

IN THE INCOME TAX APPELLATE TRIBUNAL

"E" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 9185/Mum./2025

(Assessment Year : 2024-25)

Estate of Pallonji Shapoorji Mistry,

1st Floor, 41/44, S.P. Centre,

Minoo Desai Marg, Colaba,

Mumbai - 400005

PAN : AACAE3960G

..... Appellant

v/s

Income Tax Officer, Ward – 19(1)(1),

Room No.319, 3rd Floor, Piramal Chambers,

Income Tax Office, Lalbaug

Mumbai – 400012

..... Respondent

Assessee by : Shri Ninad Patade

Revenue by : Shri Hemanshu Joshi, SR. DR

Date of Hearing – 18/03/2026

Date of Order – 26/03/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 14/10/2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Additional/Joint Commissioner of Income Tax (Appeals)-6, Delhi, [*"learned Addl./Joint CIT(A)"*], for the assessment year 2024-25.

2. In this appeal, the assessee has raised the following grounds: -

"1.1 The learned Commissioner of Income-Tax (Appeal) both in law and on the facts and in the circumstances of the case, ought to have appreciated that since dividend income has arisen only after the date of demise of Mr. Pallonji Shapoorji Mistry(PSM') the said income is offered to tax in hands of Appellant and accordingly, credit for TDS deducted in hands of PSM ought to have been allowed to Appellant viz. Estate of PSM.

1.2 The learned Commissioner of Income-tax (Appeal) erred, both in law and on the facts and in the circumstances of the case, that declaration needs to be filed by the legal heir under Rule 37BA(2) of the Income Tax Rules, 1962 ('the Rules') for transfer of TDS credit from PSM to Appellant and ought to have considered the judgment of Hon'ble ITAT Mumbai in the case of Late Russi Dinshaw Bahadurji v. ITO (ITA No.1618/Mum/2022) wherein it is held that liberal interpretation for Rule 37BA(2) needs to be considered in the present case.

1.3 The appellant prays that the TDS credit of Rs.3,56,931/- deducted in hands of PSM to be granted to the appellant as per section 199 of the Income Tax Act, 1961. Section 199 expressly provides that the person in whose hands the income is taxable is entitled to the TDS credit. The appeal argues that this mandatory linkage was ignored."

3. We have considered the submissions of both sides and the material available on record. The brief facts of the case are that the assessee, i.e. the Estate of Pallonji Shapoorji Mistry, was formed on 29/06/2022 on account of the death of Mr. Pallonji Shapoorji Mistry on 28/06/2022. As the will of late Mr. Pallonji Shapoorji Mistry was subject to Probate before the Hon'ble Bombay High Court, the family members are considered as "Executor" of the assessee Estate. For the year under consideration, the assessee filed the return of income as an Association of Persons under section 168(1)(b) of the Act on 29/07/2024, declaring a total income of INR 78,07,290 and claimed credit of TDS of INR 3,56,931. The return filed by the assessee was processed vide intimation dated 22/10/2024 issued under section 143(1) of the Act, determining the total income at INR 78,07,290 and tax payable of INR 4,06,530 without granting the TDS credit of INR 3,56,931 deducted in the hands of the late Mr. Pallonji Shapoorji Mistry.

4. In its appeal before the learned Addl./Joint CIT(A) against the intimation issued under section 143(1) of the Act, the assessee submitted that the TDS of INR 3,56,931 pertains to the dividend income accrued during the financial year 2023-24 of the assets of the deceased, which have been duly offered to tax in the hands of the assessee Estate as required under section 168 of the Act. The assessee further submitted that no return has been filed in the name of the deceased for the year under consideration, and that the TDS credit has not been claimed elsewhere.

5. The learned Addl./Joint CIT(A), vide impugned order, restored the issue to the file of the Assessing Officer ("AO") to verify the contention of the assessee, by observing as follows: –

"6.7 In the present case, the appellant has submitted that the TDS of Rs.3,56,931/- pertains to dividend income accruing during FY 2023-24 from the assets of the deceased, which has been duly offered to tax in the hands of the estate as required under section 168. No return has been filed in the name of the deceased for the said year, and the TDS credit has not been claimed anywhere else. In such a case, it is important to ascertain whether the said income from assets of the deceased entirely pertains to period post death of assessee and is taxable in the hands of estate or whether the assessee was required to file ITR for income pertaining to pre death period in the hands of legal heir. Only then the allowability of TDS credit in the hands of appellant can be ascertained.

6.8 The contention of the appellant, thus, warrants factual verification in light of discussion made in foregoing paragraphs. Accordingly, the appeal is allowed for statistical purposes with directions to the Assessing officer to verify the contention of the appellant in light of express provisions of statute discussed above and grant necessary relief in accordance with law."

6. Having considered the submissions of both sides and perused the material available on record, we find that in the present case, it is undisputed that when an individual dies leaving behind a valid will, an Estate is deemed to be formed under section 168 of the Act, and the income of this Estate

becomes chargeable to tax in the hands of the Executor(s), who are obliged to file separate return of income for the Estate in respect of the income accruing or arising from the Estate's assets after the death of the individual.

7. In the present case, as per the assessee, the assessee Estate was formed on 29/06/2022 after the demise of late Mr. Pallonji Shapoorji Mistry on 28/06/2022. Accordingly, no return was filed in the name of the deceased in the year under consideration. Further, the dividend income accrued during the year under consideration, i.e. the financial year 2023-24, from the assets of the deceased was offered to tax in the return filed by the assessee Estate as required under section 168 of the Act. Accordingly, as per the assessee, the TDS pertaining to the dividend income accrued during the year was claimed in the return filed by the assessee Estate, and the said TDS credit was not claimed elsewhere. As is evident from the perusal of the impugned order, the learned Addl./Joint CIT(A) did not dispute the legal position. However, the AO was directed to verify whether the said income from the deceased's assets pertains entirely to the post-death period of Mr Pallonji Shapoorji Mistry or to the pre-death period. Thus, the learned Addl./Joint CIT(A) held that only thereafter can the allowability of TDS credit in the hands of the assessee Estate be ascertained.

8. We find that as per the provisions of section 251 of the Act, the learned Addl./Joint CIT(A) is only empowered to confirm, reduce, enhance or annul the enhancement. However, the learned Addl./Joint CIT(A) is not empowered to restore the matter to the file of the AO, except in a case where the appeal is against an order of assessment under section 144 of the Act. Therefore, we

are of the considered view that the learned CIT(A) erred in restoring the matter to the file of the AO for factual verification.

9. However, be that as it may, we find that the information regarding the period to which the income from the assets of the deceased pertains is not available on record. We are of the considered view that such information is relevant, as if the income from the deceased's assets pertains to the post-death period, it is taxable in the hands of the Estate. Otherwise, it is required to be declared in the hands of the legal heir. Therefore, we are of the considered view that this aspect requires verification. Accordingly, we endorse the findings of the learned CIT(A) regarding the requirement for factual verification of the aforementioned aspect, without agreeing with its directions to the AO, which are not in conformity with the provisions of section 251 of the Act. As regards the observations in paragraphs 6.5 and 6.6 of the impugned order, the same appear to be mere academic in nature. Accordingly, in view of the facts and circumstances of the present case, we direct the AO to carry out the necessary factual verification regarding the period to which the income from the assets of the deceased pertains and allow the TDS credit in the hands of the assessee Estate, as per law, if the income from the deceased's assets pertains to the post-death period. As a result, Ground No. 1.1 raised in the assessee's appeal is allowed for statistical purposes.

10. Grounds No. 1.2 and 1.3, raised in assessee's appeal, are premature in nature as these issues may only arise after the AO passes an order pursuant to the verification as noted above. Accordingly, Grounds No. 1.2 and 1.3 are dismissed.

11. In the result, the appeal by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 26/03/2026

**Sd/-
OM PRAKASH KANT
ACCOUNTANT MEMBER**

**Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 26/03/2026

Prabhat

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