

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SMT. RENU JAUHARI, ACCOUNTANT MEMBER**

**ITA No.283/MUM/2024  
Assessment Year: 2008-09**

<b>Shri Viren Panchand Vora HUF through Karta - Bimal V Vora,</b> 1/41 Tardeo Road, Tardeo Airconditioned Market, Mumbai - 400034 <b>PAN: AAAHV2465G</b>	Vs.	<b>Income Tax Officer, Ward-19(3)(5),</b> Room No.201, 2 <sup>nd</sup> Floor, Matru Mandir Tardeo, Grand Road, Mumbai - 400007
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Jitendra Singh, A.R.  
Revenue by : Shri Nagnath Pasale, D.R.

Date of Hearing : 27 . 05 . 2024  
Date of Pronouncement : 29 . 05 . 2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the assessee against the order dated 29.11.2023, impugned herein, passed by the Additional/Joint Commissioner of Income Tax (Appeal)-2, Delhi (in short "**First Appellate Authority**") under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2008-09.

**2.** In the instant case, the Assessing Officer (AO) vide assessment order dated 09.03.2016 under section 143(3) of the Act made the addition of Rs.3,36,026/- under section 69C of the Act, as unexplained expenditure.

**3.** The assessee, being aggrieved, challenged the said addition by filing first appeal. First appellate authority during the appellate proceedings though issued various notices to the assessee, however, the assessee preferred not to file any reply/document, therefore in the constrained circumstances, the first appellate authority by holding that it is apparent that the assessee has not shown any interest in pursuing his appeal, dismissed the appeal of the assessee.

**4.** We have given thoughtful considerations to the impugned order wherefrom it appears that in spite of affording opportunities, the assessee made no compliance. However, before us Ld. AR of the Assessee by filing death certificate, claimed that Shri Viren Panchand Vora HUF, the assessee herein has already died on 05.11.2020 and therefore could not appear before the first appellate authority and consequently opportunity of being heard may be given to the legal heirs of the assessee to represent the assessee's case.

We, by considering the reason given by the assessee's A.R. as bonafide and genuine, are inclined to set aside the impugned order and consequently remanding the instant case to the file of the First appellate authority to decide the appeal of the assessee afresh, suffice to say by affording reasonable opportunity to the assessee's legal heirs to represent the assessee's case.

**5.** Assessee's Counsel is also directed to file the relevant details of the legal heirs of the assessee before the First appellate authority who shall take appropriate action for impleading the legal heirs of the assessee in place of the assessee in the record.

**6.** Thus, the case is remanded accordingly.

**7.** In the result, the appeal filed by the assessee stands allowed for statistical purposes.

**Order pronounced in the open court on 29.05.2024.**

**Sd/-  
(RENU JAUHARI)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.