

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI 'F' BENCH, MUMBAI  
BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA No. 7317/MUM/2025(AY: 2015-16)**

|   |                              |  |
|---|------------------------------|--|
| Jigar Bharat sheth (Legal Heir of Late Shri Bhartkumar Manilal sheth).<br>43, Savani Apartment, 8 <sup>th</sup> Floor, M.G. Road, Ghatkopar (E), Mumbai-400077. | <b>vs.</b>                   | Income Tax Officer Ward 27(1)(2), Mumbai.<br>Tower No. 6, 4 <sup>th</sup> Floor, 407, Vashi, Navi Mumbai-400703. |
| <b>PAN/GIR No:AEDPS3883E</b>  |                              |  |
| (Appellant)   |                              | (Respondent)   |
| <b>Appellant by</b>   | Shri Nilesh Kariya           |  |
| <b>Respondent by</b>  | Shri Kavitha Kaushik (SR DR) |  |
| <b>Date of Hearing</b>  | 21.01.2026                   |  |
| <b>Date of Pronouncement</b>  | 18.02.2026                   |  |

**ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre [in short, 'CIT(A)'], dated 08.09.2025 for the assessment year (AY) 2015-16, which in turn arises out of assessment order u/s 143(3) dated 28.12.2017.

2. The grounds of appeal raised by the revenue are as under:

*"1.The Learned Assessing Officer (Ld. AO) and Learned National Faceless Appeal Centre (NFAC) erred in proceeding to pass the order u/s 143(3)*

*and u/s 250 of the Income Tax Act, 1961 (the 'Act') in the name of the deceased person against the provisions of section 159 of the Act, hence, the order is null and void.*

*2. The Ld. AO erred in issuing notices u/s 143(2) in the name of deceased person despite informing the death of the Appellant before issuing notice u/s 143(2) of the Act to the Ld. AO by Legal heir of the Appellant in Violation of the provisions of section 159 of the Act, hence the proceeding is void ab initio.*

*3.The NFAC further erred in holding that the Appellant was alive at the time of making investment and filing ITR since the ITR was filed in the name of Appellant despite providing date of death in written submission and even after Ld. AO accepting in the Assessment Order that the Appellant died on 01.02.2015.*

*4.The Ld. AO and NFAC erred in disallowing the deduction u/s 54F and 54EC for investment made in the name of Jigar Sheth and Jyotiben Sheth as Legal Heir of the Appellant due to the want of Legal heir Certificate despite providing Affidavit cum Declaration sworn-in before Notary Officer declaring Jigar Sheth and Jyotiben Sheth is the Legal Heir of the Appellant.*

*5. The Ld. AO and NFAC erred in ignoring the documentary evidence (such as Passport, Aadhar Card, PAN card) produced to prove that Mr. Jigar Sheth is the Legal Heir of the Appellant.*

*6. The Ld. AO erred in holding that the investment in House Property or in NHAI bond made by Mr. Jigar Sheth and Jyotiben Sheth is not from the sale consideration received on sale of land by the Appellant and therefore, in violation of condition prescribed u/s 54F/54EC, however, lower authorities ignored the fact that there is no such specific requirement under the provisions that the re-investment should be from sale proceeds only but it specifies that the investment to be made within time limit prescribed which Legal Heir of the Appellant has done it.*

*7. The Appellant prays to allow it to add, alter, amend, modify and/or delete any or all of the above grounds of appeal."*

3. Facts of the case in brief are that assessee filed his return of income for AY 2015-16 on 29.08.2015 declaring total income of Rs.8,43,990/-. The case was selected for scrutiny and notice u/s 143(2) was issued on 21.09.2016. After hearing the assessee, order u/s 143(3) was passed on 28.12.2017 in the name of

Mr. Bharat Manilal Shah (Late) and not in the name of legal heir of the deceased assessee by making addition of Rs.1,44,12,514/- towards capital gain. The assessee filed appeal before the CIT(A) against such assessment order. The CIT(A) dismissed the appeal of the assessee.

4. Aggrieved by the order of the CIT(A), the assessee has filed the present appeal. The Ld. AR has filed a paper book containing 142 pages including notice u/s 143(2) dated 21.09.2016 in the name of Bharatkumar Manilal Sheth, copy of notice u/s 142(1) dated 16.08.2017 and 15.09.2017 in the name of Bharatkumar Manilal Sheth and letter from Jigar Bharatbhai Sheth, son and Legal Heir (LH) of Late Bharatkumar Manilal Sheth dated 30.04.2015 informing the ITO that the assessee expired on 01.02.2015. The Ld. AR submitted that notice u/s 143(2) was issued on deceased person which was not valid. The said notice was issued despite informing the AO that the assessee had expired on 01.02.2015. The information was received by the ITO- Ward 27(1)(2), Mumbai on 27.06.2015. Therefore, the issue of notice u/s 143(2) on the dead assessee was void and invalid. The Ld. AR relied on the decisions of Hon'ble Bombay High Court in cases of Dhirendra Bhupendra Sanghvi vs. ACIT (2023) 151 taxmann.com 541 (Bom.) and Devendra vs. AJCIT (2023) 153 taxmann.com 520 (Bom.).

5. On the other hand, the Ld. Sr. DR of the revenue relied on the orders of lower authorities.

6. We have heard both the parties and perused the materials on record. We have also deliberated on the decisions relied upon by the Ld. AR. There is no dispute that the notice u/s 143(2) was issued on 21.09.2016, which was after death of the assessee on 01.02.2015. The son and LH of the deceased assessee, Shri Jigar Bharatbhai Sheth, had informed the AO about the death of the assessee vide letter dated 30.04.2015, copy of which was received by the AO on 22.06.2015. Copies of these documents are filed in the paper book and the same has not been controverted by the Ld. Sr. DR of the revenue. Therefore, it is clear that the notice u/s 143(2) of the Act was issued in the name of dead person after being informed about the death of the assessee. The Hon'ble Jurisdictional High Court in case of Devendra vs. Addl/Jt.CIT (supra) held that notice issued in name of dead person or reopening of assessment of dead person is null and void. Again, in the case of Dharendra Bhupendra Sanghvi (supra), the Hon'ble Bombay High Court held that notice issued on a dead person or reopening of assessment of a dead person is null and void in law, therefore, impugned notice u/s 148, order u/s 148A(d) and notice u/s 148A(b) in name of deceased assessee were to be quashed and set aside. Respectfully following the decision of the Hon'ble High Court, the notice u/s 143(2) issued in the name of the deceased assessee is treated as null and void. Consequently,

the assessment order passed u/s 143(3) of the Act is quashed and set aside.

Accordingly, the grounds of the assessee are allowed.

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

Order is pronounced on 18.02.2025

**Sd/-**  
**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

\*Aniket Chand; Sr. PS  
MUMBAI

Date: 18.02.2026

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar  
ITAT, MUMBAI