

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. / ITA No. 1151/Chd/ 2024

निर्धारण वर्ष / Assessment Year : 2012-13

Late Shri Lakha Singh Through Legal Heir Hira Singh Dera Pyara Singh Barna Thanesar, Kurukshetra	बनाम	The ITO Ward -1 Kurukshetra
स्थायी लेखा सं. / PAN NO: KESPS5502H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 22/09/2025
उदघोषणा की तारीख/Date of Pronouncement : 22/09/2025

आदेश/Order

PER LALIET KUMAR, J.M:

This appeal by the assessee is directed against the order passed by the Ld. CIT(A), NFAC, Delhi dated 28.09.2024 for the assessment year 2012-13.

2. In the present appeal Assessee has raised the following grounds:

1. That the Ld. CIT(A) has grossly erred in passing the order in the name of the deceased person i.e the assessee namely Sh. Lakha Singh, though the appeal before the CIT(A) was filed by the "Legal Heir" who is a registered representative of the assessee, at the Income Tax Portal as well.

2. That the Ld. CIT(A) knew very well that the assessee died on 17/01/2020 as per the submissions made before him vide submission dated 27/05/2024 and, thus, passing of the order in the name of the deceased person is void-ab-initio as per the decided case laws of the different High Court and Benches of the Hon'ble ITAT and, thus, the order as passed by the Ld. CIT(A) deserves to be quashed.

3. Notwithstanding the above said grounds of appeal, the Ld. CIT(A) has failed to appreciate that no notice u/s 148 or notice u/s 142(1) was ever served upon the appellant and, as such, the appellant was prevented by sufficient and reasonable cause and not appearing before Ld. Assessing Officer.

4. That the Ld. CIT(A) has failed to admit the additional evidence as furnished before him and rejecting the submissions of the assessee for admission of additional evidence on surmises & conjectures.

5. *Notwithstanding the above said grounds of appeal, the Ld. CIT(A) has erred in confirming the addition of Rs. 60 lacs on account of investment in the immovable property for which necessary sources have been explained and which evidence had not been admitted.*

6. *The CIT(A) has also erred in confirming the addition of Rs. 39,40,000/- on account of cash deposit in the bank account, for which, necessary evidences were furnished before the Ld. CIT(A) which were not admitted on surmises & conjectures.*

7. *That the Ld. CIT(A) has erred in not admitting the additional evidences as submitted before the Ld. CIT(A) on the basis of judgement of the Hon'ble Apex Court in the case of Tek Ram reported in 357 ITR 133 and of Hon'ble Punjab & Haryana High Court in the case of Mukta Metal reported in 336 ITR 555.*

8. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*

3. Briefly the facts of the case are that the Assessing Officer completed reassessment u/s 144 r.w.s. 147 on 09.12.2019, determining total income of Rs.39,40,000/-. The additions comprised (i) Rs.60,00,000/- towards alleged unexplained investment in land, and (ii) Rs.39,40,000/- towards unexplained cash deposits in bank.

3.1 The assessee, Late Sh. Lakha Singh, unfortunately expired on 17.01.2020. Thereafter, the appeal before the CIT(A) was filed by his legal heir through the Income Tax portal

4. Feeling aggrieved by the order passed by the Assessing Officer, the assessee preferred the appeal before the Ld. CIT(A) through the legal heirs. In appeal, legal and factual grounds were raised, including challenge to the validity of reassessment for non-service of notice u/s 148, validity of best judgment assessment, denial of natural justice, and challenge to additions on merits. The legal heir also sought to file additional evidence under Rule 46A, citing the advanced age and ill-health of the assessee which prevented proper compliance during assessment proceedings.

4.1 The Ld. CIT(A), despite being informed of the death of the assessee, passed the order in the name of the deceased.

4.2 On merits, the CIT(A) declined to admit the additional evidence, holding that the assessee had not shown sufficient cause within the framework of Rule 46A. Relying on judicial precedents such as CIT v. Manish Buildwell Pvt. Ltd. (Delhi HC) and ITO v. Fairdia Foundation (Cal HC), the CIT(A) observed that mere old age is not

sufficient ground to allow evidence at appellate stage.. Consequently, the additions of Rs.60,00,000/- and Rs.39,40,000/- were confirmed.

5. Now the assessee is in appeal before us against the order passed by the Ld. Ld. CIT(A) on the ground mentioned above

6. The Ld. AR, appearing on behalf of the legal heir, submitted that the impugned order is void-ab-initio as it has been passed in the name of a deceased person, despite specific intimation of death. Reliance was placed on settled judicial precedents that such orders are unsustainable.

6.1 It was argued that the assessee was an octogenarian, suffering from prolonged illness, frequently hospitalized, and ultimately passed away during the pendency of proceedings. These circumstances constitute sufficient cause for non-production of evidence before the Assessing Officer.

6.2. The AR further contended that the CIT(A) erred in rejecting the additional evidence without even calling for a remand report from the Assessing Officer. The evidence, if admitted, would conclusively explain the sources of land investment and cash deposits, including sale proceeds of agricultural land.

6.3 It was also strongly urged that apart from factual additions, legal grounds such as non-service of notice u/s 148 and validity of reassessment proceedings were raised before the CIT(A), but these were not adjudicated at all. It was prayed that the matter be restored for fresh adjudication with directions to admit additional evidence and to decide the legal grounds.

7. Ld. DR supported the order of the CIT(A). It was argued that the assessee had ample opportunity during assessment proceedings but chose not to participate. It was further submitted that the appeal was preferred by the assessee in the name of the late Sh. Lakha Singh, however, the form 35 was verified by the legal heir of the Sh. Lakha Singh. It was submitted that there was no mistake on the part of the Ld. Ld. CIT(A) to pass the order of in the name of Sh. Lakha Singh .

7.1 The DR submitted that no documentary proof of hospitalisation or medical incapacity was placed on record. Hence, the CIT(A) was justified in rejecting the plea for admission of additional evidence under Rule 46A.

7.2 It was further contended that the assessment order was passed prior to the death of the assessee, and therefore valid in law. Reliance was placed on the

reasoning of the CIT(A) that age or illness, by itself, cannot absolve an assessee of his statutory obligations, particularly when legal assistance could have been availed through family members or counsel.

8. We have considered the rival submissions advanced by both parties and have carefully examined the entire record.

8.1 First, the fact of death of the assessee on 17.01.2020 is undisputed. However, we are of the considered opinion that since the appeal before the CIT(A) itself was instituted in the name of Sh. Lakha Singh and not in the name of his legal heir, the order passed by the Ld. CIT(A) cannot be held to be vitiated merely because it was passed in the name of the deceased. Assuming for a moment that the order of the CIT(A) were to be treated as erroneous for this reason, even in that eventuality the order of the Assessing Officer would remain undisturbed and would continue to operate against the assessee. Therefore, we do not find merit in the plea that the impugned order deserves to be struck down solely on this technical ground.

8.2 Secondly, as regards the admission of additional evidence, we find substance in the contention of the assessee/legal heir. The record shows that the assessee was of advanced age, suffering from prolonged ill health, and subsequently expired during the course of proceedings. These circumstances clearly establish sufficient cause for non-compliance before the Assessing Officer. In such a situation, the Ld. CIT(A) ought to have admitted the additional evidence in the interest of justice and, in any event, should have forwarded the same to the Assessing Officer for his comments by way of a remand report, as envisaged under Rule 46A(3) of the Income-tax Rules. The failure to do so has resulted in denial of an effective opportunity to the assessee/legal heir.

8.3 Further, we also note that the assessee had raised legal grounds touching upon the validity of the reassessment proceedings and the service of statutory notice. These legal grounds go to the very root of the assessment proceedings and therefore deserved a specific adjudication by the CIT(A). The failure to decide these legal issues has rendered the appellate order incomplete.

8.4 In these circumstances, we are of the considered opinion that the matter requires to be restored to the file of the Ld. CIT(A) for fresh adjudication. The CIT(A) shall admit and consider the additional evidence filed by the assessee/legal heir, obtain a remand report from the Assessing Officer, and also adjudicate specifically on the legal grounds raised. Needless to add, adequate opportunity of hearing shall

be provided to the legal heir before passing a speaking order. For abundant clarity, we may state that we have not expressed any opinion either on the merits of the additions or on the legal issues raised, which are left open for adjudication by the CIT(A).

9. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22/09/2025

Sd/-

मनोज कुमार अग्रवाल
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य /JUDICIAL MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar