

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

**Before Sh. Satbeer Singh Godara, Judicial Member**

**ITA No. 175/Del/2022 : Asstt. Year: 2012-13**

Avinash Saini, 871/2, Mata Road, Ganga Vihar, Gurgaon, Haryana-122001 (APPELLANT)	Vs	Income Tax Officer, Ward-1(5), Gurgaon (RESPONDENT)
<b>PAN No. AQIPS1923N</b>		

**Assessee by : None**

**Revenue by : Sh. Sanjay Kumar, Sr. DR**

<b>Date of Hearing: 07.01.2025</b>
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<b>Date of Pronouncement: 07.01.2025</b>
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**ORDER**

This assessee's appeal for Assessment Year 2012-13, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2021-22/1037695389(1) dated 10.12.2021, in proceedings u/s 147 r.w.s. 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Case called twice. None appears at the assessee's behest. He is accordingly proceeded *ex-parte*.

3. Learned departmental representative has invited the bench's attention to case file wherein it emerges that the appellant/assessee Sh. Avinash Saini has left for his heavenly abode on 01.12.2022. Nobody has represented the assessee in

the capacity of his legal representative as per section 2(29) of the Act r.w.s. 2(11) of the Code of Civil Procedure 1908. Faced with this situation, I hereby quote Rule 26 of Income Tax (Appellate) Tribunal Rules, 1963 that an assessee's appeal does not get abate on account of his death and proceed to decide it on merits.

4. The assessee's sole substantive ground raised in the instant appeal pleads that both the learned authorities have erred in law and on fact that the assessing his alleged unexplained investment of Rs.11,50,000/- in the course of assessment framed on 13.12.2019, as upheld in the lower appellate proceedings. Learned departmental representative vehemently argues that the impugned addition has been rightly made in the assessee's hands.

5. A perusal of the case file on the other hand reveals that the assessee had infact given a loan of Rs.11,50,000/- to one Sh. Naresh Bansilal Saini (his relative) by cheque which has come back through the very channel in the impugned assessment year. This being the clinching case wherein the assessee had duly filed all the corresponding detailed evidence, I see no reason to sustain the impugned addition since the

source thereof already stands proved. The impugned addition of Rs.11,50,000/- is deleted in very terms. The assessee succeeds in his sole substantive grievance therefore.

6. This assessee's appeal is allowed.

Order Pronounced in the Open Court on 07/01/2025.

Sd/-  
**(Satbeer Singh Godara)**  
**Judicial Member**

**Dated: 07/01/2025**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**