

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE-PRESIDENT
&
MRS. RENU JAUHRI, HON'BLE ACCOUNTANT MEMBER**

ITA No. 6209/DEL/2025; A.Y.: 2017-18

Ms. Poonam (L/R of Late Sh. Kshitij Lal) C/o M/s Raj Kumar & Associates Chartered Accountants, L-7A (LGF), South Extension Part-II, New Delhi-49	Vs	DCIT Central Circle-5 Jhandewalan, Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AEFPL1769N		

Assessee by : Shri Raj Kumar Gupta, CA

Revenue by : Shri Jitender Singh, CIT DR

Date of Hearing: 06.01.2026	Date of Pronouncement: 29 .01.2026
------------------------------------	---

ORDER

PER RENU JAUHRI :

The above captioned appeal is preferred against the order dated 08.08.2025, passed by the Ld. CIT(A)-24, New Delhi [for short, CIT(A)] u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as, "Act"), in Appeal No. CIT(A), Delhi-24/10411/2016-17 for A.Y. 2017-18.

2. The Assessee has raised following grounds of Appeal which are reproduced as below:

"Addl. Ground No.1

1. That **without prejudice**, no incriminating material found and seized relating to issue of addition of Rs.33,85,560/- U/s.56(2)(vii) from assessee, therefore, at the most, this issue could had been examined only U/s. 153C.

Regular Grounds

2. That in view of the fact that assessee died on 27.09.19 and the impugned asstt. being framed on the basis of notice u/s.153A Dtd. 20.01.20 and notice u/s.142(1) Dtd. 12.02.21, both issued in the name of dead assessee, the whole asstt. proceedings as well as impugned asstt. order is illegal and unsustainable in law as well as on merits.
3. That under the facts and circumstances, A.Y.17-18 being unabated year and no incriminating material found and seized relating to issue of addition of Rs.33,85,560/- u/s.56(2)(vii), the Ld. A.O. exceeded his jurisdiction in examining and adding the same in proceedings u/s. 153A.
4. That under the facts and circumstances, the addition of Rs.33,85,560/- u/s. 56(2)(vii) is illegal and unwarranted even on merits.
5. That under the facts and circumstances, the impugned asstt. order being communicated on ITBA is unsustainable in law and should be deemed to never has been issued in the absence of quoting of DIN in the body of asstt. order as mandated by CBDT Circular No. 19/2019 Dtd. 14.08.19.”

3. Brief facts of the case are that a search action u/s 132 was conducted in the case of Shri Net Ram and his associates, including Late Shri Kshitij Lal, the assessee, on 12-13th March, 2019. The assessee, Sh. Kshitij Lal filed his return for A.Y. 2017-18 on 06.03.2018, declaring an income of Rs. 9,69,440/-. Subsequently, notice u/s 153A was issued on 20.01.2020 and, in response, the assessee filed return again declaring income of Rs. 9,69,440/- on 29.01.2020. Assessment was completed u/s 153A r.w.s 143(3) on Ms. Poonam as the Legal Representative of the assessee vide order dated 19.08.2021, making an addition

of Rs. 33,85,560/- u/s 56(2)(vii) on shares acquired by the assessee. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) which was dismissed vide order dated 08.08.2025. Aggrieved further, the assessee has filed an appeal before the Tribunal. Although several legal grounds have been raised by the assessee, we first take up Ground No. 2 relating to the validity of notice u/s 153A in the name of the deceased assessee.

4. Ld. AR has submitted before us that the assessee had expired on 27.09.2019 and notice u/s 153A was issued on 20.01.2020 in the name of the deceased. Another notice u/s 153A was issued on 20.01.2021 in the name of the legal heir, Ms. Poonam. Subsequently, notice u/s 142(1) was again issued in the name of the deceased. Finally, the assessment was framed in the name of Ms. Poonam L/H of Late Shri Kshitij Lal vide order u/s 153A r.w.s 14(3) dated 19.08.2021. Ld. AR has argued that the assessment framed in respect of notice u/s 153A and 142(1) issued in the deceased assessee's name was invalid. In support of his contention, Ld. AR has placed reliance on several decisions including that of the Hon'ble Jurisdictional High Court in the case of *Savita Kapila vs ACIT Circle 4(1) [2020]118 taxmann.com* wherein it has been held that there was no duty cast upon legal representative to intimate factum of death of the assessee to the department and thus notice u/s 148 issued to assessee after his death was held to be invalid.

4.1 On the other hand, Ld. DR has submitted that another notice u/s153A in the name of the legal representative was duly issued by the Ld. AO as soon as it came to his knowledge that the assessee had expired. Mere non-mentioning of the second notice in the final order is an inadvertent omission and a curable defect. In this regard, he has placed strong reliance on the order of the Ld. CIT(A).

5. We have heard the rival submissions and carefully perused the material placed before us. We note that various relevant dates from the copies of notices/documents placed before us are as under:

- (i) Date of search: 12-13.03.2019
- (ii) Date of receipt of seized material and appraisal report by AO:
09.03.2020
- (iii) Date of Death of the assessee: 29.09.2019
- (iv) 1st Notice u/s 153A dated 20.01.2020, in the name of the deceased
- (v) ITR u/s153A filed in its response: 29.01.2020
- (vi) 2nd Notice u/s 153A dated 20.01.2021 in the name of L/R
- (vii) ITR u/s 153A in response to 2nd Notice dated 25.01.2021 by L/R
- (viii) Notice u/s 142(1) dated 12.02.2021 in the name of deceased
- (ix) Assessment order dated 19.08.2021 in the name of L/R

5.1 We further note that in the assessment order, only the 1st notice u/s 153A dated 20.01.2020 has been mentioned. There is no mention of the 2nd notice issued

u/s 153A to the L/R nor the return filed in response thereof has been considered by the Ld. AO. Further, even after issuing the 2nd Notice to the L/R, Ld. AO has issued the notice u/s 142(1) in the name of the deceased, which also finds mention in the assessment order. Thus, we are inclined to agree with the Ld. AR that the notice in respect of which the assessment has been finalized is invalid in the light of decision of the Hon'ble Jurisdictional High Court in the case of **Savita Kapila (supra)**. Accordingly, the notice and subsequent assessment order u/s 153A r.w.s 143(3) of the Act are hereby quashed.

7. As the proceedings have been quashed, rest of the grounds are rendered infructuous and hence are not being adjudicated upon.

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

Order pronounced in the Open Court on 29-01-2026.

Sd/-
(MAHAVIR SINGH)
Vice-President

Sd/-
(RENU JAUHRI)
Accountant Member

Dated: 29.01.2026

Pooja Mittal

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi