

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 5271/DEL/2025 [A.Y 2009-10]

Om Prakash Saini
H- 528, H Block, Palam Vihar
Gurgaon, Haryana

Vs.

The C.I.T(A) - 3
Gurgaon

PAN: BFOPS 6620 A

(Appellant)

(Respondent)

Assessee By : None
Department By : Shri Vikram Singh Shrama, Sr. DR

Date of Hearing : 03.10.2025
Date of Pronouncement : 03.10.2025

PER NAVEEN CHANDRA, AM :-

This appeal by the assessee is directed against the order of the Id. CIT(A) dated 22.03.2023 pertaining to A.Y 2009-10.

2. None appeared for and on behalf of the assessee. We decided to proceed ahead with the assistance of the Id. DR. Therefore, the Id. DR was heard at length and the case records carefully perused.

3. The sum and substance of the grievance of the assessee is that the Assessing Officer erred in framing the assessment order in the name of a dead person.

4. At the very outset, the ld. counsel for the assessee submitted that due to the death of his father, the case of the assessee was not presented properly before the authorities below and hence the Assessing Officer made addition u/s 144 of the Act. It was prayed that the case may be set aside to the file of the Assessing Officer as was done in the case of the assessee himself in the A.Ys 2010-11 to 2019-20 vide order dated 16.04.2024 by the co-ordinate bench of ITAT, Delhi Benches in ITA 3759,3800,3801,3856,3802,3784/Del/2023.

5. Per contra, the ld. DR did not raise any serious objection.

6. We have heard the ld. DR at length and have perused the relevant material on record. We find that the ITAT vide order dated 16.04.2024 in the case of the assessee himself [supra] had set aside the assessment to the file of the Assessing Officer for de novo adjudication. It would be pertinent to reproduce the relevant portion of the order for ready reference which read as under:

"4. Having heard learned Departmental Representative and perused materials on record, we find that in course of proceedings before learned First Appellate Authority, the assessee passed away. The present appeals have been filed by the legal heir of the assessee. Thus, the materials on record do suggest that the assessee was having health issues, which ultimately resulted in his demise. This could be the reason for which the assessee was unable to effectively

participate in the proceedings before the Assessing Officer and learned First Appellate Authority and comply with their queries. Since, both the assessment as well as first appellate proceedings were completed ex parte, in absence of the assessee, resulting in various additions purely due to lack of explanation and supporting evidences from assessee's side, we are of the view that the assessee deserves an opportunity to explain his position qua the additions made through proper explanation and supporting evidences. For enabling the assessee to do so, we are inclined to set aside the impugned orders of learned First Appellate Authority and restore the issues to the file of the Assessing Officer for de novo adjudication, after providing due and reasonable opportunity of being heard to the assessee. We further make it clear that the assessee must comply with various queries made or to be made by the Assessing Officer and furnish the requisite documents/evidences, as may be called for. The assessee must cooperate with the Assessing Officer in finalizing the proceedings. With the aforesaid observations, grounds are allowed for statistical purposes."

7. The facts and circumstances being identical, we hold that in the interest of justice and fair play, the instant impugned order be set aside to the file of the CIT(A) for a fresh adjudication. The CIT(A) is directed to obtain a report from the AO on the issues raised before him and reconsider the materials before him. Needless to say that the CIT(A)

shall provide adequate and reasonable opportunity of being heard to the legal heir of the assessee before adjudicating the issues at hand.

8. The legal heir of the assessee is also directed to provide necessary information/documents as required by the authorities to support his case. With the above directions the grounds of appeal raised by the assessee are allowed for statistical purposes.

9. In the result, appeal of assessee in ITA No. 5271/DEL/2025 is allowed for statistical purposes.

Order pronounced in open court on 03.10.2025.

Sd/-

[MAHAVIR SINGH]
VICE PRESIDENT

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 09th OCTOBER, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	