

आयकर अपीलीय अधिकरण  
दिल्ली पीठ "एस एम सी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.2453/दिल्ली/2024 (नि.व. 2010-11)

ITA No.2453/DEL/2024 (A.Y.2010-11)

Sanjay Malhotra, L/H of Banvesh Dutt Malhotra,  
76-B, DDA Flats LIG, Rajouri Garden Extn.,  
New Delhi 110027

PAN: AQDPM-7218-B

..... अपीलार्थी/Appellant

बनाम Vs.

Assistant Commissioner of Income Tax,  
Circle-43(1), Pratyaksh Kar Bhawan, Civic Centre,  
Block-E-2, Room 1807, Minto Road,  
New Delhi 110002

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri V Rajkumar, Advocate

प्रतिवादीद्वारा/ Respondent by : Shri Rajesh Tiwari, Sr. DR

सुनवाई की तिथि/ Date of hearing : 09/12/2024

घोषणा की तिथि/ Date of pronouncement: : 09/12/2024

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 28.03.2024, for assessment year 2011-12.

2. Both sides heard, order of the authorities below examined. A perusal of the impugned order reveals that the CIT(A) had issued notices to the assessee on four occasions but there was no response from assessee's side. The CIT(A) decided appeal of the assessee in an ex-parte proceedings on the basis of statement of facts furnished by the assessee along with appeal. A perusal of assessment order reveals that the assessee has not appeared before the Assessing Officer (AO) as well.

Notice u/s. 148 of the Act dated 28.03.2018 was issued and served on the assessee through affixture. Subsequently notice u/s. 142(1) of the Act was issued to the assessee on 26.10.2018 and 06.11.2018, but there was no response from the assessee's side.

3. The Id. Counsel for the assessee has submitted that the assessee was 75 years of age and was paralytic. Most of the time he was confined to bed. The son of assessee was residing in Muscat and on his visit to India in the month of June 2019, he came to know about the assessment order dated 08.12.2018. Immediately thereafter, an appeal before the CIT(A) was filed on 08.07.2019. During pendency of first appeal, the assessee Banvesh Dutt Malhotra died on 07.01.2021. The CIT(A) in an ex-parte proceedings condoned the delay but dismissed appeal on the merits. Instant appeal has been filed by legal heir of deceased Banvesh Dutt Malhotra. Considering facts of the case, I deem it appropriate to restore this appeal back to the AO for *denovo* assessment, after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

3. The assessee is directed to respond to the notice served upon him, without fail.

4. In the result, impugned order is *set aside* and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Monday the 09<sup>th</sup> day of December, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

**NV/-**

**प्रतिलिपि अग्रेषित Copy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI