

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एफ", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एम बालागणेश, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI M BALAGANESH, ACCOUNTANT MEMBER

आअसं.2093/दिल्ली/2019(नि.व. 2012-13)

ITA No.2093/DEL/2019(A.Y.2012-13)

Mrs. Gurneet Chawla,
(Legal Heir of late Mr. Paramjeet Singh Chawla)
C/o R.C. Rai & Associates, 203, 2nd Floor,
Akashdeep, 26A, Barakhamba Road,
New Delhi 110001

PAN:ACWPC-3161-C

..... अपीलार्थी/Appellant

बनाम Vs.

Deputy Commissioner of Income Tax,
Central Circle-II, Faridabad, Haryana

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by	:	S/Shri Somil Agarwal & Deepesh Garg, Advocates
प्रतिवादीद्वारा/ Respondent by	:	Ms. Harpreet Kaur Hansra, Sr. DR
सुनवाई की तिथि/ Date of hearing	:	19/02/2025
घोषणा की तिथि/ Date of pronouncement:	:	21/02/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-3, Gurgaon (hereinafter referred to as 'the CIT(A)') dated 29.12.2018, for assessment year 2012-13, confirming levy of penalty u/s. 271AAA of the Income Tax Act,1961(hereinafter referred to as 'the Act').

2. Shri Somil Agarwal, appearing on behalf of the assessee submitted that the order of levying penalty dated 19.02.2018 has been passed in the name of a dead person. Narrating facts of the case, he submitted that Paramjeet Singh Chawla,

the assessee died on 19.08.2017. The fact of death of Paramjeet Singh Chawla was informed to the Assessing Officer (AO) on 13.02.2018 by his legal heirs along with death certificate. A copy of said communication is at page no. 2 to 10 of the paper book. The fact that the assessee had furnished reply to show cause notice u/s. 271AAA of the Act is acknowledged by the Assessing officer in para 4 of the penalty order dated 19.02.2018. Despite, the fact that the AO was aware of death of Paramjeet Singh Chawla, he still passed the penalty order u/s. 271AAA of the Act in the name of deceased. The assessee carried the issue in appeal before the CIT(A). The Id. Counsel pointed that in grounds of appeal filed before the CIT(A), the first ground was that the penalty order was passed on 'dead person', therefore, the said order is nullity in the eye of law. The CIT(A) while passing impugned order did not even refer to the legal ground, raised by the assessee and decided the appeal only on merits.

3. Per contra, Ms. Harpreet Kaur Hansra representing the department vehemently defended the impugned order and prayed for dismissing appeal of the assessee.

4. Both sides heard, orders of the authorities below examined. The short issue in appeal for adjudication before us is, Whether the penalty order u/s.271AAA of the Act passed in the name of 'dead person' is legally sustainable?

5. The assessee Paramjeet Singh Chawla died on 19.08.2017, the fact regarding death of the assessee was communicated to the Assessing Officer by legal heirs purportedly on 13.02.2018. The AO in para 4 of the penalty order has recorded the fact that a reply to the show cause notice was filed on 13.02.2018. The assessee has placed on record copy of said reply at page no. 2 to 10 of the

paper book. A perusal of the reply shows that in the opening paragraph, it is mentioned that the assessee has expired on 19.08.2017. The assessee has also placed on record copy of death certificate of Paramjeet Singh Chawla at page no. 10 of the paper book. It is no more *res integra* that the assessment order cannot be passed in the name of non existing entity be, it a juristic person like company or natural person. Likewise, penalty order in the name of a 'dead person' or a non existing entity is unsustainable. If, any penalty order is passed in the name of a dead person the same is null and void. Considering facts of the case, we held that penalty order dated 19.02.2018 passed in the name of dead person is without jurisdiction, hence, unsustainable.

6. In the result, impugned order is set aside and appeal of the assessee is allowed.

Order pronounced in the open court on Friday the 21st day of February, 2025.

Sd/-

(M BALAGANESH)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली / Delhi, दिनांक/Dated 21/02/2025

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/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि.,दिल्ली/DR, ITAT,Delhi
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, Delhi