sec.2(11).....”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.”

2.1. It is further deemed appropriate to reproduce sec.2(29) of the Income Tax Act, 1961 reading as under :

“Sec.2(29) “legal representative” has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 (5 of 1908);

3. Suffice to say, it is crystal clear that before an applicant seeks to claim the status of “legal representative” under Income-tax law, he/she has to plead and prove the corresponding claim of having “represented the estate of the concerned deceased-assessee”, which has remained un-complied in the instant case. There are no details of the assessee’s estate and the same being represented by this appellant in the case records. Faced with this situation, it is deemed appropriate at this stage to reject the appellant Smt.

Sangeeta Shahaji Patil w/o. late Shri Shahaji Tukaram Patil's claim of being the deceased-assessee's legal representative, subject to a rider that she will be very much at liberty to revive all these appeals as and when the above necessary statutory conditions envisaged u/sec.2(29) of the Act are fulfilled as per law. Her instant appeal I.T.A.No.274/PUN./2024 stand rejected for want of a valid locus at this stage. Ordered accordingly.

All other pleadings on merits stand rendered academic in the instant appeal.

4. This appellant's appeal I.T.A.No.274/PUN./2024 is dismissed in foregoing terms.

Order pronounced in the open Court on 17.04.2024.

Sd/
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 17th April, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.