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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12617/2022**

VIJENDER PAL JAIN L/H LATE RISHI RAMAN JAIN

.....Petitioner

Through: Mr. Pankaj Kumar Saxena, Mr.
Keshav Dwivedi, Ms. Divyanshee
Singh and Mr. Ashish Kumar Singh,
Adv.

versus

**ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 28(1)
DELHI & ORS.**

.....Respondents

Through: Mr. Shlok Chandra, Sr. Std. Counsel
with Ms. Naincy Jain, Ms. Madhavi
Shukla, Jr. SCs and Mr. Udit Dad,
Adv.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

08.05.2026

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1. By way of the present writ petition, the petitioner has challenged the reassessment proceedings initiated by the respondent vide notice issued under Section 148 and the order passed under Section 148(A)d of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) on 30.07.2022.



2. The premise on which the proceedings have been challenged is twofold. Firstly that the impugned notice has been issued against the assessee, who had since passed away; and secondly, the approval was not granted by the Competent Authority prescribed under Section 151 of the Act of 1961.

3. Inviting the Court's attention towards the backdrop of facts, learned counsel for the petitioner submitted that during the regular assessment proceedings for the Assessment Year (AY) 2016-17, the assessee Mr. Rishi Raman Jain had passed away (on 20.03.2018) and such fact was made known to the Jurisdictional Assessing Officer and despite having noted such fact, he passed a best judgment assessment order dated 10.12.2018 (under Section 144 of the Act of 1961). He pointed out that impugned notice dated 30.07.2022 has been issued in the name of the assessee, Mr. Rishi Raman Jain, who had passed away and hence, the proceedings are void. He highlighted that the approval granted prior to issuance of notice was granted by Principal Commissioner of Income of Tax (PCIT) whereas the same ought to have been granted by the Principal Chief Commissioner of Income of Tax (PCCIT), as extended period of limitation was invoked.

4. Mr. Shlok Chandra, learned Senior Standing Counsel for the respondent, on the other hand, submitted that the foundational notice dated 30.07.2022 was issued in the name of "Mr. Rishi Raman Jain through Legal Heir Mr. Vijender Pal Jain" and therefore, the same was validly issued and served as per law.

5. So far as the question of competence of the Authority, who had approved the initiation of reassessment proceedings is concerned, he could not satisfy the Court as to how the approval granted by the PCIT is valid.



6. In response to his first contention that the notice was validly served upon Vijender Pal Jain, Mr. Shlok Chandra invited Court's attention towards a reply dated 18.06.2022 which Vijender Pal Jain had filed as a Legal Representative of the deceased-assessee. Learned counsel submitted that once Vijender Pal Jain had filed a reply claiming himself to be Legal Representative, the notice was validly served on behalf of deceased-assessee.

7. Learned counsel for the petitioner in rejoinder submitted that if the father of the deceased-assessee, Mr. Vijender Pal Jain has, due to inadvertence, mentioned himself as his Legal Representative, it cannot estop the petitioner to raise the plea that notice was not properly served.

8. Heard learned counsel for the parties.

9. So far as the first issue raised by the petitioner, that the notice having been served upon Mr. Vijender Pal Jain was fundamentally void is concerned, there is hardly any substance. It is noteworthy that during the reassessment proceedings *qua* the deceased assessee, Vijender Pal Jain had himself filed a reply on 18.06.2022 projecting himself to be a Legal Representative of the assessee. It is noteworthy that even instant writ petition has been filed by him, claiming himself to be the Legal Representative of the deceased-assessee. Relevant part of the reply filed by Mr. Vijender Pal Jain reads thus :-

"I, Vijender Pal Jain, father of deceased assessee in the capacity of his legal representative herein acknowledges the receipt of aforesaid notices/communications, captioned in the subject reference, seeking a reply in respect of information/material stated to be provided along with the said notice(s) as annexures."

**Emphasis supplied*



10. If the petitioner's argument were that he, being the father of the deceased-assessee, cannot be said to be a Legal Heir, the same would have been correct, as per the provisions and schedule of Hindu Succession Act, 1956, which clearly provide that the father of the deceased appears only as entry 1 in Class II of the Schedule, and is entitled to a share in the estate only in the absence of Class 1 heirs. The petitioner's plea is premised on conflation of two legally distinct expressions: 'legal heir' and 'legal representative'. These two terms operate in entirely different statutory domains and do not bear the same meaning.

11. Section 159 of the Income Tax Act, 1961, which is the governing provision for continuation and initiation of assessment proceedings upon the death of an assessee does not use the expression 'legal heir' at all; it employs the expression 'legal representative'. Section 2(29) of the Act of 1961 provides that 'legal representative' has the meaning assigned to it in clause (11) of Section 2 of the Code of Civil Procedure, 1908. The legislature's conscious choice of the expression 'legal representative' rather than 'legal heir' is not without significance; it reflects the intent of legislature to cast a wider net for the purposes of tax proceedings not limited to the hierarchies of succession law.

12. The expression 'Legal Representative' has been defined under Section 2(11) of the CPC as under:

"legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or issued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;"

13. The definition is both inclusive and wide. It is not confined to persons



who inherit the estate of the deceased. It embraces three distinct categories: first, a person who in law represents the estate of the deceased; second, any person who intermeddles with the estate of the deceased; and third, the person on whom the estate devolves on the death of the party. A person need not be a legal heir, much less a Class I heir under the Hindu Succession Act to fall within this definition. The test is not one of inheritance; it is one of representation vis-à-vis the estate of the deceased.

14. In the facts of the present case, Mr. Vijender Pal Jain, though not a Class I heir of the deceased-assessee under the Hindu Succession Act, 1956, had by his conduct become Legal Representative. By filing a reply in response to the show cause notice, expressly stating that he was doing so “in the capacity of his legal representative he has indubitably claimed himself to be a Legal Representative.” Having submitted to the proceedings in the representative capacity, and having represented to the Revenue that he was the Legal Representative, it would be impermissible for the petitioner to now contend that the notice served upon him was invalid for want of his being a Legal Heir.

15. Mr. Vijender Pal Jain is a Legal Representative by his own conduct and since the notice has been served upon him, we do not find any infirmity in the issuance and service of the notice upon said Mr. Vijender Pal Jain. The petitioner’s such ground is, therefore, rejected.

16. As far as the second issue regarding the lack of approval by the Competent Authority is concerned, we are of the view that the approval, which has been granted by PCIT is not valid. Since the respondents have invoked extended period of limitation, the same ought to have been sought from and granted by PCCIT as provided under Section 151(ii) of the Act of



1961.

17. The writ petition is, therefore, allowed.

18. The impugned notice dated 30.07.2022, for want of proper approval, is hereby quashed.

DINESH MEHTA, J

AMIT MAHAJAN, J

MAY 8, 2026/df