

**IN THE INCOME TAX APPELLATE TRIBUNAL
"K (SMC)" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**ITA No.8815/MUM/2025
(Assessment Year:2020-2021)**

**Mohammad Umar Abdul Hasan Khan
(through legal heir wife Haseena Bano)**

Sanjay Nagar, Opp. Ram Mandir, Nawapur, Palghar,
Mumbai – 401501. Maharashtra.

[PAN: AWWPK1416A]

..... **Appellant**
Vs

Income Tax Officer Ward 1, Palghar

Chintupada Road, Udhyog Nagar,
Palghar – 401404. Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Kirit Sheth

For the Respondent/Department : Shri Bhagirath Ramawat

Date

Conclusion of hearing : 19.02.2026

Pronouncement of order : 24.02.2026

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the legal heir of the deceased Assessee is directed against the order, dated 18/09/2025, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the **CIT(A)**'] whereby the Ld. CIT(A) had disposed off the appeal setting aside the Assessment Order, dated 03/12/2024, passed under Section 147 read with Section 144 read with Section 144B of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] for the Assessment Year 2020-2021.
2. The present appeal is delayed by 18 days. On perusal of application seeking condonation of delay and accompanying affidavit, we find that the delay was caused on account of difficulty faced by legal heir, being the wife of the deceased Assessee living in Boisar, in communicating

with the tax consultant. In our view, the delay in filing the appeal was inadvertent and bonafide. Accordingly, we hold that the Assessee was prevented by reasonable cause from filing the appeal within the prescribed time. Therefore, we condone the delay of 18 days in filing the present appeal and proceed to adjudicate the grounds raised in the present appeal.

3. The Learned Authorised Representative for the Assessee submitted that the reassessment proceedings are bad in law since all the notices and orders are in the name of deceased assessee even though the Department had the knowledge of the demise of the assessee.
4. Per Contra, the learned Departmental Representative pointed out that the learned CIT(A) has already set-aside the assessment with the directions to the Assessing Officer to frame denovo assessment.
5. In rejoinder, the Learned Authorised Representative for the Assessee submitted that the Assessee is aggrieved by the fact that the Learned CIT(A) had failed to adjudicate upon the jurisdictional challenge to the validity of reassessment proceedings.
6. We have considered the rival submissions and have perused the material on record.
7. A Perusal of death certificate placed on record shows that Assessee expired on 21/04/2022. The wife of the deceased Assessee had registered herself as Representative Assessee on 12/08/2022. On perusal of the Assessment Order we find that (a) Order under Section 148A(d) was passed on 15/03/2024, (b) notice under section 148 of the Act was issued on 15/03/2024, and (c) Assessment Order was passed on 03/12/2024. The aforesaid notices and orders were in the name of 'Mohammad Umar Abdul Hasan Khan' who had expired on 21/04/2022.

8. During the course of hearing the Authorised Representative for the Assessee had placed reliance upon the judgment of the Hon'ble Bombay High Court in the case of **Amjad Ahmed Shaikh vs. Income-tax Officer [2025] 172 taxmann.com 687 (Bombay)/[2025] 304 Taxman 377 (Bombay)[04-03-2025]**. In that case the Hon'ble Bombay High Court had, in identical facts and circumstances, quashed the assessment order passed in the name of a deceased person holding as under:

- "6. *The rival contentions now fall for our determination.*
7. *The record shows that Late Ahmed Gulamnabi Shaikh, the assessee expired on 13 August 2016. Even the death certificate is placed on record. The records also show that Samad Shaikh, the son of Late Ahmed Gulamnabi Shaikh informed the Income-tax Officer, Ward 22(1) (1), Mumbai about such demise vide communication dated 22 May 2018. This communication bears the endorsement of the receipt. Along with this communication, the death certificate was enclosed. Based on all this, it is evident that the department had notice of Ahmed Gulamnabi Shaikh's demise by May 2018.*
8. *Despite the above, the impugned notice and finally the orders were issued in the name of deceased Ahmed Gulamnabi Shaikh. The explanation that the department was corresponding with the chartered accountant is not quite relevant or convincing. Once it is established that Ahmed Gulamnabi Shaikh had expired by the time the notices were issued and the department had knowledge of demise, there was no justification for issuing the notices and, finally, the impugned orders in the name of the dead person.*
9. *The argument based on Section 159 of the Act also does not appeal to us in the facts of the present case. Admittedly, no notices were issued to the legal representatives. The notices were issued to the dead person, and consequently, the legal representatives cannot be said to know about such notices. In such circumstances, the impugned notices or the impugned order made based thereon and same binds the legal representatives.*
10. *In Devendra (supra.), Gourang Anil Wakade (supra.), and Sumit Balkrishna Gupta (supra.), the Coordinate Benches of this Court have consistently held that notices to a dead person or orders against a dead person are null and void. Following the reasoning in these decisions, the rule will have to be made absolute in terms of prayer clause (a) of this petition.*

11. *Accordingly, we quash and set aside the impugned notices and the impugned orders referred to in prayer clause (a) of the petition." (Emphasis Supplied)*

9. Respectfully following the above judgment of the Hon'ble Bombay High Court, we quash (a) Order passed under Section 148A(d) of the Act on 15/03/2024, (b) Notice issued under Section 148 of the Act on 15/03/202, and (c) Assessment Order passed on 03/12/2024, since the same were issued/passed in the name of a deceased Assessee. Accordingly, the consequential demand stands deleted. Thus, Ground No. 1 & 2 raised by the Assessee are allowed.
10. In result, the appeal preferred by the Assessee is allowed.

Order pronounced on 24.02.2026.

Sd/-
(Bijayananda Pruseth)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :24.02.2026
Milan, LDC

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai