

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K (SMC)" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 5754/MUM/2024
Assessment Year: 2014-15**

Ravindra Khambete Legal Heir of
Late Ramchandra Waman
Khambete,
103, Anuradha Building,
Amrutkumbh Sahaniwas, B.S. Road,
Dadar,
Mumbai-400028.

**PAN NO. ADYPK 9695 E
Appellant**

ITO-42(3)(2),
Kautilya Bhavan, Bandra
Vs. Kurla Complex, Bandra (East),
Mumbai-400051.

Respondent

Assessee by : Mr. Ashutosh Patare
Revenue by : Mr. Kiran Unavekar, Sr. DR

Date of Hearing : 02/04/2025
Date of pronouncement : 04/04/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the legal heir on behalf of the assessee against the order of the Ld. Commissioner of Income-tax (Appeals)-4 Kolkata [in short 'the Ld. CIT(A)'] for assessment year 2014-15, raising following grounds:



1. *Ld. CIT(A) erred in confirming the action of Ld AO of issuing notice of reopening of assessment u/s 147 to a deceased person and completing the assessment.*
2. *Ld. CIT(A) erred in confirming the action of Ld. AO in adding Rs. 7,96,175/- u/s 56(2)(vii)(b) of the act being the difference between stamp duty valuation and the agreement value.*

2. Before us, additional grounds have been filed on behalf of the assessee, which are reproduced as under:

1. *The Assessment Order passed u/s. 144 r.w.s. 147 of the Act dated 02.12.2019 is without DIN Number and therefore the assessment order passed is bad in law.*
2. *The Assessment Order passed u/s. 144 r.w.s. 147 of the Act dated 02.12.2019 is passed in the name of the deceased person and therefore is bad in law.*

3. The additional ground raised being purely legal in nature and not requiring investigation of the fresh fact, same are admitted for adjudication in view of ratio laid down in decision of the Hon'ble Supreme Court in case of NTPC reported in 229 ITR 383.

4. Briefly stated facts of the case are that the return of income was filed by the assessee on 18.06.2014 declaring total income at Rs.3,26,370/-. The return of income filed by the assessee was selected for scrutiny assessment and statutory notices under the Income-tax Act, 1961 (in short 'the Act') were issued and complied with. In the assessment order passed u/s 143(3) of the Act dated 30.12.2016, the Assessing Officer made addition of Rs.14,11,000/- as unexplained cash credit u/s 68 of the Act and computed the tax liability under normal provisions of the Act. Subsequently, it was noticed that the addition u/s 68 of the Act should have been



subjected to special rate of u/s 115BBE of the Act and therefore, after recording reasons to believe that income escaped assessment, a notice u/s 148 of the Act dated 05.03.2019 was issued in the case of the assessee and subsequent notices u/s 142(1) were also issued. In response to notices, the legal heir of the assessee submitted that the assessee Shri Ramchandra Waman Khambete had passed away on 14.11.2018. Despite intimation by the legal heir regarding demise of the assessee, the Assessing Officer went on to complete the assessment in the hands of the assessee after making addition of Rs.70.96,175/-. The appeal filed by the legal heir of the assessee before the Ld. CIT(A) was also dismissed.

5. Before us, the Ld. counsel for the assessee referred to the additional ground challenging the assessment order passed on deceased person. The Ld. counsel for the assessee has brought to our attention that not only notice u/s 148 of the Act was issued on the deceased person but the reassessment order has also been passed by the AO on deceased person which is bad in law. The fact that the legal heir has also intimated to the Assessing Officer regarding death of the assessee and despite then Assessing Officer has passed the order on non-existent person, which is invalid and bad-in-law. The AO was required to bring the legal heir of the assessee on record and accordingly the estate of deceased person should have been subject to reassessment through legal heir, but, the AO didn't do the same. Therefore, we quash the reassessment



proceedings in the case of the assessee. Thus, the present appeal becomes infructuous.

6. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open Court on 04/04/2025.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 04/04/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai