

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No. 3134/DEL/2024

[Assessment Year: 2017-18

Mohammed Umar L/H of Mrs. Razia Nishat, 281, Gagan Vihar, New Delhi-110051 PAN: AADPN 9321 N	<u>Vs</u>	DCIT, Circle-58(1), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri K. Sampath, adv.; Shri V. Rajkumar, Adv.; and Shri Harshit Chauhan, Adv.	
Respondent by	Shri Yogesh Sharma, Sr. DR	
Date of hearing	07.11.2024	
Date of pronouncement	18.11.2024	

ORDER

PER SATBEER SINGH GODARA, JM:

This assessee’s alleged legal representative “LR’s” appeal, for assessment year 2017-18 arises against National Faceless Appeal Centre (NFAC), Delhi’s DIN and order no. ITBA/NFAC/S/250/2024-25/1064875337(1), dated 14.05.2024, in case no. NFAC/2016-17/10148100, in proceedings u/s 250 of the Income-tax Act, 1961, hereinafter referred to as the “Act”.

Heard both the parties at length.

2. Suffice to say, it emerges during the course of hearing that the appellant herein Shri Mohammed Umar claims himself to be the legal heir (LR) of the

deceased assessee Smt. Razia Nishat, who is stated to have left for her heavenly abode.

3. Shri Sampath vehemently submits that the learned CIT(A)/ NFAC herein has not even passed a speaking order on merits, much less that in compliance to Section 250(6) of the Act, and, therefore, the matter deserves to be restored back for yet another hearing of lower appellate proceedings.

4. It transpires during the course of hearing that although the appellant herein claims himself as the deceased assessee's legal representative, being her son, there are no details forthcoming as to whether he satisfies mandate of the relevant statutory provision i.e section 2(29) of the Act, which adopts the definition of a 'legal representative' provided in section 2(11) of the Code of Civil Procedure, 1908 that a legal representative means "a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate of the deceased.....".

5. Learned counsel at this stage first of all quotes Rule 26 of the Income-Tax (Appellate Tribunal) Rules, 1963 that a deceased assessee's case; be that as an appellant or the respondent, continues unabated and that case law (2018) 403 ITR 36 (Calcutta) Arvind Kayan v. Union of India has decided the very issue in appellant's favour regarding status of a legal representative.

6. I find no merit in the assessee's foregoing twin argument as Rule 26 of the Appellate Tribunal Rules (supra), nowhere defines the status of a legal representative other than that in Section 2(29) of the Act. It is reiterated that the appellant has not filed any evidence on record satisfying either of the twin conditions that he is representing the estate of the deceased assessee or intermeddles with it, as the case may be. So far as his reliance on the foregoing

case law is concerned, it is noticed that department itself had initiated section 159 proceedings against the said taxpayer which is not the case in the instant appeal. I, accordingly, reject the appellant's claim as the deceased assessee's legal representative in very terms with a rider that it shall be indeed open for him to institute a fresh appeal as and when he satisfies the rigor of section 2(29) of the Act read with section 2(11) of the Code of Civil Procedure, 1908. Ordered accordingly.

7. The appellant's appeal is dismissed in above terms.

Order pronounced in open court on 18.11.2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI