

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकरअपीलसं./ ITA No.15/Agr/2022
(निर्धारणवर्ष / Assessment Year: 2013-14)**

&

**2. आयकरअपीलसं./ ITA No.16/Agr/2022
(निर्धारणवर्ष / Assessment Year: 2013-14; SMC Bench)**

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| Late Mohmad Shahid (Through L/H Shahina Shahid) 2, Court of Wards Compound, Aligarh UP – 202 001 | बनाम/ Vs. | ITO, Ward-1(2) Aligarh |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AENPS-9627-L | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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|---------------------------------------|----------|---|
| अपीलार्थीकीओरसे/ Appellant by | : | Shri Deepak Singh (Advocate)-Ld. AR |
| प्रत्यर्थीकीओरसे/Respondent by | : | Shri Shailendra Shrivastava – Ld. Sr. DR |

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| सुनवाईकीतारीख/Date of Hearing | : | 11-02-2025 |
| घोषणाकीतारीख /Date of Pronouncement | : | 28-03-2025 |

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. The appellant herein Smt. Shahina Shahid has filed the instant two appeals against separate orders of Ld. CIT(A), NFAC dated 27-12-2021 / 22-12-2021 confirming Ld. AO’s assessment order dated 26-12-2016 as well as penalty u/s 271(1)(c) order dated 07-06-2017.

2. It emerges during the course of hearing that the appellant Smt. Shahina Shahid has claimed herself to be the legal representative of the deceased Late Shri Mohmad Shahid who is stated to have left for his heavenly abode. The Ld. Sr. DR submits that neither she has proved herself as the legal representative as per Section 2(29) of Income Tax Act r.w.s 2(11) of Code of Civil Procedure, 1908 nor any action has been taken against her u/s 159 of the Act. The aforesaid position remains uncontroverted before us. No material could be shown to us to establish the fact the appellant is legal representative of the deceased assessee in terms of the statutory provisions.

3. That being the case we are of the considered view that unless an applicant like the present appellant before us proves that he / she is either managing the estate of the deceased or act as an intermeddler or there have been proceedings u/s 159 of the Act, no such appeal could be entertained in the capacity of a legal representative. We accordingly dismiss both the appeals as premature with a liberty to appellant to initiate the same afresh as when the fact is proved that the appellant is managing the estate of the deceased assessee or proceeded with u/s 159 of the Act, as the case may be, whichever is earlier. Ordered accordingly.

4. Appellant's both appeal stand dismissed in above terms.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 28-03-2025

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA