

IN THE INCOME TAX APPELLATE TRIBUNAL  
NAGPUR “SMC” BENCH : NAGOOR

[THROUGH VIRTUAL HEARING AT ITAT : PUNE]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.175/NAG./2022  
Assessment Year 2017-2018

|   |     |   |
|---|-----|---|
| Kanhaiyalal Jethanand Lakhwani L/H of Chandrawanti Jethanand Lakhwani, 233, Narayan Niwas, Ghas Bazar Road, Lakadganj, Nagpur-440 008 Maharashtra.<br>PAN AAMPL9865G<br>(Appellant) | vs. | The Income Tax Officer, Ward-4(2), Ayakar Bhavan, Civil Lines, Telangkhedi Road, Nagpur – 440 001. Maharashtra.<br>(Respondent) |
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| For Assessee : | Shri Kapil Hirani, C.A.       |
| For Revenue :  | Shri Abhay Y. Marathe, Sr. DR |

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|-------------------------|------------|
| Date of Hearing :       | 19.03.2024 |
| Date of Pronouncement : | 22.04.2024 |

**ORDER**

This assessee’s appeal for assessment year 2017-2018 arise against the National Faceless Appeal Centre [in short the “NFAC”] Delhi’s Din and Order No.ITBA/NFAC/S/250/2021-22/1042351158(1) dated 31.03.2022, involving proceedings u/s.143(3) 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 Shri Kanhaiyalal Jethanand Lakhwani claims to be the legal heir of the deceased assessee Chandrawanti Jethanand Lakhwani. His case all along is that he is the “legal representative” of the deceased assessee 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 Kanhaiyalal Jethanand Lakhwani L/H of late Chandrawanti Jethanand Lakhwani's claim of being the deceased-assessee's legal representative, subject to a rider that the appellant-assessee will be very much at liberty to revive the instant appeal as and when the above necessary statutory conditions envisaged u/sec.2(29) of the Act are fulfilled as per law. The instant appeal I.T.A.No.175/NAG./2022 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.175/PUN./2022 is dismissed in foregoing terms.

Order pronounced in the open Court on 22.04.2024.

[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 22<sup>nd</sup> April, 2024

VBP/-

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

//By Order//

//True Copy //

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