



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
DR. DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.22/RJT/2025
निर्धारण वर्ष /Assessment Year: (2017-18)

Babubhai Joitaram Patel 9, Suvas Colony, St. Xaviers High School Road, Gujarat – 380014	बनाम/ Vs.	DCIT/ACIT, Center – 1, IT-Office, Amruta Estate Building, M.G. Road, Rajkot-360001
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No.: ABDPP5355K		
(Appellant)		(Respondent)

निर्धारिती की ओर से/Appellant by : Shri Pramod Popat, AR
राजस्व की ओर से/Respondent by : Shri Gopi Nath Chaubey, Sr. DR

सुनवाई की तारीख/Date of Hearing : 27/01/2026
घोषणा की तारीख/Date of Pronouncement : 28/01/2026

आदेश /ORDER

Per Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to assessment year (AY) 2017-18, is directed against the order passed under section 250 of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’) dated 06.06.2022 by the National Faceless Appeal Centre (NFAC), Delhi/ Commissioner of Income Tax (Appeals) [in short ‘Ld.CIT(A)’] which in turn arises out of an assessment order passed by the Assessing Officer (in short ‘AO’) u/s. 153C r.w.s. 144 of the Act dated 01.03.2022.

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

*“1. Notice Issued in the Name of a Deceased Person
The Learned Assessing Officer (Ld. AO) erred in law and on facts by issuing the notice under Section 153C of the Income Tax Act, 1961, in the name of a deceased person. The issuance of such a notice is a fundamental jurisdictional defect that*



renders the notice and resultant assessment order void ab initio. Further, the Learned Commissioner of Income Tax (Appeals) [CIT(A)] failed to adjudicate this legal issue despite its fundamental importance. Hence, the notice and assessment order must be quashed.

2. Ex-party Assessment and Violation of Natural Justice

The Ld. AO erred in law and on facts of the case in proceeding ex-party and passing the assessment order based on a notice issued to a deceased person. This action violates the principles of natural justice. The CIT(A) further erred in setting aside the matter to the AO instead of annulling the assessment order, which is bad in law. The assessment proceedings, therefore, should be quashed in their entirety.

3. Addition Based on Assumptions and Hypothetical Grounds

The Ld. AO erred in law and on facts of the case in making an addition on account of interest income without any corroborative evidence and in treating it as unexplained money, basing the addition solely on assumptions and hypothetical grounds. The reliance on a "dumb document" without substantive evidence renders the addition untenable. The CIT(A) erred in not adjudicating this issue on merits, and the addition must be deleted.

4. Jurisdictional and Procedural Defects

The assessment order suffers from jurisdictional and procedural defects, including a failure to adhere to the statutory requirements under the Income Tax Act. Despite these glaring defects, the CIT(A) failed to annul the assessment order. The assessment proceedings, therefore, deserve to be quashed.

5. Assessment Order Bad in Law

The assessment order is bad in law and on facts as it suffers from fundamental jurisdictional errors and procedural irregularities. The CIT(A) erred in failing to annul the order. Consequently, both the assessment order and the appellate order passed by the CIT(A) are unsustainable and should be quashed.

6. Erroneous Treatment of Hypothetical Income

The Ld. AO erred in law and on facts of the case in treating hypothetical interest income as unexplained income without any legal or factual basis. The CIT(A) further erred in not deleting the addition, which was based on arbitrary and unlawful presumptions. The assessment order and appellate order must be quashed.

7. Jurisdictional Overreach

The Ld. AO erred in assuming jurisdiction, issuing notices, and passing the assessment order without satisfying the mandatory jurisdictional requirements under the Act. The lack of valid jurisdiction renders the entire assessment process void.

8. Non-supply of Satisfaction

The Ld. AO erred in passing the assessment order and issuing notices without supplying satisfaction as required under Section 153C of the Income Tax Act. This procedural lapse vitiates the assessment order, which deserves to be quashed.

9. Right to Amend Grounds



The appellant craves leave to add, alter, or amend any of the grounds of appeal during or before the hearing of the appeal.”

3. When this appeal was called out for hearing, the Ld. Counsel for the assessee invited out attention to the order dated 05.08.2025 passed by the Hon'ble ITAT, Rajkot Bench in assessee own case, in ITA 15 & 23/Rjt/2025 for AY 2018-19, wherein the appeal of the assessee was allowed on the fact that the assessee was died on 11.09.2019 and legal heirs of the assessee has informed the assessing officer about the fact that the assessee has died on 11.09.2019, despite of this fact the assessing officer issued notice in the name of the dead person and also framed the assessment order in the name of the dead person, therefore, assessment order framed by the assessing officer on the dead person is bad in law. Hence, the assessment order itself should be quashed. The Ld. Counsel also submitted that present appeal is squarely covered by the above said judgement. A copy of the judgement was also placed before the Bench.

4. On the other hand, the Ld. DR for the revenue relied on the findings of the assessing officer.

5. We see no reason to take any other view of the matter then the view so taken by the Hon'ble ITAT, Rajkot Bench in the assessee own case, vide order dated 05.08.2025 (supra), in this order the Tribunal has inter-alia observed as follows:

“8. At the outset, Ld. Counsel for the assessee, submitted that notice u/s 143(2) of the Act, was issued in the name of the dead person, despite informing to the department that the assessee had died. The Ld. Counsel submitted that assessing officer framed assessment order u/s. 144 of the Act, on 01.03.2022. The assessee under consideration has died on 11.07.2019 and death certificate of the assessee is reproduced below:



0811161

મરણનું પ્રમાણ પત્ર
CERTIFICATE OF DEATH
ગુજરાત સરકાર
GOVERNMENT OF GUJARAT
જાહેર આરોગ્ય ખાતું
Department of Health

ખરી નકલ Certified Copy
નમુના ક્રમાંક-૬
Form No. 6 (See Rule 8/13)
કિંમત રૂ. ૫૦
Fee Rs. 50

(જન્મ અને મરણ નોંધણી અધિનિયમ ૧૯૬૯ ની કલમ ૧૨/૧૩ મુજબ અને ગુજરાત જન્મ અને મરણ નોંધણી નિયમ, ૨૦૦૪ના નિયમ - ૮ મુજબ)
(Issued under Section 12/17 of the Registration of Births and Deaths Act, 1969 & under section 8 of Gujarat Births & Deaths Registration Rules, 2004)

અમદાવાદ મ્યુનિસિપલ કોર્પોરેશન
Amdavad Municipal Corporation

આથી પ્રમાણપત્ર આપવામાં આવે છે કે નીચેની માહિતી મરાઠાના મુળ રેકૉર્ડમાંથી લેવામાં આવી છે જે ગુજરાત રાજ્યના અમદાવાદ શહેરના રજીસ્ટરમાં નોંધાયેલ છે.
This is to certify that the following information has been taken from the original record of Death at Amdavad City of Gujarat State, Ward નવરંગપુરા/NAVRANGPURA

માહે/ Month	સપ્ટેમ્બર/September	સને/ of	2019
(૧) નામ Name	:	બાબુભાઈ BABUBHAI	
(૨) જાતિ Sex	:	પુરુષ MALE	
(૩) મરણની તારીખ Date of Death	:	11/09/2019	
(૪) મરણ સ્થળ Place of Death	:	ઘર AT HOME	
(૫) પિતા / માતા / પતિનું નામ Name of Father / Mother / Husband	:	જોઈતારામ પટેલ JOITARAM PATEL	
(૬) મરણના મૃત્યુ સમયનું સરનામું Address of deceased at the time of Death	:	૯, સુવાસ કોલોની, સેન્ટ ઝેવિયર્સ હાઈસ્કૂલ રોડ, નવરંગપુરા, અમદાવાદ 9, SUVAS COLONY, ST. XAVIERS HIGH SCHOOL ROAD, NAVRANGPURA, AHMEDABAD	
(૭) મરણના કાયમી સરનામું Permanent Address of deceased	:	૯, સુવાસ કોલોની, સેન્ટ ઝેવિયર્સ હાઈસ્કૂલ રોડ, નવરંગપુરા, અમદાવાદ 9, SUVAS COLONY, ST. XAVIERS HIGH SCHOOL ROAD, NAVRANGPURA, AHMEDABAD	
(૮) નોંધણી ક્રમાંક Registration No	:	2019-DW-0010-0000868	
(૯) નોંધણી ની તારીખ Date of Registration	:	23/09/2019	
(૧૦) રીમાર્ક્સ/ Remarks	:		

MOHAMMED
નકલ તૈયાર કરનારની સહી
Prepared By

DR DIVYANG OZA
સત્તાધિકારીની સહી
Signature of Issuing authority
આરોગ્ય અને જન્મ મરણ વિભાગ
Department of Health (Births & Deaths)
અમદાવાદ મ્યુનિસિપલ કોર્પોરેશન
Amdavad Municipal Corporation

LAW GARDEN-CCC
30/09/2019

G. D. C.
A. M. G.
LAW GARDEN

નોંધ : જન્મ અને મરણ નોંધણી અધિનિયમ ૧૯૬૯ ની કલમ ૧૨/૧૩ મુજબ અને ગુજરાત જન્મ અને મરણ નોંધણી નિયમ, ૨૦૦૪ના નિયમ - ૮ મુજબ
NOTE: (1) In the case of death the disclosure shall be made of particulars regarding the cause of death as entered in the register. See provision in Rule Section 17(1)(A), (2) Permanent address and present address where the application being 1.1.2002

9. Learned Counsel further stated that during the proceeding before the DDIT investigation, it was informed to the revenue authorities that the assessee had died and the said information was available before the Assessing Officer, during the assessment proceedings, that the assessee has died, however, in spite of this, the assessing officer issued the notices in the name of the dead person and also framed



assessment, in the name of the dead person, therefore, the assessment order passed by the assessing officer on the dead person is invalid and may be quashed.

10. On the other hand, Ld. Sr. DR for the revenue, argued that, since the assessing officer has framed the assessment order u/s. 144 of the Act, therefore, the Ld. CIT(A), remitted the issue back to the file of the assessing officer for fresh adjudication. The Ld. DR also submitted that during the assessment proceeding, the further notices were issued in the name of the legal heirs, therefore, it is sufficient compliance and assessment order should not be quashed on this issue.

11. I have heard both the parties and noted that notice u/s 153C r.w.s. 143(3) of the Act was issued in the name of deceased person and notice u/s 142(1) of the Act, was also issued in the name of the deceased person. In fact, the order was framed in the name of the deceased person. Therefore, I find that the assessee is under consideration had died on 11.07.2019 and the assessing officer was aware about this fact that the assessee had died, despite of this fact, the notices were issued in the name of the deceased person and ultimately the assessing officer framed the assessment order in the name of the deceased person. Therefore, I find merit in the submission of the Ld. Counsel for the assessee, and hence assessment order need to be quashed, and for that reliance is placed on the judgement of the Co-ordinate Bench of ITAT Rajkot in the case of Amrutlal Karsandas Samani in ITA No. 463/Rjt/2024, order dated 25.04.2025. In this order, the Tribunal has inter alia observed as follows:

14. We have heard both the parties and perused the material available on record. We note that Late Shri Amrutlal Karshandas Samani (assessee) was running his business of Grain, Pulses, Jaggery, Sugar, etc, on wholesale, semi wholesale basis for more than 25 (Twenty five) years, that is, from the starting up his business until his sudden death. His unfortunate death occurred on 24/12/2018. Copy of the death certificate is enclosed on paper book page no. 31, which we have examined. Then after on the base of portal data Ld. ADIT (Inv), Jamnagar issued summons on 8-7-2019 and 23-02-2021 for the verification of cash deposited, during the demonetization period 09.11.2016 to 31.12.2016 in which SBN (old notes) cash deposit was at Rs. 19,00,000/-. In response to the summons, Legal heir of assessee filed reply and informed the income tax authorities that assessee had passed away on 24-12-2018 and requested to drop the proceedings. Thereafter, the case of the assessee was reopened u/s. 147 of the IT Act, 1961, after getting approval from the Ld. Add/Joint commissioner of Income Tax, Range-1, Jamnagar, a notice u/s. 148 of the IT Act, 1961 was uploaded at portal on 16-04-2021. However, Ld. AO continued proceedings, issued notice u/s 143(2) of the Act. The assessee again informed to the income tax officer about death of assessee. However, assessing officer framed the assessment order on the dead person which is bad in law. The learned PCIT also framed the revision order under section 263 of the Act on the dead person. That is, revision order under section 263 of the Act was framed on, non-existent assessee, hence, revision order framed by the ld. PCIT, under section 263 of the Act, is bad in law and needs to be quashed. We note that Co-ordinate Bench of ITAT Cuttack, in the case of Janardan Gupta, (2019) 75 ITR 64 (trib), on the identical and similar facts, has quashed the revision order under section 263 of the Act, observing as follows:

“6. After hearing both the sides and perusing the entire material available on record and the impugned order passed u/s 263 of the Act, we noticed from the death certificate submitted by the assessee that late Janardan Gupta died on 15.03.2015 which has duly been recorded by the AO in his assessment order and



order has been passed in the name of legal heir also. We further noticed from the order of Pr. CIT that he has passed order in the name of deceased-assessee who was not in existence on the date of passing of the revisional order u/s.263 of the Act. We also agree with the case law relied on by the ld. AR in the case of M. Hemanathan (supra), wherein the Hon'ble Madras High Court in para 12 has held as under

“12. But unfortunately, the said contention loses sight of the settled position that any proceeding initiated against a dead person is a nullity. The contention of the learned Standing Counsel for the Department loses sight of one important distinction between a case where the proceedings are initiated against a person, who is alive, but continued after his death and a case of proceedings initiated against a dead person himself. If the proceedings had been initiated against a person, who was alive, and they were continued after his death after putting his legal heirs on notice, those proceedings, under certain circumstances, may be saved. Such a situation is also contemplated in civil proceedings and a provision is made in the Civil Procedure Code itself under Order XXII Rule 4. Therefore, the cases where the very proceedings are initiated against a dead person stand apart from those proceedings where they are initiated against a live person, but continued after his death against the legal heirs. Hence, the first contention is rejected.”

7. Respectfully following the above decision of Hon'ble Madras High Court, we are of the considered view that the Pr. CIT is not justified in setting aside the assessment order invoking powers u/s.263 of the Act ignoring the fact that the assessee is already expired on 15.03.2015, which was already informed by legal heir Shri Jitendra Kumar Gupta, the son of the assessee during the course of assessment proceedings. The AO has also passed order u/s.143(3) of the Act in the name of legal heir of the assessee. Therefore, fresh assessment cannot be initiated against the deceased assessee. Accordingly, we quash the order passed by the Pr. CIT u/s.263 of the Act and allow the appeal of the assessee.8. In the result, appeal of the assessee is allowed.”

15. Hon'ble High Court of Madras, in the case of M.Hemanathan, 384 ITR 177 (Mad-HC), held that where notice issued in name of deceased-assessee was served upon legal heir, who, then, participated in proceedings, such proceedings was a nullity being initiated against a dead person. It was also held that where notice issued in name of deceased-assessee was served upon legal heir who, then, participated in proceedings, said legal heir could not be deprived of right to challenge service of notice. The Co-ordinate Bench of ITAT Delhi in the case of Sheela Devi, 64 CCH 186 (Del-trib), held that if show cause notice was addressed to deceased assessee instead of legal heirs, order was ab-initio void. Respectfully following the above binding precedent, we quash the order passed by the ld. PCIT under section 263 of the Act, dated 21.02.2024.

12. As the issue is squarely covered in favour of the assessee, by the decision of the Co-ordinate Bench, (supra) and there is no change in facts and law and the Revenue is unable to produce any material to controvert the aforesaid findings of the Co-ordinate Bench (supra). I find no reason to interfere in the said order of the Co-ordinate Bench, therefore, respectfully following the judgment of the Coordinate Bench, I allow both these appeals of the assessee. ”

6. As the issue is squarely covered in favour of the assessee by the decision of the ITAT, Rajkot Bench in the assessee's own case, and there is no



change in fact and law and the revenue is unable to produce any material to controvert the aforesaid findings of the Division Bench (supra). We find no reason to interfere in the said order of the Division Bench. We note that the assessee died on 11.09.2019, and during the assessment proceeding, the legal heirs of the assessee informed the assessing officer about death of the assessee, despite of informing to the assessing officer that the assessee died on 11.09.2019, the assessing officer issued various notice in the name of the dead person. Therefore, respectfully following the judgment of the coordinate Bench in assessee own case(supra), we allow the appeal of the assessee.

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

Order is pronounced in the open court on 28/01/2026.

Sd/-
(Dr. Dinesh Mohan Sinha)
न्यायिक सदस्य/ **Judicial Member**

Sd/-
(Dr. Arjun Lal Saini)
लेखा सदस्य/**Accountant Member**

Rajkot

//True Copy//

Date: 28/01/2026

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot