

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER &
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 838/Ahd/2016

(निर्धारण वर्ष / Assessment Year :2010-11)

Kaushik G. Rathod 95, Mahajanvas, Opp: St. Workshop, Naroda Road, Ahmedabad - 382345	बनाम/ Vs.	ITO Ward - 3(4), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AGGPR3570C		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से/Appellant by :	None.
प्रत्यर्थी की ओर से/Respondent by:	Shri HishikesHementPatki, Sr. DR

Date of Hearing	09/05/2024
Date of Pronouncement	07/06/2024

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-7, Ahmedabad, (in short ‘the CIT(A)’) dated 11.01.2016 arising out of the assessment order passed u/s.144 r.w.s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’)for the A.Y. 2010-11.

2. The brief facts of the case are that the assessee had filed return of income for A.Y. 2010-11 on 27.07.2010 declaring total income of Rs.1,56,650/-. In the course of the assessment, the AO had made addition in respect of cash deposited in saving bank account Rs.66,04,800/-,

unexplained investments in shares Rs.3,54,31,986/- and profit from contract receipt Rs.2,01,844/- and the assessment was completed at total income of Rs.4,23,95,280/-.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the CIT(A) which has been decided vide the impugned order. The assessee has taken the following grounds in this appeal:

- “(1) That on facts and in law, the learned CIT (A) has grievously erred in holding that the return of income was filed by the appellant, whereas, in fact, the return is filed fraudulently by someone else.*
- (2) That on facts, and in law, the learned CIT(A) has grievously erred in holding that the Axis. Bank Account at Mumbai is opened by, belonging to, and operated by the appellant.*
- (3) That on facts and evidence on record, it ought to have been held that the said bank account is fraudulently opened and operated in appellant's name by someone else on the basis of forged documents, and the transactions in the said account do not pertain to the appellant.*
- (4) That the learned CIT (A) has grievously erred in law and on facts in confirming the addition of Rs. 66,04,800/- in respect of unexplained cash deposits in the Axis Bank account at Mumbai.*
- (5) That the learned CIT (A) has grievously erred in law and on facts in confirming the addition of Rs. 3,54,31,986/- in respect of unexplained investments in shares reflected as transactions in the Axis Bank account at Mumbai.*
- (6) That on facts, and in law, the learned CIT (A) has grievously erred in confirming the addition of Rs. 2,01,844/- in respect of profit on contract receipts.”*

4. It is seen from the order sheet noting that assessee was granted 50 opportunities but no compliance was made on his behalf. Shri M. K. Patel, Id. Counsel for the assessee was representing his case earlier. He had filed an adjournment application dated 31.01.2024 informing that the assessee had expired and that time was required to bring the legal heirs on record. The contents of the said letter are reproduced below:

Phones	M.K.Patel B. Com., LL.B., Advocate	Office "ANISON" A/4, Swastik Society, Opp: Kamal Complex, Nr. Stadium Circle Ahmedabad - 380 009.
Office : 2656 0009		
Mobile : 98250-32787		
Resi. : 2686 1407		
E-mail : mkp507@gmail.com		High Court Advocate's Chamber No.109

BEFORE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD BENCH 'C'
A H M E D A B A D

ITA.No.838/Ahd/2016

Kaushik G. Rathod **.....Assessee**

The Advocate for the assessee above named most respectfully begs to submit as under:-

2. That the hearing of the above appeal is fixed on 01/02/2024. However, the assessee has Expired, and some more time is required to bring the Legal Heirs on record. More over it is humbly prayed that a notice of hearing may kindly be issued to the assessee, and oblige.

3. In the circumstances it is kindly requested that the hearing of the above appeal may kindly be adjourned and oblige.

4. Inconvenience caused is highly regretted.

A H M E D A B A D)
DATE: 31.01.2024)

Ads to 27/3/2024
P
[Signature]
(MEHUL K. PATEL)
Advocate

5. However, the legal heirs of the assessee were not brought on record and an identical letter for adjournment was again filed by the Ld. counsel on 26.03.2024. Thereafter, vide letter dated 06.05.2024, the Id. Counsel had informed that since the assessee had expired and he was not able to get any instructions from the legal heirs, he requested to permit him to withdraw appearance in this appeal.

6. It is seen that in spite of ample opportunities, neither the death certificate of the assessee nor the legal heirs of the assessee has been brought on record in order to file revised Form No.36. We cannot adjudicate the appeal on a dead person, namely, Shri Kaushik G. Rathod. We have allowed sufficient opportunity to the assessee but neither the legal heirs have been brought on record nor the Form No. 36 has been revised. The death of the assessee has been confirmed by the Id. Counsel for the assessee through his various letters before he sought permission to withdraw appearance in this case. In view of these facts, the appeal filed by the assessee is liable to be dismissed for not bringing the legal heirs on record.

7. In the result, appeal preferred by the assessee in ITA No. 838/Ahd/2016 is hereby dismissed as not maintainable.

This Order pronounced on 07/06/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER
Ahmedabad; Dated 07 /06/2024
S. K. SINHA

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad