

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 2232/CHNY/2025
निर्धारण वर्ष/Assessment Year: 2016-17

Late Sasireka Srinivasan,
Rep. by Legal Heir Smt.
Dayanad Renuka,
19, Agraharam Street,
Kangeyam,
Tirupur – 638 701.

The Income Tax Officer,
Vs. Ward – 1(4),
Tirupur.

PAN: AIJPS 2677L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri T. Banusekar, Advocate
: Shri N. Rajakumar, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 29.01.2026

घोषणा की तारीख/Date of Pronouncement

: 30.01.2026

आदेश/ ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 23.06.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2016-17.

2. The Ld.AR had raised an additional ground stating that the assessment order passed u/s.147 r.w.s.144B of the Act on 20.03.2022 in the name of a deceased person is void-ab-initio. It was submitted that death of the assessee was brought to the notice of First Appellate Authority (FAA) however, the same was not taken note of and impugned order has been passed by the FAA. In support of his contention that assessment order passed on the deceased person is void-ab-initio and is liable to be set aside, the Ld.AR relied on the following judicial pronouncements:-

- i. Hon'ble Delhi High Court in the case of Savita Kapila vs. ACIT reported in [2020] 426 ITR 502
- ii. ITAT, Rajkot Bench in the case of Bhavnaben K. Punjani v. PCIT in ITA No.138/RJT/2017 (order dated 15.02.2024)

3. The Ld.DR on the other hand distinguished the case laws relied on by the assessee as under:-

1. With respect to the case law relied upon by the appellant in the case of Savita Kapi Vs ACIT [2020] 426 ITR 502 (Del), it is seen that in the said case, notice u/s. 148 was issued subsequent to the death of the assessee and therefore the Hon'ble High Court quashed the notice u/s. 148 & consequential orders, whereas in the instant case notice u/s. 148 was issued before the demise of the assessee. Therefore, as the facts are not similar the case law relied upon by the appellant is not applicable to the instant case.

2. With respect to the case law relied upon by the appellant in the case of Bhavnaben K.Punjai Vs PCIT [2024] 206 ITD 30 (Rajkot Trib.). it is seen that in the said case assessee had expired on 15.10.2013 and reassessment order was passed on 16.02.2015. Subsequently, the PCIT had passed order u/s.263. The Hon'ble Tribunal had held the order u/s.263 as invalid not the

reassessment order. Therefore, as the facts are not similar, the case law relied upon by the appellant is not applicable to the instant case.

4. We have heard rival submissions and perused the material on record. The assessment u/s.147 r.w.s.144B of the Act was completed on 20.03.2022. Assessee had expired on 18.02.2022. Copy of death certificate of the assessee is placed on record at page 2 of the paper-book submitted. On identical facts, the Hon'ble Kerala High Court in the case of Shini Shajan vs. PCIT reported in [2025] 180 taxmann.com 836 had restored the matter to the file of the AO and directed him to issue fresh notice to the legal representative if any and complete the assessment in accordance with law. The relevant finding of Hon'ble Kerala High Court in the case of Shini Shajan, (*supra*) reads as follows:-

"11. On carefully going through the statutory stipulations as referred to above in Sec. 159, it is evident that the Department could have continued the proceedings against the legal representatives upon the death of the assessee from the stage at which it stood at the time of the death of the assessee.

12. In this case, the death of the deceased was at a time when the assessment proceedings were in progress, and the death happened just before the date on which, the hearing of the assessment was proposed to be conducted. Therefore, the proceedings only up to the date of death of the deceased could be treated as valid, and any further proceedings thereafter could have been continued by the Department only after issuing notice to the legal representative. This is because, subsection 2(a) of Sec.159 specifically contemplates that the proceedings may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased, and therefore, when such proceedings are intended against the legal representative, the same could have been continued only upon issuing notice to the legal representative or representatives.

13. In this case, admittedly, no such exercise has been carried out, and instead, the assessment proceedings were finalized on 17.06.2021, whereas the assessee died on 03.06.2024. Therefore, the proceedings that culminated in Ext. P5 on 17.06.2021, which is in the name of the deceased and without issuing notice to the legal representative, cannot be treated as legal proceedings contemplated under Sec. 159 of the Income Tax.

14. Apart from the above, as pointed out by the learned counsel for the petitioner, as per the Press Release dated 20.05.2021 published by the Department, no hearing could have been conducted by the 2nd respondent on 05.06.2021. Evidently, Ext.P5 order dated 17.06.2021, was based on the hearing, which was proposed to be conducted on 05.06.2021. For that reason also, an interference is required.

15. Of course, it is pointed out by the learned Standing Counsel for the respondent that the petitioner failed to intimate the death to the 2nd respondent. However, I am not inclined to accept the said contention for more than one reason. Firstly, it is to be noted that, the death of the deceased, who is none other than the husband of the petitioner, took place on 03.06.2021, and the hearing was scheduled on 05.06.2021. The order was passed on 17.06.2021. Expecting a wife, who lost her husband just days before the proposed hearing date, to submit an intimation immediately after such death, to the Income Tax Authorities as to his death, is highly irrational and impractical. Evidently, the priorities at that point in time, for a person who is under the grief of the deceased husband would be different, and under no circumstances can that be an intimation to be submitted before the statutory authorities. Therefore, no adverse consequences, merely because of that reason, can follow on the basis of non-submission of such intimation to the statutory authorities.

16. Apart from the above, observations made by the High Court of Delhi in the decision rendered in *Savita Kapila, legal heir of the late Shri. Mohinder Paul Kapila v. Assistant Commissioner of Income Tax, Circle 43(1) Delhi WPC No. 3258/2020*, are also relevant. It was observed in the said decision that, in the absence of any specific statutory requirement imposing an obligation upon the legal representative to intimate the death of the assessee, such a stand cannot be taken by the Department. I am convinced of the aforesaid observation made by the Delhi High Court, particularly in view of the peculiar facts and circumstances of this case, which is to the effect that, the assessment was completed immediately after the death of the husband of the petitioner. In such circumstances, on that

ground also, I find that the Ext.P5 proceedings require interference. As far as Ext.P8 revisional order passed by the 1st respondent is concerned, I am of the view that the same also requires interference, in view of the fact that this Court has already found that Ext.P5, revision of which was sought before the 1st respondent, is not legally sustainable. Thus, after considering all the relevant aspects, I find that the petitioner is entitled to the reliefs sought.

Accordingly, this writ petition is disposed of, quashing Exts. P5, P6, and P8 with a direction to the 2nd respondent to complete the relevant assessment, after issuing fresh notice to the petitioner and other legal representatives, if any.”

5. In light of the above judgment of the Hon'ble Kerala High Court, we quash the assessment order and the FAA's order and restore the matter to the file of the AO. The AO is directed to complete the assessment after issuing fresh notice to the legal representative. It is ordered accordingly.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30th January, 2026 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 30th January, 2026

RSR

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.