

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.133/SRT/2025

(Assessment Year: 2012-13)

(Hybrid Hearing)

Pannaben Gunvanvai Desai, L/H of Late Gunvanrai Vasanji Desai, 01-Desai Fakliyu, Pardi – Parners – Valsad - 396001	<b>Vs.</b>	ITO, Ward – 3, Vapi
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ACYPD7934Q</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Rajesh Upadhyay, AR
<b>Respondent by</b>	Shri Ajay Uke, Sr. DR
<b>Date of Hearing</b>	17/07/2025
<b>Date of Pronouncement</b>	25/08/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 17.07.2025 by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [in short, 'the CIT(A)'] for the assessment year (AY) 2012-13.

2. The grounds of appeal raised by the assessee are as follows:

*"1. LD. CIT[A], NFAC, Delhi has erred in law and on fact to upheld AO's reopening of assessment u/s 147 and issue of a notice u/s 148 on date 27/03/2019 ignoring the fact that the said notice is not valid in law on account of notices's death on date 03/1/2025.*

*2. LD. CIT[A], NFAC, Delhi has erred in law and on fact to upheld AO's reopening as well as subsequent assessment proceedings valid in law ignoring the fact and law that initiation of proceedings upon dead person is not valid under the law."*

3. The facts of the case in brief are that the assessee (Late Shri Gunvantrai Vasanji Desai – PAN: APKPD4488E) had not filed his return of income for AY 2012-13 u/s 139(1) of the Act. The assessee was a non-filer. The assessee had deposited cash of Rs.3,00,000/- during the year under consideration. After recording the reasons, the case was reopened with the necessary approval from the competent authority by issuing notice u/s 148 of the Act on 27.03.2019. Various statutory and show cause notices were issued to the assessee on five occasions, but there was no compliance on the part of the assessee. Hence, the Assessing Officer (in short, 'AO') passed an ex parte order u/s 144 of the Act on the basis of materials available on record. The assessee failed to explain the source of total cash deposits and credit entries with supporting documentary evidence. Accordingly, the AO added Rs.21,76,816/- and determined total income at Rs.21,76,820/-. Separate penalty proceedings u/s 271(1)(c) r.w.s. 274, 271F and 271(1)(b) were also initiated by the AO.

4. Aggrieved by order of AO, assessee filed appeal before the CIT(A). Before the CIT(A), the appellant challenged the re-opening notice and re-assessment. In the Statement of Facts, it was stated that the appellant expired on 03.01.2015. The AO was intimated about the death of assessee on 28.01.2015 by his nephew, Shri Ankur Ranjitbhai Desai. However, various notices were issued in the name of the dead appellant. The AO passed the order in the name of dead

person u/s 144 of the Act. The Statement of Facts is at page 3 of the appellant order. The CIT(A) reproduced the findings of AO at pages 4 to 8 of the appellate order. He set aside the order of AO passed u/s 144 r.w.s. 147 for making fresh assessment because the appellant had not furnished any documentary evidence during the assessment proceedings.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted a paper book containing 20 pages including copy of submission made to CIT(A), letter dated 15.01.2015 to ITO, Ward-3 informing death of the assessee on 03.01.2015, reply to the AO dated 28.01.2015 with English translation, appellant's death certificate, notice u/s 148 dated 27.03.2019, notice u/s 142(1) on 30.11.2019, show cause notice on 25.11.2019, demand notice on 03.12.2019. He submitted all the documents before the AO and CIT(A). The Id. AR submitted that AO had issued notice u/s 148 of the Act on 27.03.2019 on the assessee, who had expired on 03.01.2015. The intimation to this effect was given to the AO on 28.01.2015. The Id. AR relied on the decisions in cases of Nishant Daxeshbhai Mehta LH of Late Daxeshkumar Ranjitrai Mehta vs. ITO, R/Special Civil Appeal No.5512 of 2023, dated 27.04.2023 (Gujarat HC) and Rashid Lala vs. ITO, (2016) TaxPub(DT) 5224 (Guj – HC) and submitted that the notice u/s 148 issued in the name of the deceased person was invalid. Hence, the order passed u/s 144 r.w.s. 147 is also invalid.

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of the lower authorities.

7. We have heard both the parties and perused the materials available on record. We have also deliberated upon the decisions relied upon by Id. AR. The assessee passed away on 03.01.2015. The intimation regarding death of assessee was given to the AO vide letter dated 28.01.2015 and the AO was requested to issue notice to Shri Ankur Desai, nephew of Shri Gunvantrai Vasanji Desai. The AO, after receiving information about the death of assessee, still issued notice u/s 148 of the Act on 27.03.2019 in the name of the deceased assessee. Subsequently, the AO has passed order u/s 144 r.w.s. 147 of the Act in name of the deceased assessee. The Id. AR has relied on the decisions of the Hon'ble jurisdictional High Court in cases of Nishant Daxeshbhai Mehta (supra) and Rasid Lala (supra). The Hon'ble High Court had held that any notice issued in the name of dead person is unenforceable and invalid. It is now well-settled that any proceedings against a dead person is a nullity. The Hon'ble Supreme Court in case of CIT vs. Amarchand N. Shroff, (1963) 48 ITR 59 (SC) held that the individual assessee must be a living person and no assessment can be made on a dead person. In view of the authoritative precedents cited supra, the notice issued u/s 148 of the Act as well as the assessment order passed u/s 144 r.w.s. 147 of the Act are not liable to be sustained and are accordingly quashed. Consequently, the order of CIT(A) is also quashed.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on  
25/08/2025.

**Sd/-**  
**(SUCHITRA R. KAMBLE)**  
**JUDICIAL MEMBER**

Surat

दिनांक/ Date: 25/08/2025

SAMANTA

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**// TRUE COPY //**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat