

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

ITA No.1265/Del/2024  
Assessment Year 2012-13

<b>Late Shri Lal Singh</b> <b>(Legal Heir, Shri Narender)</b> H. No. 355, Street No.9, Near Harijan Choupal, Sector-20 Dundahera, Gurguram Haryana```	Vs.	<b>ITO,</b> Ward-2(1) Gurugram
TAN/PAN: AUTPS1544C		
(Appellant)		(Respondent)

Applicant by:	Shri Mahfazur Rahman, Chartered Accountant		
Respondent by:	Shri Om Prakash, Sr.DR		
Date of hearing:	20	06	2024
Date of pronouncement:	20	06	2024

**ORDER**

**PER PRADIP KUMAR KEDIA - A.M.:**

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-ADDL/JCIT(A)-1, Delhi ['CIT(A)' in short] dated 24.01.2024 arising from the assessment order dated 16.12.2019 passed by the Assessing Officer (AO) under Section 143(3) r.w. Section 147 of the Income Tax Act, 1961 (the Act) concerning A.Y. 2012-13.

2. As per the grounds of appeal, the assessee has challenged the *ex-parte* order passed by the CIT(A) and endorsement of the additions / disallowances made in assessment order.

3. When the matter was called for hearing, the ld. counsel for the assessee submitted at the outset that the assessment order was

passed on 16.12.2019. The assessee died on 20.07.2020. The first appellate order was passed on 24.01.2024. At the time of passing the first appellate order, the assessee was no more. The first appellate order was however passed in the name of the deceased-assessee. The legal heir Shri Narendra has been brought on record in February, 2024. The Id. counsel thus submitted that *ex-parte* order in the circumstances is opposed to the principle of natural justice and therefore, deserves to be set aside and an opportunity should be given afresh to the legal heir of the assessee to address the First Appellate Authority on different aspects of the case.

4. The Id. DR for the Revenue submitted that it is left to the wisdom of the Tribunal to decide the issue as deemed expedient.

5. I have carefully considered the submissions made on behalf of the assessee and perused the case records.

6. In the circumstances where the assessee has died before passing of the first appellate order, the first appellate order drawn in the name of deceased assessee is contrary to the scheme of the Act. The *ex-parte* order is also unjust and unfair in the circumstances resulting in grave prejudice to the survivor / heir of the assessee.

7. Hence, without going into the merits of the case, the first appellate order is set aside and restored to the file of the CIT(A). The assessee shall be at liberty to address all the issues connected to the appeal and adduce such evidences as he may rely upon in support of his plea before the CIT(A). The legal heir shall be taken on record by the CIT(A). The CIT(A) shall adjudicate the issues involved afresh in accordance with law after giving proper

opportunity to the assessee.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order was dictated and pronounced in the open Court on 20<sup>th</sup> June, 2024.**

Sd/-

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**

DATED: June, 2024  
*Prabhat*