

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.1119/Bang/2024
Assessment Years : 2017-18

Late Rajendra Padma, Rep by Legal Heir : M Rajendra 1162, G & H Block, Kuvempunagar, Mysore-570 023. PAN – AHAPP 2215 P	Vs.	The Income Tax Officer, Ward-1(4), Mysore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Tharun Kothari, C.A
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Dep.

Date of hearing	:	31.07.2024
Date of Pronouncement	:	07.08.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER :

This is an appeal filed by the assessee against the order passed by the Addl/JCIT(A)-1, Jaipur dated 23/04/2023 vide DIN No.ITBA/APL/S/250/2024-25/1064285346(1) for the assessment year 2017-18.

2. At the outset, the Id. Counsel for the assessee before us submitted that the assessee failed to appear during the proceedings before the Id. CIT(A) and, therefore, the Id. CIT(A) passed ex-parte order and confirmed the addition made by the AO in te assessment framed u/s 143(3) of the Act. It was submitted by the Id. AR that the

assessee died during the pendency of appeal before the Id. CIT(A). To this effect, the Id. AR filed the death certificate of the assessee, which is available on record. The Id. AR further submitted that the Id. CIT(A) has passed the order in the name of deceased assessee. Thus, it was prayed by the Id. AR to restore the issue to the file of the Id. CIT(A) for fresh adjudication in the name of the legal heir of the assessee. The Id. AR furnished the necessary details against the addition made by the AO as well as the details of legal heir of the assessee for passing fresh order in the name of legal heir as per the provisions of law.

3. On the contrary, the Id. DR did not arouse any objections if the matter is set aside to the file of the Id. CIT(A) for fresh adjudication as per the provisions of law.

4. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that there is enough time gap between death of the assessee vis-a-vis when the order was passed by the Id. CIT(A). As such, the date of the death of the assessee is 27/06/2021, whereas the order was passed by the Id. CIT(A) dated 23/04/2024 and in between various opportunities were granted to the assessee to place his contentions but there was no compliance. Be that as it may be, considering the death of the assessee, we are inclined to give one more opportunity to the legal heir of the assessee for making their submission to the Id. CIT(A). It is also pertinent to note that the legal heir of the assessee shall not seek any adjournment without just cause. Accordingly, we set aside the issue to the file of Id. CIT(A) for fresh adjudication as per the provisions of law. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in court virtually on 7th day of August, 2024

Sd/-

(BEENA PILLAI)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 7th August, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore