

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "SMC", NEW DELHI  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER  
ITA No. 6992/DEL/2025  
(Assessment Year: 2012-13)**

*(Physical hearing)*

Alka Kalra (Deceased) Through Lekh Raj Kalra (Husband of deceased) 48, D-12 Sector-8, Rohini, Delhi-110085 PAN: AAJPG 2870 K	Vs	ITO Ward-35(5), New Delhi-110002
<b>Appellant / Assessee</b>		<b>Respondent / Revenue</b>

Assessee by	Shri Mohit Choudhary, CA & Shri Harish K. Choudhary, CA
Revenue by	Shri Virender Kumar Singh, Sr. DR
Date of Institution of appeal	31.10.2025
Date of hearing	01.12.2025
Date of pronouncement	01.12.2025

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER;**

1. This appeal by assessee is directed against the order of learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, dated 02.09.2025 for assessment year (AY) 2012-13. Though the assessee has raised multiple grounds of appeal, however, in my view the substantial grounds of appeal related to passing assessment order against the dead person, estimation of income and addition under section 69.
2. Rival submissions of both the parties have been heard and record perused. The learned Authorized Representative (AR) of the assessee submits that the Assessing Officer (AO) passed assessment order against dead person. The assessee died on 22.01.2017, copy of death certificate is placed on record. The assessment was completed on 28.11.2019 under section 144/147 of the Act for AY 2012-13. Since no notice was received by the legal heir of the assessee,

therefore, they have no occasion to make response. However, on coming to know about *ex-parte* assessment, when recovery proceeding was started, the legal heir of the assessee filed appeal before the Id. CIT(A). The appeal was filed by her husband Shri Lekh Raj Kalra, who is also senior citizen. In the statement of fact, the legal heir/appellant specifically mentioned this fact that the assessee has died. The Id. CIT(A) instead of taking corrective steps, dismissed the appeal on the sole ground of delay. The learned AR of the assessee submits that assessment order is nullity, therefore assessment order is liable to be set-aside. The Id. AR for the assessee further submits that there is no statutory duty cast upon assessee to intimate the factum of death of the assessee to the Income Tax Department. The Hon'ble Delhi High Court in the case of Savita Kapila Vs ACIT [2020] 118 taxmann.com 46 (Delhi) also held that if notice under section 148 issued after death, notice being invalid therefore to be quashed. The Id. AR also relied upon the orders of the jurisdictional High Court in the case of Vikram Bhatnagar Vs ACIT [2023] 147 taxmann.com 254 (Delhi) wherein it was held that assessment order passed against the dead person would be null and void and was to be set aside.

3. On the other hand, learned Senior Departmental Representative (DR) for the Revenue supported the orders of lower authorities. The learned Senior DR for the Revenue submits that legal heirs of the assessee has neither informed the AO about the death of assessee nor while filing first appeal filed an application for condonation of delay. The Id SR for the revenue prayed for dismissal of appeal.

4. I have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. I find that assessment was completed under section 144 on 28.11.2019. I also find that above initiation of re-assessment vide notice under section 148 dated 28.03.2019, the assessee died much prior i.e. 22.01.2017. The case of appellant is that they have not received any notice of reopening of other show cause notice during assessment and that first appeal was filed on coming to know of passing assessment order. I find that in the statement of fact in Form No.35, the assessee specifically stated that the assessee died on 22.02.2017, (though actual date of death is 22.01.2017), in fact death certificate issued on 22.02.2017. The Id. CIT(A) instead of taking corrective steps, dismissed the appeal by not condoning the delay. The Id. CIT(A) although dismissed the appeal of the assessee of limitation has not issued any specific show-cause notice on the issue of limitation. After considering the overall unique facts of the case, I find that notice under section 148 as well as assessment order passed pursuant thereto is passed against dead person. Thus, the assessment order is invalid. In the result, legal grounds raised by the assessee are allowed. Further considering the fact that the appeal of appellant is allowed on legal issue thus, adjudication on merit has become academic.
5. In the result, the appeal of the assessee is allowed.

Order was pronounced in the open Court on 01<sup>st</sup> December, 2025.

**Sd/-**  
**PAWAN SINGH**  
**JUDICIAL MEMBER**

Delhi, Dated: 01.12.2025

*Shethar*

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, New Delhi; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, New Delhi