

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. ITA No. 1241/Chd/ 2024
निर्धारण वर्ष / Assessment Year : 2018-19

Late Kulprakash Bhardwaj Through Legal Heir Kartikeya Bhardwaj Centre Point Hotel, Kachari Adda Dharamshala, District Kangra	बनाम	PCIT Chandigarh-1
स्थायी लेखा सं. / PAN NO: AFXPB5550J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Subhash Deshpande, C.A (Virtual)
राजस्व की ओर से/ Revenue by : Smt. Geetinder Mann, CIT, D.R

सुनवाई की तारीख/Date of Hearing : 17/07/2025
उदघोषणा की तारीख/Date of Pronouncement : 21/07/2025

आदेश/Order

PER LALIET KUMAR, J.M:

This appeal by the assessee, through legal heir Shri Kartikeya Bhardwaj, is directed against the order dated 23.03.2024 passed by the Principal Commissioner of Income Tax (PCIT), Chandigarh-1, under Section 263 of the Income Tax Act, 1961 for the assessment year 2018-19.

2. At the outset the Registry has pointed out that the present appeal is barred by limitation by 02 days.

3. After considering the condonation application filed by the assessee in the present appeal, we condone the delay for which sufficient cause is shown, and admit the appeal for adjudication. +

4. In the present appeal Assessee has raised the following grounds:

1. On the facts and circumstances of the case as well as in law, the Learned PCIT has erred in invoking revisionary powers u/s 263 of the Income Tax Act, 1961, without appreciating the facts & circumstances of the case.
2. On the facts and circumstances of the case as well as in law, the Learned PCIT has erred in directing the Ld. AO to conduct a fresh assessment, without appreciating the facts & circumstances of the case.

3. *On the facts and circumstances of the case as well as in law, the Learned PCIT has erred in passing the order against a deceased assessee.*
4. *The appellant craves leave to add, amend, alter or delete the said ground of appeal.*

5. Briefly the facts of the case are that the return of income for AY 2018-19 was filed by the original assessee, Late Shri Kul Prakash Bhardwaj, on 30.10.2018 declaring an income of Rs.22,75,100/-. The case was selected for scrutiny and the assessment was completed under Section 143(3) on 09.04.2021 by making an addition of Rs.2,00,00,000/- under Section 68 of the Act, which was taxed at the normal rate.

6. Aggrieved, the assessee filed an appeal before the CIT(A) on 05.05.2021. Unfortunately, the assessee passed away on 23.06.2021, which fact was duly communicated to the Income Tax Department by the legal heir.

7. Despite being in possession of the death information and ongoing appellate proceedings before the CIT(A), the PCIT issued a notice under Section 263 on 09.01.2024 in the name of the deceased and eventually passed a revisionary order dated 23.03.2024, stating that the AO had erred in taxing the addition under Section 68 at normal rates instead of invoking Section 115BBE and initiating penalty under Section 271AAC.

8. The Ld. AR submitted that the order passed under Section 263 is illegal and non-est in the eyes of law, having been passed against a dead person. It was contended that the department was fully aware of the death of the assessee and was in possession of the death certificate as well as the legal heir details.

8.1 It was further submitted that the issue raised in the revisionary order was already a subject matter of appeal before the Ld. CIT(A), and hence, initiation of parallel proceedings under Section 263 was bad in law. The Ld. AR relied on several judicial pronouncements including *Alamelu Veerappan v. ITO* [2021] 125 taxmann.com 253 (SC) and *Savita Kapila v. CIT* [2020] 424 ITR

392 (Delhi) to submit that proceedings initiated or concluded against a deceased person are void ab initio.

9. The Ld. CIT-DR supported the order of the PCIT and submitted that the Assessing Officer had failed to apply the provisions of Section 115BBE while taxing the unexplained credits and therefore the order was erroneous and prejudicial to the interest of the Revenue. However, no rebuttal was offered to the factual position that the order was passed against a deceased person or that the issue was already under appeal.

10. We have heard the rival submissions and perused the materials on record. It is an undisputed fact that the assessee had expired on 23.06.2021 and this fact was duly informed to the department. Despite such knowledge, the PCIT proceeded to issue notices under Section 263 and passed the impugned order in the name of the deceased assessee. This action, in our considered view, is a fatal jurisdictional defect.

10.1 The Hon'ble Supreme Court in the case of *Alamelu Veerappan v. ITO* (supra) has categorically held that any notice or order issued against a dead person is unenforceable and void. Similar view was taken by the Hon'ble Delhi High Court in *Savita Kapila* (supra), wherein it was held that continuation of proceedings without impleading the legal heir is a violation of natural justice and renders the order null in law.

10.2 Furthermore, it is a matter of record that the assessee had already challenged the assessment order before the CIT(A), and the issue regarding the addition under Section 68 and its taxability was sub judice. The law is well settled that when a matter is pending before an appellate authority, invocation of Section 263 on the same issue amounts to parallel adjudication, which is impermissible. If the CIT(A) finds that the AO had wrongly applied a lower rate of tax, he is empowered under his co-terminus and enhancement powers to rectify the same by following due process.

10.3 We are unable to comprehend how the PCIT proceeded to record that the assessee had failed to comply with notices, when the very person

against whom proceedings were initiated was no longer alive. Such an action strikes at the root of the principles of natural justice and renders the entire proceedings vitiated.

11. In light of the foregoing discussion, we hold that the revisionary proceedings initiated and the order passed under Section 263 of the Act dated 23.03.2024 are void ab initio, being passed against a deceased person, and are liable to be quashed. Accordingly, the impugned order is quashed and the appeal of the assessee is allowed.

12. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 21/07/2025

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य /JUDICIAL MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar