

IN THE INCOME TAX APPELLATE TRIBUNAL

"B" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA no.1062/Mum/2016
(Assessment Year : 2003-04)

Shri Binod Kumar Singh
'A' Wing, 601-602,
Delphi Orchard Avenue,
Hiranandani Business Park, Powai
Mumbai-400076.
PAN – AMXPS1498L

..... Appellant

v/s

ACIT, Central Circle-40
6th Floor, Aaykar Bhavan
Mumbai-400020.

..... Respondent

Assessee by : None
Revenue by : Shri Ashok Kumar Ambastha – Sr. AR

Date of Hearing –08/04/2024

Date of Order – 02/05/2024

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal has been filed by the assessee challenging the impugned order dated 20/01/2016 passed under section 250 of the Income Tax Act, 1961 (*"the Act"*), by the learned Commissioner of Income Tax (Appeals)-49, Mumbai [*"learned CIT(A)"*], which in turn arose from the penalty order dated 25/03/2014 passed under section 271(1)(c) of the Act, for the assessment year 2003-04.

2. When the present appeal was called for hearing neither anyone appeared for/on behalf of the assessee nor was any application seeking adjournment filed. Therefore, we proceed to decide this appeal ex-parte qua the assessee, after hearing the learned Departmental Representative.

3. From the perusal of the record, we find that the present appeal was initially listed for hearing from 27/12/2017 till 18/11/2019. However, pursuant to the letter dated 18/11/2019 filed by the learned Authorised Representative ("*learned AR*") of the assessee, the present appeal was adjourned sine die and is now posted for hearing for the first time thereafter. From the perusal of the aforesaid letter dated 18/11/2019, we find that the learned AR sought an adjournment on the basis that the assessee, Shri Binod Kumar Singh, has expired on 08/05/2019 and his legal heirs are yet to be brought on record. In this regard, the learned AR also furnished a copy of the medical certificate of cause of death issued by Aster Hospital, Bengaluru. Thus, accepting the request of the learned AR, the bench adjourned the matter sine die. It is evident from the record that since the last date of hearing, i.e. on 18/11/2019, till date no efforts have been made on behalf of the assessee to bring the legal heir on record, despite the fact that almost 5 years have elapsed since the death of the assessee.

4. Accordingly, in view of the aforesaid facts and circumstances, we are of the considered view that the present appeal filed by the assessee is not maintainable in its current form as the assessee has already expired on 08/05/2019 and his legal heir has not been brought on record. As a result, the present appeal is dismissed. However, liberty is granted, if in the future the

legal heir of the assessee wishes to pursue the present appeal then the modified Form No.36 be filed with the appropriate prayers and necessary supporting documents.

5. In the result, the appeal by the assessee is dismissed with the above directions.

Order pronounced in the open Court on 02/05/2024

Sd/-
PRASHANT MAHARISHI
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 02/05/2024

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

True Copy
By Order

Assistant Registrar
ITAT, Mumbai