

**IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &
SHRI KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

**ITA No. 238/NAG/2024
(Assessment Year : 2015-16)**

Late Jankidevi Nandlal Jaiswal through LR Amit Mohanlal Jaiswal, 3/14, Balabhaupeth, Panchpaoli Nagpur-440017 PAN : ADGPJ 9652 C	vs	ITO, Ward – 4(4), Nagpur
Assessee		Respondent

Assessee by	:	Shri Himesh Demble, CA
Revenue by	:	Shri Pankaj Kumar, CIT-DR
Date of hearing	:	24.02.2026
Date of pronouncement	:	27.03.2026

PER KHETTRA MOHAN ROY, AM:

This appeal by the assessee is directed against the order of Ld. Principal Commissioner of Income Tax-1, Nagpur (for short, “**PCIT**”), dated 23/03/2024 passed under section 263 of the Income Tax Act, 1961 (for short, “the Act”) for the assessment year 2015-16.

2. Brief facts of the case are that assessee-deceased filed her return of income on 07.10.2016 declaring total income of Rs. 5,96,720/-. Based on the information submitted by the DDIT (Inv.)-3, Nagpur that assessee made cash deposit of Rs. 16,00,000/- in her bank account maintained with Saraswat Cooperative Bank Ltd. during the year under consideration. On the basis of this information, case of the assessee was reopened u/s. 147 of the Act and issued notice u/s. 148 of the Act. Accordingly, assessment has been framed u/s. 147 r.w.s. 144 r.w.s. 144B of the Act dated 28.03.2022 in the name of the deceased assessee sans mentioning the name of legal heir.

3. In exercise of powers conferred u/s. 263, the PCIT initiated revision proceedings by reopening the assessment and issued notice to the assessee. Assessee filed explanation in response to the notice issued. It was observed by the PCIT from the explanation filed by the assessee that assessee is unable to establish the source of cash deposits in the bank account at Rs. 16,00,000/-, which was not made on a single day. It was further observed that deposits are made from the earlier withdrawals, but no withdrawals were made for

household expenses. PCIT was of the considered that assessment order passed u/s. 147 r.w.s. 144 r.w.s. 144B dt. 28.03.2022 is erroneous insofar as it is prejudicial to the interests of Revenue, therefore, he directed the Ld. AO to reframe the assessment order giving effect to the order of 263. Aggrieved by the order of PCIT, assessee is now in appeal before this Tribunal.

4. Learned counsel for the assessee submitted that after due enquiries about cash deposits, Ld. AO took a possible view and accepted the returned income and it cannot be presumed that there was a lack of enquiry on the part of the Ld. AO. He further submitted that original assessment order has been framed in the name of a deceased person and it is well established law that no assessment order framed in the name of a deceased person without bringing legal heirs of such person, hence, the assessment is void ab *initio*. Therefore, subsequent revision proceedings are also rendered invalid. He placed reliance on the decision of coordinate bench of ITAT, Rajkot in the case of Late *Smt. Bhavnaben K. Punjani vs. PCIT* in ITA No. 138/RJT/2017, dated 15.02.2024.

5. On the other hand, the Ld. DR relied upon the orders passed by the revenue authorities and requested for dismissal of assessee appeal. He further submitted that Ld. AO has duly followed the procedure u/s. 159(3) of the Act, however, due to constrained functionalities of the ITBA system, the order came to be passed in the name of the deceased person.

6. We have heard both the parties and perused the material placed before us. We observe that assessee has furnished an explanation regarding the source of cash deposits aggregating to ₹16,00,000/- in Bank Account No. 067203100003555 maintained with Saraswat Co-operative Bank Ltd. made during the period from 06.08.2014 to 22.09.2014. Merely because the deposits were made on different dates and not in exact round figures, no adverse inference can be drawn. There is no requirement under the Act that cash deposits must be made in lump sum or in round figures. The explanation that such deposits represent savings from earlier years' income, already disclosed in the returns of income, cannot be rejected on presumptions regarding household withdrawals, in the absence of any cogent material brought on record by the

Revenue. Further, it is an undisputed fact that the assessment order has been passed in the name of a deceased person. Such an order is a nullity in the eyes of law and is void ab *initio*, being in clear violation of the provisions of the Act. This fundamental jurisdictional defect renders the assessment order unsustainable. The Coordinate Bench of ITAT, Rajkot in the Late Smt. Bhavnaben K. Punjani (supra) on the issue of assessment framed in the name of dead person held as under:-

“8. We have heard the rival contentions and perused the material on record. In the instant facts, we observe that the assessee had expired on 15.10.2013, while the assessment order was passed on 16.02.2015 in the name of the assessee. Therefore, evidently at the time when the assessment order was framed, the assessee had since expired.

9. This, therefore leads us to the question that whether the legal heir of the deceased person is under legal obligation to inform the Tax Department about the demise of the assessee. Further, in absence of any specific intimation on part of the legal heirs of the assessee to the Department, can it be held that the assessment order passed in the nature of the deceased person is valid in the eyes of law. In the case of Savita Kapila v. ACIT 118 taxmann.com 46 (Delhi), the High Court held that in absence of a statutory provision, a duty cannot be cast upon legal representatives to intimate factum of death of assessee to Department and, thus, where Assessing Officer issued a notice to assessee under Section 148 after his death and, in such a case, it could not have been validly served upon assessee, said notice being invalid, was to be quashed.

10. Accordingly, in absence of any specific statutory provision under the Income Tax law which requires the legal heirs to intimate the Income Tax Department about the death of the assessee, we are of the view that the assessment order cannot be to be held to be valid in the eyes of law only for the reason that the legal heirs of the deceased assessee has not, informed the Income Tax Department about the death of the assessee. Further, it is a well established law that no assessment can be framed in the name of a person who has since expired. Any assessment order framed in the name of a deceased person without bringing the legal y-heirs of such person on record, is invalid in the eyes of law. In the case of Pravinchandra A Shah 154 taxmann.com 616 (Gujarat), the High Court held that reopening notice under section 148 issued upon deceased assessee was a nullity, therefore, consequential proceedings and orders passed thereon were to be quashed and set aside. Further, the following decisions also support the above proposition of law:

- Pr. CIT v. Maruti Suzuki India Ltd. [2019] 107 taxmann.com 375/265 Taxman 515/416 ITR 613 (SC);
- Krishnaawatar Kabra v. ITO [2022] 140 taxmann.com 423 (Gujarat);
- Rajender Kumar Sehgal v. ITO [2019] 101 taxmann.com 233/260 Taxman 412/414 ITR 286 (Delhi);
- Sandeep Chopra v. Pr. CIT [2023] 149 taxmann.com 225/292 Taxman 269 (Jharkhand);
- SavitaKapila v. Asstt. CIT [2020] 118 taxmnann.com 46/273 Taxman 148/426 ITR 502 (Delhi);

11. Accordingly, in light of the above Rulings, we are of the considered view that the order passed under section 263 of the Act is not valid in the eyes of law, since the original assessment order having been framed in the name of a deceased person is not valid in the eyes of law, and therefore the same cannot be revised by taking recourse to 263 proceedings. In the result, it is directed that the order passed under section 263 be set aside.”

7. Respectfully relying on the above decision, we hold that assessment order is unsustainable. In the absence of valid foundation, the superstructure is bound to crumble being emboldened by the well-known legal maxim *Sublato Fundamento Cadit Opus*. Consequently, the revision proceedings u/s 263, based on a *non est* assessment order, have no legal basis and are fit to be jettisoned.

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

Order pronounced on 27.03.2026 under Rule 34 of Income Tax (Appellate Tribunal) rules 1963

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

sd/-
KHETTRA MOHAN ROY
ACCOUNTANT MEMBER

Nagpur: Dated: 27/03/2026

vr/-

Copy to:

1. The Assessee
2. The Revenue
3. The Pr.CIT concerned.
4. The DR, ITAT, Nagpur
5. Guard file.

By order

Senior Private Secretary
ITAT, Nagpur