

आयकर अपीलिय अधिकरण दिल्ली न्यायपीठ “शुक्रवार-इ” दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: ‘FRIDAY-E’: NEW DELHI**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री प्रशांत महर्षि, लेखा सदस्य के समक्ष

**BEFORE MS. SUSHMA CHOWLA, JUDICIAL MEMBER &
Sh. PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

आयकर अपील स० / In ITA No:-8364/Del/2019

AND

स्थगन अपील स०/S.A. No.- 1020/Del/2019

निर्धारण वर्ष / Assessment Year: 2016-17

M/s Inabata India Pvt. Ltd.
319, Time Tower, Sector-28,
Near Iffco Chawk, MG Road,
Gurugram, Haryana-1220002
PAN-AABCI9109G

.....अपीलार्थी / Appellant

vs

ACIT, Circle-12(1),
New Delhi

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Ajit Korde, Adv

प्रत्यर्थी की ओर से / Respondent by : Sh. Dr. V.K. Chandra, Sr. DR

सुनवाई की तारीख / Date of Hearing : 15.11.2019	घोषणा की तारीख / Date of Pronouncement: 15.11.2019
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The present Stay Application has been filed by the applicant against the stay of recovery of outstanding demand of Rs. 16,64,273/-.

2. During the course of the hearing of the stay application, the learned AR for the assessee pointed out that the appellate order was passed ex parte the applicant by the CIT(A) and the appeal has not been adjudicated on merits. He thus proposed that instead of granting any stay in the matter, the appeal of the applicant may be allowed and the matter be restored back to the file of the CIT(A).

3. The learned DR for the Revenue fairly admitted that the CIT(A) has not adjudicated issues on merits.

4. On the perusal of the record, we find that the CIT(A) while deciding the appeal of the applicant had posted the case for hearing on two different dates in the month of August, 2019. As none appeared on behalf of the applicant, the appeal was decided ex parte and was dismissed following the ratio laid down by the Hon'ble Supreme Court in the case of *CIT vs. B.N. Bhattacharya (1997) 118 ITR 461 (SC)* and *CIT vs. Multiplan India Pvt. Ltd* as reported in *38 ITD 320 (Delhi)*. The CIT(A) has not been gone into the merits of the issues raised by the applicant. In the above said facts and circumstances, we find no merit in the order passed by the CIT(A). It is incumbent upon the CIT(A) to decide the issues on merits and not dismiss the appeal in limine. Accordingly, we allow the appeal of the applicant and remit the issue back to the file of the CIT(A) who shall decide the issues raised after allowing reasonable opportunity of hearing to the assessee. Consequently, the appeal filed by the applicant is allowed.

5. Since the appeal has been restored back to the CIT(A), the stay application filed by the assessee is dismissed.

6. In the result, stay application is dismissed and the appeal of the applicant is allowed.

Order pronounced in the open court on 15th day of November, 2019.

Sd/-
(PRASHANT MAHARISHI)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(SUSHMA CHOWLA)
न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली / दिनांक Dated : 15th November, 2019.

SH

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक रजिस्ट्रार,
आयकर अपीलीय अधिकरण ,दिल्ली /
ITAT, Delhi