

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH-C : NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No.31/Del/2023
Assessment Year : 2015-16

Smt. Jasbir Kaur,
(Legal Heir of Lt. Shri
Harbhajan Singh Chadha),
455, Civil Lines,
Moradabad – 244 001.
PAN : ACKPC9645F.
(Appellant)

Vs. Deputy Commissioner of
Income Tax,
Central Circle-29,
New Delhi.

(Respondent)

Appellant by : Shri Salil Kapoor, Ms. Ananya Kapoor
and Shri Tarun Chanana, Advocates.
Respondent by : Shri Dayainder Singh Sidhu, CIT-DR.

Date of hearing : 25.11.2024
Date of pronouncement : 25.11.2024

ORDER

Per Naveen Chandra, AM :

This appeal by the assessee is arising out of the order of learned Commissioner of Income-tax (Appeals)-30, New Delhi dated 31st October, 2022 for the assessment year 2015-16.

2. At the outset, learned counsel for the assessee raised a preliminary issue that the penalty order is passed on a dead person. He drew our attention to the assessment order which is passed on the legal heir and referred to clause (1) and (2) of the order of the Assessing Officer mentioned at page 1, which read as under :-

- “1. Name of the Assessee : Smt. Jasbir Kaur
(Legal heir of Lt. Sh. Harbhajan Singh Chadha)
2. Address of the Assessee : 455, Civil Lines, Moradabad
Uttar Pradesh – 244001.”

3. Learned Counsel stated that this order is dated 1st March, 2021. He stated that the penalty order under Section 271(1)(c) of the Act was passed

by the Assessing Officer on dead person i.e., in the name of the assessee and relevant preface of page 1 reads as under :-

1.	PAN	ACKPC9645F
2.	Name of the assessee	HARBHAJAN SINGH CHADHA
3.	Address of the assessee	455, Civil Lines, Pili Kothi Civil Lines, Moradabad 244001, Uttar Pradesh, India
4.	Assessment year	2015-16
5.	Status	Individual
6.	Amount of Penalty	Rs.2085093
7.	Date of Order	27/08/2021
8.	DIN	ITBA/PNL/F/271(1)(c)/2021- 22/1035155019(1)

4. Learned Counsel stated that once the penalty order is passed on a dead person, it has no locus standi and has to be declared null and void. He stated that the assessee died on 22nd December, 2020, which is much before the passing of the assessment order as well as penalty order. Hence, this penalty order will not survive and has to be quashed.

5. On query from the Bench, learned CIT-DR could not controvert the said position and did not make any argument.

6. After going through the facts of the case, we are of the view that the penalty order passed under Section 271(1)(c) of the Act by the Assessing Officer is clearly on a dead person. No order will survive if passed on a dead person without impleading legal heirs. Hence, this penalty order will not survive and accordingly, we quash the same.

7. In the result, the appeal of the assessee is allowed.

Above decision was pronounced in the open Court on 25th November, 2024.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

VK.

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar