

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.250/Del/2021
Assessment Year: 2009-10

Meena Rani Khatana Gali No.4, Backside Jindal Park, Near Mill Gate, Hisar, Haryana	Vs	ITO Ward-1 Hisar
(APPELLANT)		(RESPONDENT)

Appellant by	Shri V. Raj Kumar, Advocate
Respondent by	Sh. Vipul Kashyap, Sr. DR.

Date of hearing:	28/09/2021
Date of Pronouncement:	28/09/2021

ORDER

PER N. K. BILLAIYA, AM:

1. This appeal by the assessee is preferred against the order of the CIT(A), Hisar dated 29.07.2020 pertaining to A.Y. 2009-10

2. The grievance of the assessee read as under :-

That on the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in dismissing the appeal of the assessee without providing reasonable, proper and due opportunity of hearing;

2. That on the the authorities below erred in

- i. initiating proceedings u/s 147/148 of the Act without there being any valid reason leading to belief of escapement of income*
- ii. framing assessment u/s 147/144 of the Act without serving valid notice u/s 147 on the legal heir and also not providing reasons recorded leading to belief of escapement of income ;*
- iii. framing assessment u/s 144 r.w.s. 147 of the Act on a dead person;*
- iv. making the addition of Rs. 13,12,500/- on account of entire amount of cash deposits in the bank treating the same as undisclosed income of the*

The above actions being arbitrary, fallacious, unlawful and untenable must be quashed with directions for appropriate relief.

3. At the very outset the counsel stated that the assessment has been framed in the name of a dead person when the bench asked the Counsel whether the AO was informed about the demise of Sh. Dayanand Khatana the counsel could not give any plausible reply.

4. I have carefully perused the assessment order, though the proceedings were attended by the son of the assessee but the AO was never informed about the demise of the assessee and infact the son took adjournment and thereafter none attended the assessment proceedings. The AO was left with no choice but to frame an exparte order u/s. 144 of the Act. I find that before the CIT(A) also none attended and the CIT(A) dismissed the appeal of the assessee in limine.

5. With the consent of the counsel and the DR I restore the entire issue to the files of the AO. The AO is directed to decide the issue afresh after bringing on record the legal heir of the assessee and after giving an sufficient opportunity of being heard of the assessee. The AO is further directed to give the copy of the reasons recorded for reopening of the assessment.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

7. Decision announced in the open court in the presence of both the representatives on 28.09.2021.

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:-28.09.2021

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	28.09.2021
Date on which the typed draft is placed before the dictating Member	28.09.2021
Date on which the typed draft is placed before the Other member	28.09.2021
Date on which the approved draft comes to the Sr.PS/PS	28.09.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	28.09.2021
Date on which the fair order comes back to the Sr. PS/ PS	28.09.2021
Date on which the final order is uploaded on the website of ITAT	28.09.2021
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	