



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.96/CTK/2024**  
Assessment Year : 2017-18

Surendra Biswal, At/POPS: Astaranga, Dist: Puri	Vs.	Asst. Commissioner of Income Tax, Circle-5(1), Bhubaneswar.
PAN/GIR No.AFFPB 0343 D		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri P.K.Mishra, Adv  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 06/06/2024**  
**Date of Pronouncement : 06/06/2024**

**ORDER**

**Per Bench**

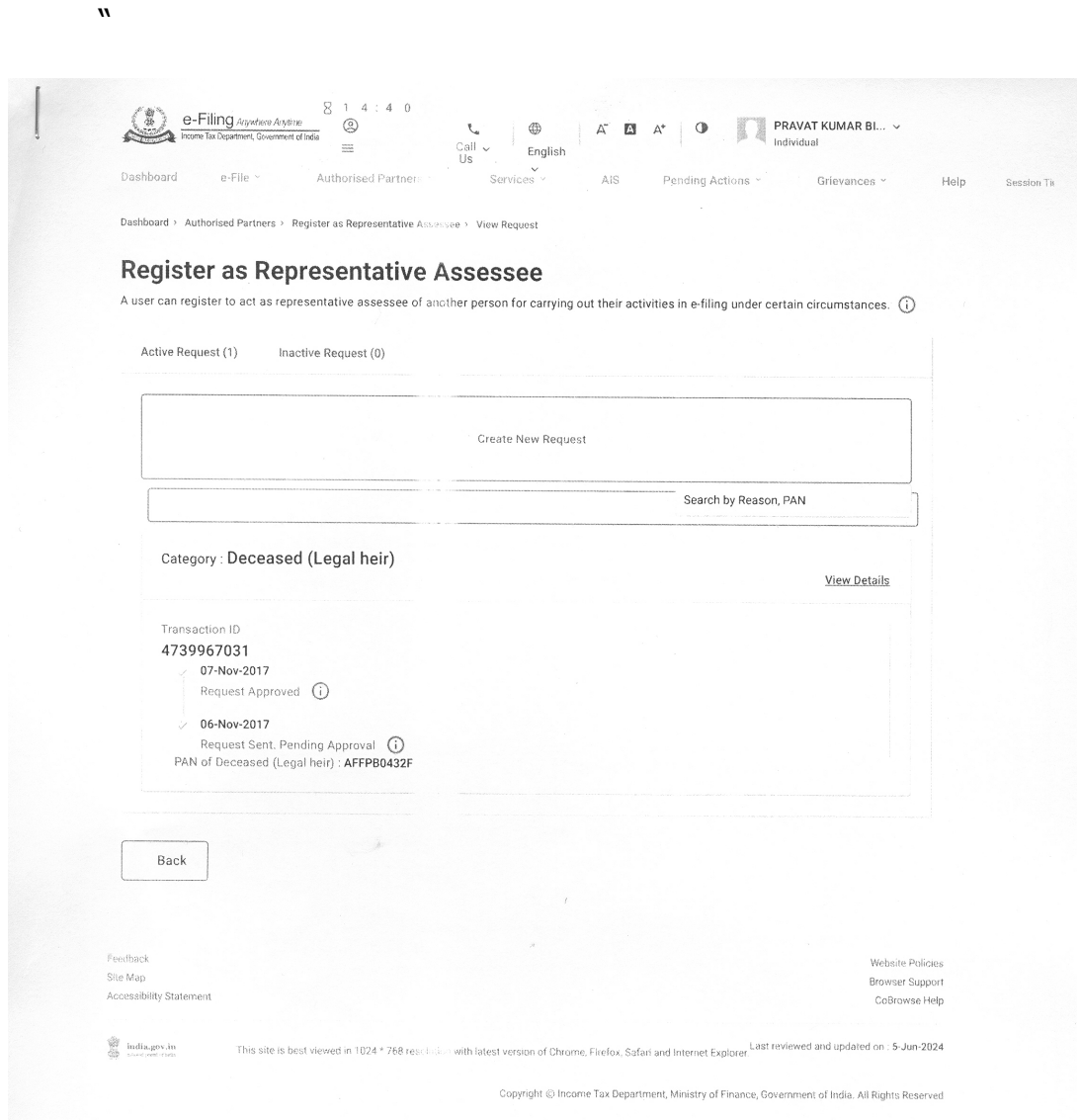
This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 28.4.2022 in Appeal No.CIT(A), Bhubaneswar-2/10273/2019-20 for the assessment year 2017-18.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri S.C.Mohanty, Ld Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the assessee, Surendra Biswal died on 10.1.2017. The death of the assessee was intimated and the legal

representative was registered on 7.11.2017 before the Assessing Officer.

The copy of the registration shown as legal heir, is as follows:



4. It was the submission that the Assessing Officer issued notice u/s.142(1) of the Act on 13.12.2017 on the deceased assessee. It was the submission that the assessment was invalid. It was the submission that the legal heir of the assessee had filed the appeal before the Id CIT(A) and as

the legal heir did not have access to the portal of the deceased assessee, he did not know of the date of hearing and it was only when the demand was being attempted to be enforced, he came to know that the order has been passed by the Id CIT(A). He submitted that immediately thereafter the appeal was filed with a delay of 610 days. It was the prayer that the delay in filing of the appeal may be condoned and the appeal allowed.

5. In reply, Id Sr DR vehemently supported the order of the AO and Id CIT(A).

6. We have considered the rival submissions. The reason for the delay is found to be satisfactorily explained. Consequently, the delay is condoned and the appeal is disposed on merits. A perusal of the facts in the present case clearly shows that the present appeal has been filed by Shri Pravat Kumar Biswal, the legal heir of the deceased assessee Surendra Biswal. The death certificate of Surendra Biswal also shows that he died on 10.1.2017. The registration of the representative of the assessee also shows that Sri Pravat Kumar Biswal, an individual has registered himself as the Legal Heir of the assessee on 6.11.2017 and the same was approved on 7.11.2017. A perusal of the assessment order shows that notice u/s.142(1) of the Act in the case of deceased assessee has been issued on 13.12.2017 much after the death of the assessee and registration of the representative of the assessee. This being so, as the assessment has been made on a

dead person, the assessment order passed by the AO and confirmed by the Id CIT(A) stands quashed.

7. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 06/06/2024.

Sd/-

**(Manish Agarwal)**

ACCOUNTANT MEMBER

Cuttack; Dated 06/06/2024

B.K.Parida, SPS (OS)

sd/-

**(George Mathan)**

**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The appellant: Surendra Biswal, At/POPS:  
Astaranga, Dist: Puri
2. The respondent: Asst. Commissioner of  
Income Tax, Circle-5(1), Bhubaneswar.
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Bhubaneswar
5. DR, ITAT,
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**