

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'SMC', CHANDIGARH

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
DR KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. **22/CHD/2024**

निर्धारण वर्ष / Assessment Year : 2017-18

Late Shri Rajesh Chabra, Legal Heir Ankur Chhabra, Prop. M/s Roshan Lal & Sons, Moti Nagar, Ludhiana 141009	Vs. बनाम	ITO 1(3), Ludhiana
स्थायी लेखा सं./PAN No: AAUPC1499D		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ RESPONDENT

(Physical Hearing)

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT , Sr.DR

सुनवाई की तारीख/Date of Hearing : 13.08.2024
उद्घोषणा की तारीख/Date of Pronouncement : 14.08.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

The appeal in this case has been filed by the Assessee against the order dated 21.12.2023 of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.

2. Grounds of appeal taken by the Assessee are as under: -

1. *That the Ld. CIT(A) has erred in passing the order Ex-parte without giving proper/reasonable opportunity of being heard and has failed to appreciate That there was a reasonable cause in not submitting the reply on the merits of the case.*

2. *That the Ld. CIT(A) has erred in passing the order in the name of Deceased person, though the appeal was filed by the legal hair 'Sh. Ankur' who has been registered as a 'Representative Assessee' of the deceased assessee in the income tax account portal and thus, the order passed against the deed person by the Ld. CIT(A) is void ab-initio as per the following judgment :-*

- i) *Shaikh Abdul Kadar Vs. ITO (1985) 34 ITR 451 (MP High Court).*
- ii) *CIT Vs Kumari Prabhwati Gupta 231 ITR 188 (All. High Court)*
- iii) *CIT Vs Suresh Chandra Jaiswal 325 ITR 563 (All.)*

AND the above judgments have been followed by the Hon'ble ITAT Chandigarh Bench bearing ITA No. 329/CHD/2023.

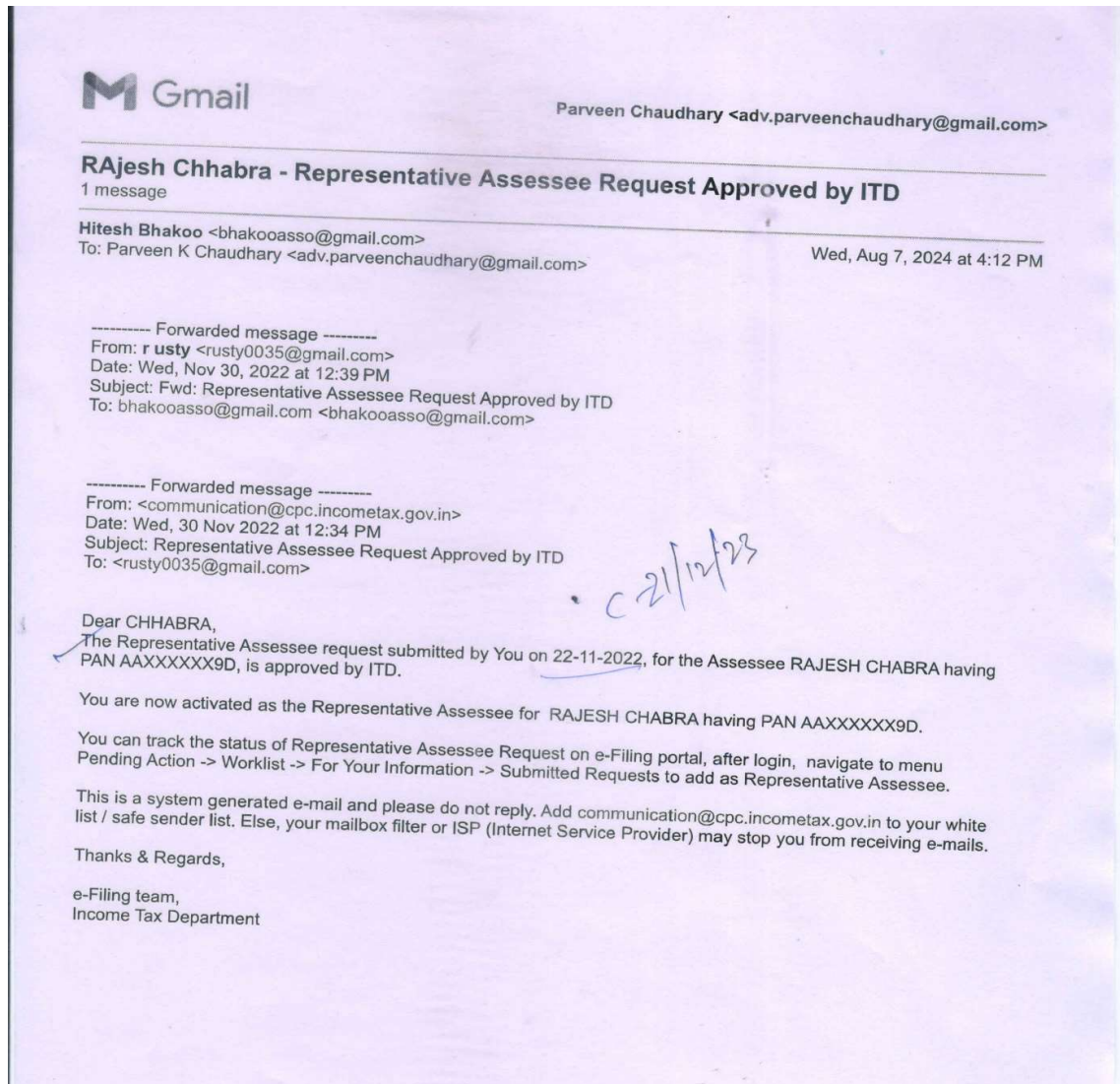
3. *Notwithstanding the above said ground of appeal it is submitted that the Ld. CIT(A) has erred in confirming the order of the Assessing Officer in reopening of the case u/s 148 and further there was no reason to believe that the income of the assessee had escaped assessment.*

4. *That the Ld. CIT(A) has erred in confirming the addition of Rs. 24,80,000/- on account of deposits in the bank account out of his Karyana Business.*

5. *The appellant craves for leave to add or amend any grounds of appeal during the course of appellate proceedings.*

3. At the very outset, the ld. Counsel for the Assessee brought it to the notice of the Bench that the order passed by the ld. CIT(A) in the name of Late Sh. Rajesh Chabra while the appeal was filed by his legal

heir Shri Ankur Chhabra. The Id. Counsel also argued that this order is void ab initio because there are many decisions / judgments of different Tribunals and High Courts which have held that an order passed in the name of deceased person is void ab initio. The Id. Counsel also filed a copy of the Representative Assessee's request approved by ITD dated 30.11.2022, scanned copy of which is as under:-



4. The ld. DR relied on the order of the CIT(A).

5. We have considered the CIT(A)'s order, the arguments of the ld. Counsel for the Assessee and case laws relied upon by the Assessee as well as the arguments made by the ld. DR during the proceedings before us. The ld. Counsel has brought on record an order of Coordinate Bench of the Tribunal in the case of 'Shri Amrit Paul Goyal vs. The DCIT', ITA No. 329/Chd/2023 order dated 4.1.2024, the relevant part of the order is reproduced as under:-

"7. We have heard the parties and have perused the material on record. It is found that Smt. Neelam Goyal filed her return of income for assessment year 2019-20 and has also filed the appeal before this Tribunal as Legal Heir. It is noted that ld. PCIT was wrong in passing the order in the name of deceased person namely Late Shri Amrit Paul Goyal as it was already in the knowledge of the Department that Shri Amrit Paul Goyal had died on 12.07.2018 and Smt. Neelam Goyal had been approved as the representative of deceased on 15.09.2018. Accordingly, the order passed by the Assessing Officer as well as ld. PCIT in the name of the dead person is void abi-nitio. We find support from the following judgements:

i) Shaikh Abdul Kadar Vs ITO (1958) 34 ITR 451 (MP High Court)

- ii) *CIT Vs Kumari Prabhawati Gupta, 231 ITR 188 (All. High Court)*
- iii) *CIT Vs Suresh Chandra Jaiswal 325 ITR 563 (All).”*

6. We have also considered the various judicial pronouncements and orders brought on record by the ld. counsel of the Assessee and we are of this considered view that the appeal before the ld. CIT(A) was filed by Shri Ankur Chhabra, Legal Heir of late Shri Rajesh Chabra but the order passed by the ld. CIT(A) dated. 21.12.2023 has been passed in the name of the deceased person late Shri Rajesh Chabra. Thus, it is noted that the ld. CIT(A) was wrong in passing the order in the name of a deceased person namely Late Shri Rajesh Chabra as it was already in the knowledge of the Department that Shri Rajesh Chabra had already died on 7.10.2022 and Shri Ankur Chhabra had been approved as a representative / legal heir on 30.11.2022. Accordingly, the order passed by the ld. CIT(A) in the name of dead person is void ab initio. We find support from the following judgements: -

- i) *Shaikh Abdul Kadar Vs ITO (1958) 34 ITR 451 (MP High Court)*
- ii) *CIT Vs Kumari Prabhawati Gupta, 231 ITR 188 (All. High Court)*
- iii) *CIT Vs Suresh Chandra Jaiswal 325 ITR 563 (All).”*

7. Accordingly, the order passed by the ld. CIT(A) is quashed and the appeal of the Assessee stands allowed.

8. In the result, appeal is allowed.

Order pronounced on 14 .08.2024.

Sd/-
(A.D. JAIN)
Vice President

Sd/-
(DR KRINWANT SAHAY)
Accountant Member

“आर.के.”

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar