

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.2434/Del/2024
Assessment Year: 2007-08

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| Late Sh. Opendar Gupta through legal heir Sh. Varun Gupta, 4 th Floor, 4805/24, Ansari Road, Darya Ganj, New Delhi | Vs. | ACIT, Circle-34(1), New Delhi |
| PAN :AAKPG5906B | | |
| (Appellant) | | (Respondent) |

| | |
|---------------|----------------------------------|
| Assessee by | None |
| Department by | Sh. Akhilesh Kumar Yadav, Sr. DR |

| | |
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| Date of hearing | 03.12.2024 |
| Date of pronouncement | 06.12.2024 |

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2007-08, arises against the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre [in short, the "CIT(A)-NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2023-24/1062899230(1) dated

19.03.2024 involving proceedings under section 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Case called twice. None appears at the assessee's behest. We accordingly proceeded ex-parte against him.

3. It emerges during the course of hearing that the CIT(A)-NFAC's herein has affirmed the Assessing Officer's action both in taking recourse of section 148/147 proceedings as well as making section 68 unexplained cash deposit's addition amounting to Rs.1,44,63,000/- in the order dated 29.12.2009.

4. Learned Departmental Representative vehemently contends that the assessee has been all along non-cooperative, which has made both the lower authorities to proceed ex-parte against him.

5. A perusal of the case file indicates that the assessee herein, namely, Sh. Opendar Gupta has left for his heavenly abode on 21st March, 2024 i.e. within two days of the CIT(A)-NFAC having passed the impugned lower appellate order on 19.03.2024. It is in this factual backdrop that the appellant herein, namely, Sh. Varun Gupta has filed the instant appeal claiming himself as the legal heir of the deceased assessee.

6. That being the case, the only inference which arises herein is that the deceased assessee was prevented on account of circumstances beyond his control in appearing in the lower appellate proceedings. We thus deem it as a fit case to be restored back to the CIT(A)-NFAC for its afresh appropriate adjudication as per law subject to a rider that the appellant herein Sh. Varun Gupta shall first prove himself as the deceased assessee's legal representative in the light of section 2(29) of the Act read with section 2(11) of the Code of Civil Procedure, 1908 and thereafter only, the lower appeal herein shall be adjudicated on merits.

7. This appellant/deceased assessee's alleged legal representative's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on 6th December, 2024

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 6th December, 2024.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi