

THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

Through Hybrid Mode

**Before Ms. Suchitra Kamble, Judicial Member
And Shri Bijayananda Pruseth , Accountant Member**

**ITA No. 924/Srt/2024
Assessment Year 2009-10**

Sangeeta Goel L/h of Surendra Prakash Jain, 1003 Royal Castle City Light, Surat PAN: ACUPJ8891L (Appellant)	Vs	ITO, Ward-1(3)(5) Surat (Respondent)
--	----	---

**Assessee by: Shri Rasesh Shah, A.R.
Revenue by: Shri Ajay Uke, Sr. D.R.**

Date of hearing : 16-07-2025
Date of pronouncement : 08-08-2025

आदेश/ORDER

Per Suchitra Kamble, Judicial Member:

This is an appeal filed against the order dated 29-07-2024 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2009-10.

2. The grounds of appeal are as under:-

“1 On the facts and in the circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in reopening the case of the assessee u/s 147 of the Act by issuing notice u/s 148 of the Act on the deceased assessee which was bad in law and void ab-initio.

2 On the facts and in the circumstances of the case as well as law on the subject, the learned CIT(A) has erred in passing ex-parte order even when assessee has physically attended the appellate proceedings before CIT(A) 2 Surat and filed written submission alongwith paper book in support of the grounds of appeal The ld CIT(A) failed to appreciate the fact that the e-filing portal of the assessee was deactivated and hence assessee could not file written submission again.

3. On the facts and in the circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in making various addition amounting to Rs. 1,61,15,243/- without passing speaking order.

4 It is therefore prayed that the assessment framed u/s 144 r.w.s. 147 may please be quashed and/or orders of the lower authorities may please be set aside.

5 Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”

3. The assessee did not file return of income for assessment year 2009-10. On the basis of AIR information, the Assessing Officer observed that there was a substantial cash deposit amounting to Rs. 29,20,000/- in assessee's saving bank account maintained in Canara Bank during the year as well as the assessee earned commission and interest income amounting to Rs. 6,64,300/-. Notice u/s. 148 of the Act was issued on 18-03-2016. Subsequently, notice u/s. 142(1) was issued on 10-05-2016 and 08-08-2016. Show cause notice was issued on 16-09-2016 which was replied by the Chartered Accountant thereby intimating the Department that the assessee expired on 14-11-2013 and filed the death certificate. Subsequently, the Assessing Officer issued show cause notice to the legal heir of the assessee on 16-12-2016 but since no-one responded the same, the Assessing Officer proceeded on the basis of the AIR information. The Assessing Officer observed that on perusal of debit/credit entries, the nature of transaction was not established and since

no details/supporting evidences regarding debit/credit entries in the bank accounts of the assessee was filed, these credit entries in the bank account remained unexplained and therefore made addition of Rs.1,48,10,491/- as unexplained income u/s. 69A. The Assessing Officer also made addition under the head income from other sources at Rs. 2,20,452/- and addition for interest income /commission income at Rs. 6,64,300/- as per details of 26AS

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that since the assessee expired on 14-11-2013 and the same was informed by the Chartered Accountant on 15-05-2014, the Assessing Officer has made assessment on the dead person. Thus, the assessment itself becomes null and void. As there was no details filed, the Assessing Officer as well as the CIT(A) has passed ex-parte order.

6. The ld. D.R. relied upon the order of the CIT(A) and also contended that Form 35 mentioned the name of dead person only and not that of legal heir of the dead assessee. The ld. D.R. further submitted that since the legal heir of the assessee did not submit any details, the confirmation/addition/disallowance was rightly done by the Assessing Officer and confirmed by the CIT(A).

7. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note

that the assessee was dead on 14-11-2013 and the same was informed by the Chartered Accountant on 15-05-2014. The assessment order specifically mentioned legal representative Sanjeeta Goal. Thus, the assessment order was passed in the name of the dead assessee mentioning Legal Heir is valid. Further, Form 35 verification is signed by the Smt. Sanjeeta Goal but the said Form 35 mentions the name of a dead assessee in the column of personal information. At this juncture, the assessee/Ld. A.R. cannot take a claim that the assessment order is passed under the name of dead assessee. The CIT(A) has passed the order as per Form 35 which has been verified by Smt. Sanjeeta Goel while mentioning Form 35 in the name of appellant being the dead person without explaining that the said assessee has expired on 14-11-2013. The L/H of the assessee at no point of time has explained why the details has not been filed within the time frame. The Notice u/s. 148 dated 18-03-2016 has been issued after expiry of the assessee which was informed in the year 2014 itself and therefore the L/H of the assessee is taking the plea that the notice is invalid and the assessment should be declared null and void. The decision of Hon'ble Gujarat High Court in case of Rasid Lala Vs. ITO (2017) 77 taxmann.com 39 (Guj) held as under:

"It is an admitted position that the original assessee 'B' died on 2-12-2009. It is also an admitted fact that the notice under section 148 to reopen the assessment for the assessment year 2009-10 has been issued against the dead person, i.e., the deceased assessee. Thus the reassessment proceedings have been initiated after the death of the assessee. Though it was pointed out by the heir of the deceased assessee that the assessee has expired long back and, therefore, the notice issued in her name and/or against a dead person is not valid, instead of taking corrective measures as provided under section 292B and to issue fresh notice against the legal heir of the deceased, the Assessing Officer has continued with the reassessment proceedings against the dead person. Section 159 which has been relied upon by the revenue shall not be applicable to the facts of the case on hand. [Para 6]"

Thus the notice issued u/s. 148 itself is bad in law and therefore assessment order is null and void. The appeal of the assessee is allowed.

8. In the result, the appeal of the assessee is allowed.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 08-08-2025.

Sd/-
(Bijayananda Pruseth)
Accountant Member
Ahmedabad : Dated 08/08/2025 TRUE COPY

Sd/-
(Suchitra Kamble)
Judicial Member

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Surat
6. Guard file.

By order,
Assistant Registrar,
Income Tax Appellate Tribunal,
Surat