

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"G" BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.4426/MUM/2024**

**(Assessment Year :2014-15)**

**Late Suresh Chandra Munilal Sharma**

(through Legal Heir Kuldeep

Sureshchandra Sharma),

Flat No.121, Malhar CHS,

Film City Road, Mumbai,

Goregaon (E),

Maharashtra - 400063

PAN:AAEPS5964M

..... Appellant

v/s

**ITO, Circle – 26(1)**

Room No.302, 3<sup>rd</sup> Floor,

Kautilya Bhavan, C-41 to C-43,

G – Block, Bandra Kurla Complex,

Bandra (E), Mumbai

Maharashtra - 400051

..... Respondent

Assessee by :None

Revenue by : Shri BhangapatilPushkaraj Ramesh, Sr.DR

Date of Hearing – 15/10/2024

Date of Order 17/10/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the legal heir on behalf of the assessee challenging the impugned order dated 03/07/2024 passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned

Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

2. In this appeal, the assessee has raised the following grounds: -

*"Legal Ground*

*1. The Ld National Faceless Appeal Centre [hereinafter referred to as 'NFAC'] erred in passing the order under section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'Act'] dated 03.07.2024 in the name of a deceased person. Thus, the order dated 03.07.2024 is bad-in-law. The Appellant passed away on 01.04.2023 and it was duly informed to Assessing Officer through Indemnity Letter issued by Kuldeep Sureshchandra Sharma (legal heir of SureshchandraMunnial Sharma).*

*Principle Of Natural Justice*

*2. The Ld NFAC erred in passing the impugned order dated 03.07.2024 without providing the Appellant an appropriate opportunity of being heard as the notices issued dated 31.05.2024 and 07.06.2024 which were not received by Appellant's legal heir. Hence, the said order is in violation of principles of natural justice.*

*Merits*

*3. The Ld NFAC has erred in confirming the action of the Assessing Officer of determining total income at Rs. 81,40,697/- as against the returned income of Rs 48,41,830 by not allowing deduction under section 54 amount to Rs 27,99,842/-.*

*4. The Ld NFAC has erred in confirming the action of the Assessing Officer and in making addition of Rs. 27,99,842/- by disallowing deduction of long-term capital gain under section of 54 of the Income Tax Act, 1961. The Ld. Assessing Officer has denied the deduction under section 54, just because the appellant has purchased new residential house property for residing purpose is a farm house."*

3. At the outset, from the perusal of the record, we find that the learned CIT(A) issued notice to the assessee on 10/08/2022, which was responded to by the assessee on 23/08/2022 and 02/12/2022. However, the assessee expired on 01/04/2023, i.e., during the appeal's pendency before the learned CIT(A). It is evident from the record that the learned CIT(A) issued another notice on 31/05/2024. As per the assessee's legal heir, the said

notice was not received. Further, another notice issued on 07/06/2024 by the learned CIT(A) was also not received by the assessee's legal heir. Thus, it is claimed that the impugned order has been passed without affording reasonable opportunity of hearing.

4. Having considered the submissions and perused the material available on record, we are of the view that learned CIT(A) should have passed the order after affording reasonable opportunity of hearing to the assessee's legal heir. Accordingly, we deem it appropriate to restore the appeal to the file of the learned CIT(A) for *de novo* adjudication after affording the reasonable and adequate opportunity of hearing to the assessee's legal heir. With the above directions, the impugned order is set aside and the grounds raised in the appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 17/10/2024

**Sd/-**  
**AMARJIT SINGH**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 17/10/2024**  
*Prabhat*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai