



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

TAXC No. 207 of 2025

1 - Ashok Kumar Pinjani Through Legal Heir Smt. Rajkumari Pinjani, Shop No. 3, Motibagh Chowk Hospital, Raipur (C.G.) 492001 Pan Aqapp9837g

... Appellant

versus

1 - Income Tax Officer Ward -4 (4) , Raipur (C.G.)

... Respondent(s)

(Cause-title is taken from Case Information System)

For Appellant : Mr. Nikhilesh Begani, Advocate and Mr. Apurv Goyal, Advocate

For Respondent : Mr. Ajay Kumrani, Advocate appearing on behalf of Mr. Amit Chaudhari, Advocate

(Division Bench)
(Hon'ble Smt. Justice Rajani Dubey
Hon'ble Shri Justice Amitendra Kishore Prasad)

Order on Board

Per, Amitendra Kishore Prasad, Judge

13/11/2025

1. The present appeal is preferred under Section 260A fo the Income Tax Act, 1961 against the impugned order dated 18/06/2025, passed by the learned Income Tax Appellate Tribunal, Raipur Bench, in ITA No. 313/RPR/2025.
2. Facts of the case, in a nutshell, are that the present appeal has been filed by the appellant in her capacity as the legal heir of Late Shri

Ashok Kumar Pinjani, her late husband. Shri Ashok Kumar Pinjani passed away on 08/07/2018. The dispute pertains to the re-assessment proceedings for the Assessment Year 2013-14, which were initiated by the respondent against Late Shri Ashok Kumar Pinjani. On 25/03/2019, the respondent issued a notice under Section 148 of the Income Tax Act, 1961, to Late Shri Ashok Kumar Pinjani, despite the fact that he had already passed away. Since there was no response from the deceased, the Ld. Assessing Officer proceeded with the assessment under Section 144 of the Act, 1961. Consequently, an assessment order was passed on 28/11/2019, making an addition of Rs. 17,77,960/- under Section 69A of the Income Tax Act. The Appellant, acting as the legal heir, challenged the assessment order before the Learned Commissioner of Income Tax (Appeals) under Section 246A of the Act, by filing an appeal on 20/02/2020, in Form No. 35. The Appellant, in the Appeal Memo, raised a crucial issue, asserting that the notice issued under Section 148 to a deceased person was illegal, invalid, and unenforceable, as it lacked jurisdiction. However, the Ld. CIT(A) passed an order on 11/03/2025 under Section 250 of the Act, wherein the assessment order was set aside, and the matter was remanded to the Ld. Assessing Officer for further action. The argument raised by appellant regarding the jurisdictional defect in the assessment proceedings was rejected by the Ld. CIT(A), who invoked the powers under Section 150(1) of the Act, directing the Ld. Assessing Officer to re-initiate the re-assessment proceedings. Aggrieved by the decision of the Ld. CIT(A), the appellant preferred an appeal before the Learned Income Tax Appellate Tribunal (ITAT) on 11/05/2025, under Section 253 of the Act, by filing Form No. 36. In the

appeal, the appellant raised a specific ground contending that the Ld. CIT(A) could not have invoked Section 150(1) to cure the jurisdictional defect in the re-assessment proceedings. The hearing of the appeal was initially scheduled for 26/05/2025, but due to the unavailability of the ITAT bench, the hearing was adjourned to 10/06/2025. On 09/06/2025, the counsel for appellant filed an adjournment application via e-mail, requesting a postponement due to valid reasons. However, the ITAT did not accede to the request and proceeded to hear the appeal *ex-parte*, without the appellant being represented. Subsequently, the ITAT, by its order dated 18/06/2025, dismissed the appeal filed by the appellant, upholding the order of the Ld. CIT(A) and reasoning that the remand of the matter to the Ld. Assessing Officer was justified. The appellant has now approached this Court by filing the present appeal under Section 260A of the Income Tax Act, challenging the dismissal of the appeal by the ITAT.

3. Learned counsel for the appellant submits that the learned Income Tax Appellate Tribunal (ITAT), in its impugned order, has failed to consider the specific ground of appeal raised regarding the jurisdictional defect in the re-assessment proceedings. It is an undisputed fact that the notice under Section 148 of the Income Tax Act, 1961, was issued to a person who had already passed away, Late Shri Ashok Kumar Pinjani. The appellant, acting through her legal heir, raised the issue of jurisdictional defect before the learned Commissioner of Income Tax (Appeals) (CIT(A)) and produced all necessary documentary evidence to support the contention that the addition of Rs. 17,77,960 made by the learned Assessing Officer (AO) was unsustainable. However, the

CIT(A) ignored the jurisdictional argument and erroneously invoked Section 150(1) of the Act, directing the AO to re-initiate the re-assessment proceedings, which effectively cured the jurisdictional defect, a step which is impermissible under the provisions of the Income Tax Act, 1961. The learned counsel for appellant submits that the ITAT has failed to address the specific argument that Section 150(1) of the Act cannot be invoked to cure a jurisdictional defect. By adopting the CIT(A)'s reasoning and remanding the matter to the AO for fresh adjudication, the ITAT has endorsed the erroneous view that Section 150(1) can be invoked to rectify a jurisdictional defect. Section 150(1) is intended to address situations where an assessment or re-assessment is required in consequence of a finding or direction from an appellate or revisional authority. In this case, however, there was no such finding or direction from the CIT(A) that could have triggered the invocation of Section 150(1). Furthermore, the invocation of Section 150(1) improperly extended the permissible time limit for reassessment, which had already expired, violating the statutory limitations under the Act. Section 150(1) of the Income Tax Act is designed to allow the issuance of notices in certain circumstances where the proceedings are in consequence of or to give effect to a finding or direction issued by an appellate or revisional authority, or a court. The learned counsel for appellant submits that for the invocation of Section 150(1), the "finding" or "direction" issued must be one that is essential for the disposal of the appeal or case at hand. As per judicial precedents, the finding must be necessary to dispose of the case of the particular assessee for the assessment year under consideration. The ITAT, however, did not examine the scope of Section 150(1) or its

applicability in the context of curing jurisdictional defects. As established by the Supreme Court in *Rajinder Nath v. CIT*, the “finding” or “direction” necessary for invoking Section 150(1) must be directly related to the issue at hand, and cannot be used to cure a fundamental jurisdictional flaw such as the issuance of a notice to a deceased person. It is further submitted that the notice under Section 148 was issued on 25/03/2019, whereas the husband of appellant had passed away on 08/07/2018. The Assessing Officer failed to adhere to the provisions of Section 159 of the Income Tax Act, 1961, which requires that notices in the case of a deceased person must be issued to the legal heirs or representatives. The failure to issue the notice to the legal representatives of the deceased person resulted in the appellant being deprived of the opportunity to represent herself and address the issues during the reassessment proceedings. Consequently, the AO passed the order under Section 144 of the Act, despite the legal right of appellant to be notified and heard as the legal heir. The Appellant submits that the ITAT has violated the principles of natural justice by denying a short adjournment application made by the counsel for appellant. However, the ITAT denied the adjournment and proceeded to hear the case *ex-parte*. The refusal to grant the adjournment and the subsequent *ex-parte* hearing resulted in a denial of the right of appellant to be heard, which is a violation of the *audi alteram partem* principle that underpins natural justice. The ITAT’s decision to proceed *ex-parte* on the grounds of a short adjournment request, without any previous history of adjournments, is unjust and should be expunged. The ITAT’s decision to dismiss the appeal and uphold the CIT(A)’s order was perverse and arbitrary. The ITAT failed to consider judicial

precedents directly applicable to the case, including the well-established principle that a notice under Section 148 cannot be issued to a deceased person. In light of the foregoing submissions, the learned counsel for appellant prays that this Court may allow the present appeal and set aside the impugned order dated 18/06/2025 passed by the ITAT.

4. Learned counsel for the respondent submits that the impugned order of the learned Income Tax Appellate Tribunal (ITAT) is well-merited and does not warrant interference. As per para 15 of the ITAT's order, specific directions have been issued to ensure that the proper procedure is followed when issuing notices to the legal heirs of the deceased assessee, thereby addressing the procedural concerns raised by the Appellant. The ITAT has rightly remanded the matter for compliance with the statutory requirements, and there is no jurisdictional defect that requires correction. Hence, the appeal should be dismissed.
5. We have heard learned counsel for the parties and also perused the documents enclosed along with the appeal.
6. From a bare perusal of the record, it is evident that the original assessee, Late Shri Ashok Kumar Pinjani, was not issued a notice during his lifetime. Although his legal representative, the appellant, stepped into the shoes of the deceased assessee, it is clear that a notice must be issued to the legal heirs in accordance with the law, which was not done in this case. The Tribunal, in its order, has misapprehended the situation and instead of remanding the matter back to the Assessing Officer with a direction to issue notice to the

legal heirs, proceeded to directly pass an order for the issuance of the notice to the legal heirs and for the re-initiation of proceedings. This approach of the Tribunal, which bypassed the required procedural step, does not seem to be legally correct. The Tribunal ought to have remanded the matter with a clear direction for the Assessing Officer to issue the notice to the legal representatives of the deceased assessee, following the prescribed legal procedure, and then initiate the proceedings in accordance with the law.

7. In light of the above, we find it appropriate to modify the order of the Tribunal. The Assessing Officer is hereby directed to issue the notice to the legal representative of the deceased assessee in accordance with the provisions of the Income Tax Act and to initiate proceedings only after adhering to the procedural requirements under the Income Tax Act in its letter and spirit.
8. With this observation and direction, the appeal is disposed of.

Sd/-
(Rajni Dubey)
Judge

Sd/-
(Amitendra Kishore Prasad)
Judge

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