

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA Nos.1208 to 1211/Kol/2025
Assessment Year: 2015-16**

**Sulochana Devi Bagaria.....Appellant
200, Bangur Avenue, Block-A,
Kol-700055.
[PAN: AEBPB4214J]**

vs.

ITO, Ward-44(2), Kolkata.....Respondent

Appearances by:

Shri Anil Kochar, Advocate, appeared on behalf of the appellant.

Shri S. B. Chakraborty, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : September 11, 2025

Date of pronouncing the order : September 18, 2025

ORDER

Per Pradip Kumar Choubey, Judicial Member:

These captioned appeals have been preferred by the assessee for the assessment year 2015-16 against separate orders dated 17.08.2023, 21.08.2023, 21.08.2023 and 11.12.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act') respectively. Since, the issues involved in all these appeals are common and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this consolidated order. ITA No.1208/Kol/2025 is taken as lead case for narration of facts.

2. ITA No.1208/Kol/2025 - The sole contention of the ld. counsel for the assessee is that the entire reassessment proceedings are bad in law as the notice u/s 148 of the Act was issued against a dead person and the order passed by the Assessing Officer which was confirmed by the ld.

CIT(A) was also against a dead person. The ld. AR submits that the assessee namely Sulochana Devi Bagaria has already died on 26.11.2015 and notice u/s 148 of the Act was issued on 31.03.2021. Since there was no one present, hence the case has been decided by the Assessing Officer ex parte against the assessee. The ld. AR further submits that Legal Representative of the assessee has filed an appeal before the ld. CIT(A) wherein the Legal Representative has brought the fact of the death of the assessee to the knowledge of the ld. CIT(A) and even though the order was passed by the ld. CIT(A) against a dead person which is nullity in the eyes of law. The ld. AR has filed copy of death certificate of the deceased, copy of e-filing of Register as Representative Assessee regarding request to represent as Legal Representative and further has submitted an order passed by the SMC Bench of Kolkata, ITAT in ITA No.2450/Kol/2024 in case of Ajay Goel (Legal Heir of Late Manju Goel) vs. Assessing Officer dated 28.05.2025.

3. Contrary to that, the ld. DR has only submitted that the Legal Representative of the assessee failed to inform about the death of the assessee, therefore, the order and notice cannot be said to be illegal.

4. Upon hearing the submissions of the counsels of the respective parties, we find that there is no dispute that the assessee i.e. Sulochana Devi Bagaria died on 26.11.2015 and notice u/s 148 of the Act was issued on 31.03.2021. The moot question arises before us is that whether the proceedings initiated against the deceased person were sufficient to continue proceedings of the reassessment. We have gone through the order passed by the Coordinate Kolkata Bench of this Tribunal in case of Ajay Goel (Legal Heir of Late Manju Goel) stated supra and find that the present issue in the aforesaid case and in the present case is similar in nature. In the aforesaid judgment, the Hon'ble Bench has passed order after considering the judgment passed by the Hon'ble

Delhi High Court in the case of Savita Kapila vs. ACIT reported in (2020) 118 taxmann.com 46 (Delhi) and the relevant portion of the order is reproduced hereinbelow:

*“7. I have perused the material available on record. It is an undisputed fact that the deceased assessee Manju Goel died on 31.01.2021 and admittedly the notice under section 148 was issued on 31.03.2021. Therefore, admittedly the proceedings were initiated under section 148 of the Act for reassessment relating to escapement of income of late Manju Goel and such proceedings as has been initiated in the year 2020-21. Now the question before me is whether proceedings initiated against the deceased assessee Manju Goel was sufficient to continue proceedings of reassessment as regards the legal representative is a matter that requires to be answered. There is also no dispute as regards to the general proposition that proceedings against an assessee would continue even after his death as against his legal representative and there would be no abatement of such proceedings. However, in the present case on hand, the question is as regards to the initiation of proceedings against the legal representative of the deceased Manju Goel under section 148 of the Act are valid or not. Admittedly the notice was issued u/s 148 to the deceased assessee Manju Goel on 31.03.2021, who died on 31.01.2021, therefore, notice u/s 148 of the Act, which was issued on 31.03.2021, is bad in law and reassessment proceedings initiated by the ld. Assessing Officer is null and void in view of the ratio laid down by the **Hon’ble Delhi High Court in the case of Savita Kapila -vs.- ACIT reported in (2020) 118 taxmann.com 46 (Delhi), wherein the Hon’ble Delhi Court was of the view that “in absence of a statutory provision, a duty cannot be cast upon legal representatives to intimate factum of death of assessee in the Income Tax Department. After all, there may be a case where the legal representatives are estranged from the deceased assessee or the deceased assessee may have bequeathed his entire wealth to a charity. Consequently, whether PAN record was updated or not or whether the Department was made aware by the legal representatives or not is irrelevant. Nothing has been placed before the Court by the Revenue to show that there is a statutory obligation on the part of legal representatives of the deceased assessee to immediately intimate the death of the assessee or take steps to cancel the PAN registration. Consequently, the legal heirs are under no statutory obligation to intimate the death of the assessee to the revenue. Therefore, Hon’ble High Court Delhi was of the opinion that issuance of notice upon a dead person and non-service of notice does not come under the ambit of mistake, defect or omission.** Apart from this, in this case, legal representative also intimated about the death of Manju Goel to the ld. Assessing Officer through Income Tax Portal, but it was not accepted and there is no service of notice. Apart from this, even before the 1st appellate proceedings, the appellant/legal heir brought to the notice of the ld.*

CIT(Appeals) about the death of the assessee, but ld. CIT(Appeals) has not even passed the appellate order in the name of legal heir. Therefore, Considering the facts and circumstances of the case and the ratio laid down by the Hon'ble Delhi High Court, I have no hesitation to come to a conclusion that the reassessment proceedings initiated by the ld. Assessing Officer against the dead person is not valid under the eyes of law. The ld. CIT(Appeals) also has not taken any step to initiate the proceedings against the legal representative as prescribed under section 159 of the Act. Therefore, considering the totality of the facts and circumstances of the case, I am of the view that the notice issued under section 148 of the Act is bad in law and reassessment proceedings initiated by the ld. Assessing Officer is null and void. Thus, the reassessment proceedings are hereby set aside.”

4.1 Keeping in view the above facts as well as considering the law laid down, we do not have any hesitation to hold that the notice issued u/s 148 of the Act is bad in law and all other consequent proceedings initiated has become null and void. Hence, the present appeal of the assessee in ITA No.1208/Kol/2025 is allowed.

5. ITA Nos.1209 to 1911/Kol/2025 - Since the facts and issues involved in all these appeals are identical, therefore, our findings/direction given above in ITA No.1208/Kol/2025 will mutatis mutandis apply to ITA Nos.1209 to 1911/Kol/2025. Hence, ITA Nos.1209 to 1911/Kol/2025 are also allowed.

6. In the result, all the captioned appeals of the assessee are allowed.

Kolkata, the 18th September, 2025.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 18.09.2025.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-

4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches