

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'G' : NEW DELHI)**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.6241/Del./2015  
(ASSESSMENT YEAR : 2007-08)**

**ITA No.6242/Del./2015  
(ASSESSMENT YEAR : 2008-09)**

**ITA No.6243/Del./2015  
(ASSESSMENT YEAR : 2009-10)**

**ITA No.6244/Del./2015  
(ASSESSMENT YEAR : 2010-11)**

**ITA No.6245/Del./2015  
(ASSESSMENT YEAR : 2011-12)**

**ITA No.6246/Del./2015  
(ASSESSMENT YEAR : 2012-13)**

Shri Ashok Malhotra,  
House No.1310,  
Dr. Mukherjee Nagar,  
Delhi.

vs. DCIT, Central Circle 15,  
New Delhi.

**(PAN : AAPPM8352G)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Manpreet Singh, Kapoor, Partner  
REVENUE BY : Shri S.S. Rana, CIT DR

Date of Hearing : 09.10.2018

Date of Order : 25.10.2018

**ORDER**

**PER BENCH :**

Since common questions of facts and law have been raised in all the aforesaid appeals, the same are being disposed off by way of consolidated order to avoid repetition of discussion.

2. Appellant, Ashok Malhotra (hereinafter referred to as the assessed) by filing present appeals sought to set aside the impugned order dated 15.09.2015 passed by the Ld. Commissioner of Income Tax (Appeals)-XXVI, New Delhi qua the assessment years 2007-08, 2008-09, 2009-10, 2010-11, 2011-12 & 2012-13.

3. Briefly stated that facts necessary for adjudication of the controversy at hand are : on the basis of search conducted by Central Bureau of Investigation (CBI) at the residence of assessee on 27.07.2007 along with searches conducted at the residences of DDA officials, wherein cash of Rs.19,00,000/-, Gold jewellery weighing 7 KG (approximately), 17 Luxury cars with VIP number plates, 113 bank accounts maintained by assessee and family members operating from the same address, assessment was re-opened. On the basis of seized material by the CBI, reassessment proceedings were initiated. Accordingly, declining the contentions raised by the assessee, AO assessed the income of the assessee.

4. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has dismissed the same on ground of non-appearance. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeals.

5. We have heard the Ld. Authorized Representative of the parties, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Bare perusal of impugned orders passed by Ld. CIT(A) goes to prove that the appeals have been dismissed not on merit but for want of prosecution on the part of assessee. No doubt, Ld. CIT(A) has given six opportunity to the assessee out of which on two dates it is not shown if he was served or not and on next three dates, adjournment applications were filed which were allowed and on the last date fixed by Ld. CIT i.e. 15.09.2015, impugned order was passed and application for adjournment was received on 15.10.2015 and was became infructuous.

7. Chronology of dates fixed by Ld. CIT(A) for hearing given in the tabulated form at page 4 of the impugned order apparently goes to prove that adequate opportunity has not been given to the assessee to argue the appeal because when the assessee has engaged a tax expert as his representative and has been moving

adjournment applications, he cannot be faulted for non-prosecution. The Ld. Sr. DR vehemently opposed the contention of the assessee that no further opportunity should be granted to him, as already sufficient opportunities have been given to him.

8. Keeping in view the facts and circumstances of the case, we are of the considered view that to decide the controversy at hand once for all, adequate opportunity is required to be granted as the appeal has not been decided by Ld. CIT on merit but for non-prosecution. So, we remand all the cases back to Ld. CIT(A) to decide on merit with the direction to the assessee to appear before the Ld. CIT(A) on 05.11.2018 and no separate notice is required to be issued to him. Consequently present appeals are allowed for statistical purposes.

**Order pronounced in open court on this 25<sup>TH</sup> day of October, 2018.**

**SD/-  
(O.P. KANT)  
ACCOUNTANT MEMBER**

**SD/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 25<sup>TH</sup> day of October, 2018**

**TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-XXVI, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**