

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'बी' बेंच, हैदराबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'B' Bench, Hyderabad**

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य  
**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**  
**AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आयकरअपीलसं./I.T.A.Nos.155 and 156/Hyd/2025  
(निर्धारण वर्ष/ Assessment Year : 2016-17 and 2017-18)

Late Rajasekhar Chelikani, Hyderabad.  PAN : AAYPC4722H	Vs.	The Assistant Commissioner of Income Tax, Central Circle 3(2), Hyderabad.
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri A. V. Raghuram, Advocate,
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Sachin Kumar, Sr.D.R
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	22.04.2025
घोषणा की तारीख/ Date of Pronouncement	:	29.04.2025

**ORDER**

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The captioned appeals filed by the legal heirs of the assessee (since deceased) are directed against the respective orders passed by the Commissioner of Income-Tax (Appeals) – 11,

Hyderabad dated 09.11.2024, which in turn arise from the respective orders passed by the Assessing Officer (for short "A.O.") u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (for short "the Act") dated 23.02.2022 for A.Ys. 2016-17 and 2017-18.

2. As common issues are involved in the captioned appeals, therefore, the same are being taken up and disposed of vide this consolidated order.

3. We shall first take up the appeal filed by the assessee in ITA No.155/Hyd/2025 wherein the impugned order has been assailed on the following grounds of appeal before us:

"1. The Learned CIT(A) erred in setting aside the assessment for fresh consideration without appreciating the fundamental fact that the original assessment was completed on a deceased person, rendering it a nullity in the eyes of law.

2. The Learned CIT(A) misinterpreted the scope of powers under Section 251 of the Income Tax Act. Setting aside an invalid assessment for fresh adjudication undermines the fundamental principles of natural justice and procedural law.

3. The Assessing Officer erred in completing the assessment without making an effort to identify or bring the legal heirs of the deceased assessee on record as mandated under Section 159 of the Income Tax Act, 1961. The CIT(A) failed to appreciate this legal requirement.

4. The CIT(A)'s order of remand fails to grant the Appellant substantive relief despite acknowledging the procedural lapses and Legal lapses by the Assessing Officer."

4. Succinctly stated, the A.O., based on the survey proceedings conducted u/s 133A of the Act on 27.02.2017 in the case of M/s. Venkat Sai Media Private Limited (for short "M/s. VSMPL"), observed that the assessee, who was holding substantial shareholding in the said company had received a loan that was liable to be brought to tax in his hands as "deemed dividend" under Section 2(22)(e) of the Act. Therefore, the A.O. initiated proceedings in the case of the assessee u/s 147 of the Act. Notice u/s 148 of the Act, dated 26.03.2021 was issued to the assessee, which however was not complied with.

5. As is discernible from the record, the A.O. during the course of the assessment proceedings issued notice u/s 133(6) of the Act to HDFC Bank for obtaining the details of the legal heirs of the assessee (since deceased). On receipt of information from the bank, it was observed by the A.O. that the widow of the assessee had approached for a change in the nominee details in the bank account of the assessee. Considering the aforesaid fact, the A.O. issued notice u/s 133(6) of the Act to Smt. Lakshmi Chelikani, i.e widow of the assessee to explain why she may not be impleaded as a legal heir. However, as Smt. Lakshmi Chelikani (supra) did

not respond to the aforesaid notice, therefore, the A.O. passed an order dt.19.01.2022 treating her as the legal heir of the assessee (since deceased).

6. During the course of survey proceedings as well as the Special Audit conducted in the case of the assessee u/s 142(2A) of the Act, the A.O. observed that M/s. VSMPL i.e. the company in which the assessee had substantial shareholding had advanced an amount to the assessee. Considering the aforesaid fact, the A.O. brought the amount received by the assessee from the aforementioned company to tax by treating it as a “deemed dividend” u/s 2(22)(e) of the Act. Accordingly, the A.O. vide his order passed u/s 147 r.w.s. 144 of the Act, dated 23.02.2022 after making an addition towards “deemed dividend” u/s 2(22)(e) of the Act of Rs.9,00,010/- assessed the income in the name of the assessee, viz., Shri Rajasekhar Chelikani at the same amount.

7. Aggrieved, the assessee carried the matter in appeal before the CIT(A). The assessee, in the course of proceedings before the CIT(A), had, inter alia, claimed that as the assessee viz. Shri Rajasekhar Chelikani had expired on 29.08.2020, the notice issued in his name under section 148 of the Act, dated

26.03.2021 i.e after his death, was void ab initio, and thus, the assessment framed by the A.O. vide order passed under section 147 read with section 144 of the Act, dated 23.02.2022, cannot be sustained and was liable to be quashed on the said count itself.

8. Ostensibly, the CIT(A) taking cognizance of the fact that the “Show Cause Notices” (SCNs), undisputedly were issued after the death of the assessee, therefore, being of the view that the representatives of the assessee deserved a fresh opportunity of hearing before the A.O. set aside the assessment with a direction to the A.O. to frame the same afresh. For the sake of clarity, the observations of the CIT(A) are culled out as under:

“From the death certificate in respect of the appellant furnished by the representative assessee during appellate proceedings, it is noticed that Sri. Rajasekhar Chelikani(appellant) passed away on 29.08.2020. The show cause notices are undisputedly issued after the death of appellant. The assessment orders u/s. 147 r.w.s. 144 were passed after the death of the appellant. In such a scenario, it can be said that the representative assessee deserves to get a fresh opportunity of hearing before the AO. The assessment u/s. 144 of the Act were passed as there was no response during the assessment proceedings. However, owing to the facts and circumstances of the case, the representative assessee deserves to be given an opportunity of fresh hearing during which all the details as required by the AO shall be furnished. In my opinion the principles of natural justice will be not met if a fresh opportunity is not accorded in this case. In view of this, the assessments for the A.Ys i.e. 2011-12 to, 2014-15, 2016-17 & 2017-18 are set aside for fresh consideration by the

AO. Since the assessments are set aside the grounds of appeal are not being separately adjudicated.”

9. The assessee being aggrieved with the order of CIT(A), has carried the matter in appeal before us.

10. We have heard the learned Authorized Representatives of both parties, perused the orders of the lower authorities and material available on record as well as considered the judicial pronouncements that were pressed into service by the ld.AR to drive home his contentions.

11. Controversy involved in the present appeal boils down to the solitary aspect i.e., as to whether or not the assessment framed by the A.O. vide his order passed u/s 147 r.w.s 144 of the Act, dated 23.02.2022 based on the notice issued in the name of the assessee u/s 148 of the Act, dated 26.03.2021 i.e. subsequent to his death on 29.08.2020 can be sustained in the eyes of law?

12. We find that the issue is covered by the judgment of the **Hon'ble High Court of Bombay** in the case of **Devendra Vs. Addl. CIT 461 ITR 463 (Bom)** wherein it was observed that a notice issued in the name of a dead person is unenforceable in the eye of law. It was therein observed that the legal heirs are under

no statutory obligation to intimate the death of the assessee to the department. Further, the Hon'ble High Court had observed that the requirement of issuing notice to a correct person is not a mere procedural requirement but is a condition precedent for the impugned notice being valid in law. The Hon'ble High Court after drawing support from a host of judicial pronouncements, had observed, that the sine qua non for acquiring jurisdiction to reopen an assessment is that such notice should be issued in the name of a correct person. It was further observed that a notice issued in the name of a dead person is also not protected either by the provisions of Section 292B of Section 292BB of the Act.

13. Although, in the present case before us, the A.O. while framing the assessment had remained well conversant of the fact that the assessee had died, but even otherwise, we find that as observed by the **Hon'ble High Court of Delhi** in the case of **Savita Kapila Vs. ACIT (2020) 426 ITR 502**, no duty is cast upon a legal representative to intimate the factum of death of an assessee to the Income-tax department. Also, it was observed that as the notice under Section 148, dated 31/03/2019 was issued to the deceased assessee after the date of his death, i.e 21/12/2018,

thus, the jurisdictional requirement of service of notice u/s 148 of the Act was not fulfilled.

14. Apart from that, the **Hon'ble High Court of Madras** in the case of **Alamelu Veerappan Vs. ITO (2018) 95 taxmann.com 155 (Mad)**, had reiterated the aforesaid view and observed that the notice issued on a dead person is invalid and cannot be enforced. Further, we find that the **Hon'ble High Court of Bombay** in the case of **Sumit Balkrishna Gupta Vs. ACIT (2019) 103 taxmann.com 188 (Mum)**, had observed that the requirement of issuing notice to a correct person and not to a dead person is not a mere procedural requirement but is a condition precedent to the impugned notice being valid in law. It was observed that a notice issued in the name of a dead person will neither be protected by the provisions of Section 292B nor Section 292BB of the Act. For the sake of clarity, the observations of the Hon'ble High Court are culled out as under:

“7. The issue of a notice under section 148 of the Act is a foundation for reopening of assessment. The sine qua non for acquiring jurisdiction to reopen an assessment is that such notice should be issued in the name of the correct person. This requirement of issuing notice to a correct person and not to a dead person is not a merely a procedural requirement but is a condition precedent to the impugned notice being valid in law. Thus, a notice which has been issued in the name of the dead person is also not protected either by provisions of section 292B

or 292BB of the Act. This is so as the requirement of issuing a notice in the name of correct person is the foundational requirement to acquire jurisdiction to reopen the assessment. This is evident from section 148 of the Act, which requires that before a proceeding can be taken up for reassessment, a notice must be served upon the assessee. The assessee on whom the notice must be sent must be a living person i.e. legal heir of the deceased assessee, for the same to be responded. This in fact is the intent and purpose of the Act. Therefore, section 292B of the Act cannot be invoked to correct a foundational/substantial error as it is meant so as to meet the jurisdictional requirement."

Also, a similar view had been taken by the **Hon'ble High Court of Delhi** in the case of **Dhirendra Bhupendra Sanghvi Vs. ACIT (2023) 151 taxmann.com 541**. It was observed that a notice and all consequential proceedings in the name of a dead person or the reopening of assessment of a dead person is null and void in law. issued on a dead person is null and void.

15. Considering the aforesaid facts, we are of the firm conviction that as in the present case the notice u/s 148 of the Act, dated 26.03.2021, based on which the A.O. had assumed jurisdiction and framed the impugned assessment was issued in the name of the assessee (since deceased), therefore, in the backdrop of the aforesaid settled position of law the same cannot be sustained and is liable to be quashed. Accordingly, the assessment framed by the A.O. u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (for

short “the Act”) dated 23.02.2022 cannot be sustained and is accordingly quashed.

16. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

**ITA No.156/Hyd/2025 for A.Y. 2017-18**

17. As the facts and the issue involved in the present appeal remain the same as were there before us in the assessee’s appeal for A.Y. 2016-17 in ITA No.155/Hyd/2025, therefore, the order therein passed shall apply *mutatis mutandis* for disposing of the present appeal i.e ITA No.156/Hyd/2025 for A.Y. 2017-18.

18. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

19. To sum up, both the appeals of assessee are allowed in terms of our aforesaid observations.

Order pronounced in the Open Court on 29<sup>th</sup> April, 2025.

<p>Sd/-</p> <p>(श्री मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER</p>	<p>Sd/-</p> <p>(श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER</p>
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Hyderabad, dated 29.04.2025.

**##TYNM/sps**

**आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Late Rajasekhar Chelikani, Hyderabad, 8-2-686/7/10/A7B, Road No.12, Jubilee Hills – 500034, Telangana.
2.	राजस्व/ The Revenue	:	The Assistant Commissioner of Income Tax, Central Circle – 3(2), Hyderabad..
3.	The Principal Commissioner of Income Tax (Central), Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Hyderabad.