

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : B : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA Nos.4797 & 3720/Del/2018
Assessment Years: 2013-14 & 2014-15

DLF Southern Towns Pvt. Ltd., Vs DCIT,
1-E, NAAZ Cinema Complex, Circle-7(1),
Jhandewalan Extension, New Delhi.
New Delhi,
PAN: AADCP9107F

ITA Nos.3721 & 3722/Del/2018
Assessment Years: 2013-14 & 2014-15

DLF Brands Ltd., Vs DCIT,
204, Ground Floor, Okhla Industrial Circle-7(1),
Estate, Phase-III, New Delhi.
New Delhi.
PAN: AAFCA7971E

(Appellant)

(Respondent)

Assessee by : Shri R.S. Singhvi, CA &
Shri Satyajeet Goel, CA
Revenue by : Ms Ashima Neb, Sr. DR
Date of Hearing : 16.07.2019
Date of Pronouncement : 18.07.2019

ORDER

PER R.K. PANDA, AM:

The above batch of appeals filed by the respective assesseees are directed against the separate *ex parte* orders of the CIT(A)-3, New Delhi. In all these appeals, the

assessee has challenged the *ex parte* order of the CIT(A) in dismissing the appeals for non-prosecution. The ld. counsel for the assessee submitted that the ld.CIT(A) in all these appeals has passed *ex parte* order and dismissed the appeals filed by the assessee for non-prosecution. The ld.CIT(A) has not passed the order on merit although the issues are squarely covered in favour of the assessee by the decision of the Tribunal in assessee's own case as well as by the predecessor CIT(A) or the jurisdictional High Court. He accordingly submitted that since the issues are covered, the same should be decided in favour of the assessee.

2. The ld. DR, on the other hand, strongly opposed the arguments advanced by the assessee. She submitted that although the ld.CIT(A) has dismissed the appeal for want of prosecution, however, in the case of ITA No.4797/Del/2018, the ld.CIT(A) has also decided the issue on merit. Further, in the other three appeals, the ld.CIT(A) has not decided the issue on merit, but, has dismissed the appeal as unadmitted for want of prosecution. She further submitted that since the CIT(A) has passed the *ex parte* orders, therefore, in all fairness, the matter should be restored to his file for adjudication.

3. We have considered the rival arguments made by both the sides and perused the orders of the Assessing Officer and CIT(A). It is an admitted fact that all these four appeals are *ex parte* orders although the ld.CIT(A) in the *ex parte* order has decided the issue on merit in ITA No.4797/Del/2018. However, in the remaining three

appeals, he has not decided the issue on merit, but, has dismissed the appeals for want of prosecution.

4. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issues to the file of the CIT(A) with a direction to grant one final opportunity to the assesseees to substantiate their cases and decide the issues as per fact and law preferably within a period of six months from the date of this order. The Id.CIT(A) shall, while deciding the issues, keep in mind the decision of the Tribunal in assessee's own case as well as the decision of the Hon'ble jurisdictional High Court on similar issues. The assessee is also hereby directed to appear before the CIT(A) and cooperate in early disposal of the appeals failing which the Id. CIT(A) is at liberty to pass appropriate orders as per law. We hold and direct accordingly. The grounds raised by the assesseees are accordingly allowed for statistical purposes.

5. In the result, the appeals filed by the assesseees are allowed for statistical purposes.

The decision was pronounced in the open court on 18.07.2019.

Sd/-

(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMFBER

Dated: 18th July, 2019

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Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi