

IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER&
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER
ITA No. 6514/MUM/2025 (AY: 2012-13)
(Physical hearing)

NishaRajendraMavani Legal Heir of NavnitDharamsiParmani 7-B, Ganga Laheri Apartment CHS, Building No. 19, Banganga Road, Walkeshwar, Mumbai – 400006. [PAN : ABDVPP8756R]	Vs	ITO – 19(2)(4), Mumbai Piramal Chambers, Mumbai – 400012.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Ashish Thakurdesai,CA
Revenue by	Shri Layaqat Ali Aafaqui, Sr. DR
Date of Institution	11.10.2025
Date of hearing	12.01.2026
Date of pronouncement	11.02.2026

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 Id. CIT(A)/NFAC dated 13.08.2025 for Assessment Year (AY) 2012-13. The assessee has raised following grounds of appeal:

"1. On facts, in circumstances of the case and in law, the learned Commissioner of Income Tax Appeals, National Faceless Appeal Centre ought to have held that the reopening of assessment of the appellant u/s 147/148 of Income Tax Act, 1961 is bad in law.

2. On facts, in circumstances of the case and in law, the learned Commissioner of Income Tax Appeals, National Faceless Appeal Centre ought to have held that assessment order passed in the name of deceased person is bad in law.

3. On facts, in circumstances of the case and in law, the learned Commissioner of Income Tax Appeals, National Faceless Appeal Centre ought to have deleted addition of Rs. 1,20,00,000/- u/s 69B of the Income Tax Act, 1961.

4. On facts, in circumstances of the case and in law, the learned Commissioner of Income Tax Appeals, National Faceless Appeal Centre ought to have deleted interest charged of Rs.32,63,040/- u/s 234A, and Rs.34,48,440/- u/s 234B of the Income Tax Act, 1961.

5. The appellant craves leave to add, alter, modify OR DLEETE any of the above Grounds of Appeal.”

2. Rival submissions of both the parties have been heard and record perused. The Id. Authorized Representative (Id. AR) of the assessee submits that assessing officer passed the assessment order against the dead person. The assessment was passed on 06.12.2019, though the assessee died on 23.10.2019, copy of death certificate is placed on record. No notice either under section 148 or any other notice during the assessment was received by legal heirs of assessee. The appellant while filing appeal before Id. CIT(A) in Form 35 clearly mentioned this fact that the assessee has died. Despite bringing such fact in the notice of Id. CIT(A), no remedial action was taken by Id. CIT(A). The Id. CIT(A) confirmed the action of assessing officer. The Id. AR of the appellant submits that it is admitted position under the law that order against the dead person is nullity. The Id. AR of the assessee submits that there is no obligation under the provision of Income Tax Act to intimate the death of assessee to Revenue as has been held by Delhi High Court in *Sativa Kapila Legal Heir of Late Shri Mohinder Paul Kapila vs ACIT W.P.(C) 3258/2020*.
3. On merit, during the lifetime of assessee, he received compensation on account of surrender of tenancy right, which was invested for purchase/ acquisition of new residential property. The assessee received Rs. 1.20

crore as compensation on surrender of tenancy rightvide agreement dated 01.09.2009, copy of agreement is filed on record. Under the said agreement the assessee was allotted alternative flat in the redeveloped project, where the assessee was tenant. However, the project was getting delayed, thus, new agreement was executed with builder and in place on flat, the assessee was given compensation for surrender of tenancy vide agreement dated 08.08.2011, copy of which is also placed on record. The receipt/ amount is otherwise capital receipt, though it was invested for purchase of new residential house on 16.08.2011, being flat No. 7-B, 3Rd Floor, Gangalaheri Cooperative Society, copy of registered agreement dated 16.08.2011, copy of which is placed on record. Thus, no taxable income during the relevant financial year, hence, no return of income was filed by deceased assessee. The Id AR of the appellant submits that he has good case on legal issue as well as on merit.

4. On the other hand, the Id Sr DR for the revenue supported the order of lower authorities. The assessee was non-filer of income tax return. The legal heir has not informed the assessing officer about the death of the assessee.
5. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We find that the case of assessee was reopened on the basis of information that the assessee had purchased property for a total consideration of Rs. 1.20 Crore. The assessing officer (AO) issued notice under section 148 dated

27.03.2029. The AO in para-2 of his order recorded that neither return of income in response to notice under section 148 was filed nor any response to such notice. We find that assessment was completed under section 144 read with section 147 of the Act on 06.12.2016. On careful reading of assessment order, we find that there is no reference of any other notice, except under section 148, in the entire assessment order. We further find that while filing appeal before Id CIT(A), the appellant in para-6 of statement of claim specifically stated that the assessee dies on 23.10.2019. It was further contended that the assessee and executor of his will were not staying at the address that is at Flat No. 7B, Ganga Lahri and were staying at other address. And that no notice was received either by the assessee during his life time or his executor. We find that despite taking clear stand that the assessee died before passing the assessment order, neither the Id CIT(A) took remedial step to substitute the legal heirs of assessee or record or direction the AO to take remedial action for issuing fresh notice on the legal heir of assessee about escapement of income of assessee from assessment, rather again passed the impugned order in the name of deceased assessee. The Hon'ble Delhi High Court in Savita Kapila legal heirs of late Mohinder Pal Kapila Vs ACIT (2020) 426 ITR 0502 (Delhi) held that the legal heirs are under no obligation to intimate the death of the assessee to the revenue. Thus, in view of the above factual and legal position, we do not find any justification for confirming the assessment order passed again the dead person. The assessment order passed

against the dead person is nullity. Thus, the appellant succeeded on legal issue.

6. Even on merit, on perusal of various evidences on record, which include agreement of surrender of tenancy, and receipt of cost of compensation on surrender of tenancy and ultimate investment of entire amount in purchase of new residential house, which was made with the time allowed under section 54F, the assessee was eligible of such deduction.
7. We are conscious of the facts that the assessee has not filed return of income and no such claim was made before AO, however all such facts were pleaded before Id CIT(A). The appellant also filed all such supporting evidences to substantiate such claim, the Id CIT(A) ignored all such submissions and evidences. Thus, the appellant also succeeded on merit. In the result, ground No. 1 to 3 are allowed. Ground No. 4 is consequential.
8. In the result, the appeal of appellant is allowed

Order pronounced in the open court on 11/02/2026

Sd/-
(ARUN KHODPIA)
ACCOUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Mumbai; Dated 11/02/2026
Biswajit, Sr. PS

Copy of the order forwarded to:

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

By Order

Assistant Registrar
ITAT, Mumbai