

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

**Before: DR. BRR Kumar, Vice President
And Shri T. R. Senthil Kumar, Judicial Member**

**ITA No: 1947/Ahd/2025
Assessment Years: 2020-21**

Rohini Gautambhai Shah C/o. Gautam Shah & Associates, Suflam Flats, B/h. Dena Bank, Ashram Road, Ahmedabad-380009 PAN: AAVPM9252B (Appellant)	Vs	The ITO, Ward-1(3)(1), Ahmedabad (Respondent)
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**Assessee Represented: Ms. Kinjal Shah, C.A.
Revenue Represented: Ms. Ketaki Desai, Sr.D.R.**

Date of hearing : 10-02-2026
Date of pronouncement : 12-02-2026

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 18-09-2025 passed by the Additional Commissioner of Income Tax/JCIT (Appeals)-4, Mumbai arising out of the rectification order passed under section 154 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2020-21.

2. Brief facts of the case is that the assessee is a super senior citizen filed her Return of Income for the Asst. Year 2020-21 on 19-10-2020 declaring total income of Rs.30,26,560/- which is inclusive of property income, short term and long term capital loss, Income from other sources, Professional Consultation fees of her husband late Gautam B. Shah. The return was processed u/s. 143(1) and refund of Rs.9050/- was issued to the assessee. The assessee claimed that she has offered her deceased husband's income from profession of Rs. 11,63,635/- and also claimed TDS credit of Rs.1,16,365/- which was not granted to the assessee. Hence a rectification petition was filed by the assessee. CPC disposed the rectification petition stating that there is no mistake and no amount due to the assessee. Further it was informed that the TDS credit of Rs.1,16,365/- stands in the name of her late husband PAN cannot be granted to the assessee.

3. Aggrieved against the same, the assessee filed an appeal before Addl.CIT(A) who also dismissed the appeal by observing as follows:

“5.4 I have carefully gone through the facts of the case, grounds of appeals and reply filed by the appellant. From the facts of the case it is seen that the appellant had claimed TDS credit of Rs. 1,30,313/- in the ROI but the CPC had granted TDS credit of 13,948/- both in the order passed u/s. 143(1) and 154 of the Act resulting into short TDS credit of Rs.1,16,365/-.

5.5 In this context on going through the reply filed by the appellant and on verification of Form 26AS filed by the appellant it is seen that this amount of Rs.1,16,365/- pertains to the PAN of Mr. Gautam Budhabhai Shah, husband of the appellant. In this regard the appellant submitted that her husband was expired and she has shown his income of Rs. 11,63,632/- in her statement of income and claimed TDS credit of Rs,1,16,365/-. This amount pertains to Late Mr. Gautam Budhabhai Shah.

5.6 After considering these facts of the case it is observed that the appellant had not filed the Return of Income in the capacity of Legal Heir of her husband Late Mr. Gautam Budhabhai Shah, hence the appellant is not

eligible for this TDS credit. In my considered opinion the CPC is right in not granting the TDS credit as it not pertains to the appellant's PAN and pertains to the another PAN i.e. her Late husband. The appellant has to claim this TDS credit in the case of Return of Income filed in the capacity of L/h. of Late. Mr. Gautam Budhabhai Shah and not in her own Return of Income. In view of the above Ground No. 1 & 2 raised by the appellant are hereby dismissed.”

4. Aggrieved against the appellate order, the assessee is in appeal before us raising the following Grounds of Appeal:

1. The CIT(A) has erred in not granting credit for TDS of Rs.10,464/-and Rs.1,05,901/- aggregating to Rs.1,16,365/- under the contention that the TDS is deducted under the PAN of Appellant's late husband Shri Gautam B. Shah.

It is submitted that since the Appellant has already included income of Rs.1,04,628/- and Rs. 10,59,007/- being income received after the death of the deceased husband which is under this PAN and since the AO has already taxed both the above amounts as income of the Appellant and since the CIT(A) has already confirmed the inclusion/addition of these incomes received after the demise of the Late husband as income of the Appellant, TDS thereon ought to have been allowed as a credit.

2. The CIT(A) has not granted credit of TDS on the ground that the Appellant has not filed income as legal heir of her late husband Shri Gautam B. Shah and hence the Appellant is not eligible to claim credit of the TDS.

It is submitted that if the Appellant is not eligible for credit of TDS on income of the Late husband, Appellant also cannot be taxed on income of the late husband received after his death and hence the incomes of Rs.1,04,628 and 10,59,006 be excluded/deleted from computation of income of the Appellant which is offered as taxable by the appellant and which is accordingly taxed by the AO and also confirmed by the CIT(A).

5. Ld. Counsel appearing for the assessee filed before us application under Rule 29 of ITAT Rules and requested to admit additional evidences which goes to the root of the matter namely:


- i) Copy of Death certificate.
- ii) Copy of signed Will.

- iii) Copy of document showing Legal heir on Income Tax Portal.
- iv) Copy of Acknowledgement of Last Return of Income filed for A.Y. 2019-20, alongwith computation of Total Income.
- v) Copy of Tax Audit Report filed u/s.44AB for A.Y.2019-20.
- vi) Copy of Balance Sheet, Profit & Loss A/c and notes for A.Y. 2019-20.
- viii) Copy of Ledger Account of Architect Consultation Fees -V.S. Hospital Project.
- xi) Copy of communication Letter to AMC (Ahmedabad Municipal Corporation) with copy of Bill dated 10-12-2018 including copy of Cheque and Bank Statement.


5.1. Ld. Counsel also submitted that additional evidences could not be filed before Lower Authorities, since no proper opportunity of hearing was given by Addl.CIT(A). Hence requested to admit the additional documents filed before this Tribunal.

6. Ld. D.R. appearing for the Revenue strongly opposed the additional documents.

7. We have carefully considered the submissions of rival parties. The so called additional documents except Serial Nos. 8, 9 and all remaining documents were already filed before the Department by the assessee. Perusal of the same, more particularly Page No. 30 namely print out of the Income Tax portal screen shot showing the assessee is accepted as the legal heir of deceased husband Gautam B. Shah as follows:

 **e-Filing** Anywhere Anytime
Income Tax Department, Government of India

Dashboard My Account e-File e-Processing e-Viewing Compliance Worklist Profile Settings Viewed Se. Messages

Welcome **ROHINI GAUTAMBHAI SHAH (Individual)** Logout
Last Login: 19/02/2021 15:32:36
Idle Session Timer 

Details of Deceased PAN

Deceased Assessee details

PAN of Deceased	ACVPS6986J
Name of the Deceased (As per PAN)	GAUTAM BUDHABHAI SHAH
Date of Death	24/08/2018
Reason for Registration	-
Details of Bank account of the legal heir	
Bank Account Number	08490120034509
Account Type	Savings
IFS Code	BARB0ASHRAM
Bank Name	Bank of Baroda
Legal Heir Details	
Heir PAN	AAVPM9252B
Heir Full Name	ROHINI GAUTAMBHAI SHAH
Heir Date of Birth	19/03/1949
Comments	-

R.G. Shah

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7.1. Further the PAN number of deceased husband ACBPS6986J was surrendered and the assessee's PAN is shown as legal heir of the deceased husband. It is undisputed fact that Gautam B. Shah died on 24-08-2018. Thereafter as a legal heir the assessee herein filed the Return of Income for the Asst. Year 2019-20. Mr. Gautam B. Shah was carrying on the Profession of Architect and Planning Consultant as a proprietary concern in the name of M/s. Gautam Shah Associates. For the service rendered to Ahmedabad Municipal Corporation, the assessee received payments to Rs. 11,63,635/- with TDS Rs. 1,16,365/- in the name of deceased husband during the financial year 2019-20. Since the assessee surrendered the PAN of her late husband, she offered both income of her late husband and also TDS credit in the Return of Income filed by the assessee for the Asst. Year 2020-21. Whereas Revenue accepts the income of the late husband in the hands of the assessee but refusing to grant TDS deducted by AMC which is against the provisions of law and Article 265 of the Constitution of India.

7.2. Considering the totality of the case herein before us, we hereby direct the Jurisdictional Assessing Officer to consider the TDS credit claim of the assessee and grant TDS credit of late Gautam B. Shah whose PAN was surrendered by the assessee and refund the tax with interest to the assessee within a period of two months of receipt of this copy of this order and by giving proper opportunity of hearing to the assessee. Further the question of filing return of income in the capacity of legal heir also does not arise since PAN of the deceased Gautam B. Shah already surrendered to the department.

8. In the result, the appeal filed by the Assessee is allowed.

Order pronounced in the open court on 12-02-2026

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT *True Copy*
Ahmedabad : Dated 12/02/2026

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद