

## HC justified remanding of matter back to AO for fresh assessment on legal representative of deceased person

**Summary – The High Court of Karnataka in a recent case of Rudra Gouda, (the Assessee) held that For purpose of Act, legal representative of deceased assessee would be deemed to be an assessee**

### Facts

- Subsequent to death of assessee his legal representative/appellant filed return of income.
- The Assessing Officer passed an assessment order in the name of the deceased assessee.
- The Commissioner (Appeals) allowed the appellant's appeal.
- On revenue's appeal, the appellant filed cross objection contending that the assessment order passed against a dead person was not amenable to any challenge before the Tribunal. The Tribunal allowed the cross-objection and restored the matter to the Assessing Officer for passing *de novo* assessment order on right person.
- On appeal to the High Court:

### Held

- Section 159(1) and (2) provides about the liability of legal representatives in special cases. It is not in dispute that any proceeding which could have been taken against the deceased if he had survived may be taken against the legal representative, in terms of section 159(2)(b). The legal representative of the deceased was for the purpose of the Act, deemed to be an assessee as per section 159(3). This being the position, the Tribunal is justified in setting aside the orders of Commissioner (Appeals) and of the Assessing Officer and remanding the matter to the Assessing Officer for *de novo* assessment order on the legal representative of the deceased.