

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER
AND**

**MS SUCHITRA KAMBLE, JUDICIAL MEMBER
S. A NO. 45/Del/2019**

In

(ITA No. 6588/DEL/2018 (A.Y 2013-14)

S. A NO. 46/Del/2019

In

(ITA No. 6589/DEL/2018 (A.Y 2014-15)

S. A NO. 47/Del/2019

In

(ITA No. 6590/DEL/2018 (A.Y 2015-16)

Pawan Kumar Dua C/o. RRA Tax India, D-28, South Extension, Part-1 New Delhi AACPD2040F (APPLICANT)	Vs	ACIT Central Circle-28 New Delhi (RESPONDENT)
---	----	---

Applicant by	Dr. Rakesh Gupta & Sh. Somil Aggarwal, Advs
Respondent by	Sh. Surendra Pal, Sr. DR

Date of Hearing	08.02.2019
Date of Pronouncement	08.02.2019

ORDER

PER SUCHITRA KAMBLE, JM

These three Stay Applications have been filed against outstanding demand of Rs. 1,27,62,353/- for Assessment Year 2013-14, Rs. 2,25,63,203/- for Assessment Year 2014-15 & Rs. 23,56,419/- for Assessment Year 2015-16.

2. The Ld. AR submitted that the assessee has a prime facie case for granting stay and early hearing. The Ld. AR submitted that the assessee is not doing any business relating to Metal Trading as alleged by the Assessing Officer in the assessment order. The Ld. AR further submitted that addition on

account of alleged unaccounted turnover was only on the documents seized from 3rd party and the statement of that third party. But the seized documents were not found from the assessee and there is no justification given by the Assessing Officer for making the impugned addition in the hands of assessee solely based on such documents. The Ld. AR pointed out that if those alleged documents were used against the assessee, proceedings u/s 153C could alone have been taken by complying with required statutory/obligations which has not been done in the present case. Thus, the assumption of jurisdiction in passing the assessment order u/s 143(3) read with Section 153A is not in accordance with law and without applying the various mandatory conditions of Section under the Act. The Ld. AR submitted that approximately Rs. 73 lacs has already been paid against the outstanding demand in all the three Assessment Years. Thus, the Ld. AR submitted that Stay and early hearing may be granted in this appeal.

3. The Ld. DR opposed the Stay Applications in all the three appeals vehemently.

4. We have heard both the parties and perused the material available on record. Prima facie, the legal aspect submitted by the Ld. AR relating to the assumption of jurisdiction in passing the assessment order u/s 143(3) read with Section 153A has to be contested first and the Ld. AR made out a case for granting stay and early hearing. Therefore, we are granting Stay for six months or till the disposal of the appeals whichever is earlier with the direction that the assessee will pay Rs. 40 lacs in two installments. We direct the assessee that first installment of Rs. 20 lacs to be paid on or before 28/2/2019 and second installment of Rs.20 lacs to be paid on or before 15th March 2019. If the assessee failed to comply with this direction the stay will get automatically vacated. The Ld. AR also made out a good case for early hearing. Therefore, we are directing the registry to place the main three appeals for hearing on 3/4/2019. Registry is directed accordingly. Dasti.

5. In result, all the three Stay Applications are allowed.

Order pronounced in the Open Court on 08th FEBRUARY, 2019

**Sd/-
(R. K. PANDA)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 08/02/2019
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	08.02.2019
Date on which the typed draft is placed before the dictating Member	08.02.2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	08.02.2019
Date on which the final order is uploaded on the website of ITAT	08.02.2019
Date on which the file goes to the Bench Clerk	08.02.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	

