

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "T", NEW DELHI
BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND
SHRI SUCHITRA KAMBLE, JUDICIAL MEMBER
ITA No.916, 917, 918, 920/Del/2016
A.Y. : 2006-07, 2007-08, 2008-09 and 2010-11**

Pushpa Rani Kukreja A-37, East of Kailash New Delhi	Vs.	ACIT, Circle- 18, ARA Centre, E-2, Jhandewalan New Delhi.
PAN : ACYPR7962A		
(Appellant)		(Respondent)

**ITA No.923- 925/Del/2016
A. Y. : 2009-10, 2010-11 & 2011-12**

Om Prakash Kukreja A-37, East of Kailash New Delhi	Vs.	ACIT, Circle- 18, ARA Centre, E-2, Jhandewalan New Delhi.
PAN : AAKPK8092Q		
(Appellant)		(Respondent)

Assessee by : Shri Rajeshwar Prasad Painuly, CA
Department by : Smt. Aparna Karan, CIT-DR

Date of hearing : 21-09-2017
Date of pronouncement : 21-09-2017

ORDER

Per Bench :

The above batch of appeals filed by the respective assesseees are directed against the Separate orders dated 30th November, 2015 of the CIT(A)- 25, New Delhi relating to different assessment years as mentioned above. Since common

issue is involved in all these appeals, therefore, all these appeals were heard together and are being disposed of by this common order for the sake of convenience.

3. Facts of the case, in brief, are that consequent to search conducted in the Aerens Group of cases on 17.08.2017 search and seizure operations under section 132 of the Income Tax Act, 1961 were conducted in the case of the above two assesseees on 10th Feb. 2012. The AO completed the assessment u/s 153A r.w.s. 143(3) on 27th March 2014 in the above cases by making various additions. The income so assessed for different assessment years are as under :

S.NO.	Name	A.Y.	A.Y.	A.Y.	A.Y.	A.Y.	A.Y.
1.		2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
2.	Pushpa Rani Kukreja	32,18,110/-	14,75,000/-	15,00,000/-	-----	16,00,000/-	-----
3.	Om Prakash Kukeraja	-----	-----	-----	97,90,280/-	27,64,990/-	20,67,500/-

4. The above assesseees filed appeal before the CIT(A) challenging the various additions made by the AO. However, due to non-appearance before the CIT(A) despite opportunities granted, the CIT(A), applying the ratio of the decision of the Tribunal in the case of CIT vs. Multiplan India Pvt. Ltd. reported in 38 ITD 320 and the decision of Hon'ble Supreme Court in the case of CIT vs. B.N.Bhattacharya reported in 118 ITR 461 held that the assesseees are not

interested in prosecution of the appeals filed by them and, therefore, the appeals deserve to be dismissed at the very outset. So far as the merit of the cases is concerned, he also decided the same against the assesseees by observing that the assesseees did not make proper compliance during the assessment proceedings as well as during appeal proceedings and therefore, the AO was fully justified in making the additions. He accordingly dismissed the above appeals filed before him.

5. Aggrieved with such order of the CIT(A) the above assesseees are in appeal before the Tribunal.

6. The Id. Counsel for the assessee submitted that the assesseees are verymuch interested in prosecuting the appeals. Due to the illness of Shri Om Prakash Kukreja, there was no proper compliance before the AO as well as before CIT(A). He submitted that in the interest of justice the assesseees should be given one final opportunity to substantiate their respective cases.

7. Ld. DR on the other hand strongly opposed the arguments advanced by the Ld. Counsel for the assessee. Referring to the order of the CIT(A), she drew the attention of the bench to the numerous opportunities granted to the assesseees to substantiate their cases. She submitted that the appeals filed by the assesseees should be dismissed.

8. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf

of the assessee. We have also considered the various decisions cited before us. We find the assessee did not appear before the CIT(A) for which he passed an ex parte order dismissing the appeals of the assessee both on technical ground as well as on merit. It is an admitted fact that there was no appearance by the assessee before the IT(A) despite opportunities granted. However, Considering the totality of the facts of the case and in the interest of justice we deem it proper to restore the above matter to the file of the Ld. CIT(A) with a direction to grant one final opportunity to the respective assessee to substantiate their case. The assessee are also hereby directed to appear before the CIT(A) without seeking adjournment and substantiate his / her case failing which the CIT(A) is at liberty to decide the issue as per law. We hold and direct accordingly. The above appeals filed by the respective assessee are accordingly allowed for statistical purposes.

10. In the result all the above appeals are allowed for statistical purposes.

Order Pronounced in the Open Court at the time of hearing itself i.e. on 21.09.2017.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(R. K. PANDA)
ACCOUNTANT MEMBER

Copy of order to: -

- 1) The Appellant
- 2) The Respondent
- 3) The DRP-IV, New Delhi
- 4) The DR, I.T.A.T., New Delhi

By Order

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	21.09.2017		Sr. PS/PS
2	Draft placed before author	21.09.2017		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			