

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “एसएमसी”, दिल्ली में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH ‘SMC’, NEW DELHI**  
सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री आर.के. पांडा, लेखा सदस्य के समक्ष  
**BEFORE MS. SUSHMA CHOWLA, JM & SHRI R.K. PANDA, AM**  
आयकर अपील सं. / ITA No. 6021/Del/2017  
निर्धारण वर्ष / Assessment Year: 2010-11

M/s Richmond Educatinal Society,  
D-108, Sector 41, Noida,  
Uttar Pradesh-201301  
PAN-AABTR0992D

vs

JCIT, Range-1,  
Noida

.....अपीलार्थी / Appellant

.....प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Deepesh Garg, Adv

प्रत्यर्थी की ओर से / Respondent by : Sh. S.N. Meena, Sr. DR

**DELHI BENCH ‘E’, NEW DELHI**  
आयकर अपील सं. / ITA No. 6045/Del/2017  
निर्धारण वर्ष / Assessment Year: 2013-14

Opinder Singh Marwah,  
E-34, Lajpat Nagar-3  
New Delhi  
PAN-AAKPM6200G

vs

ACIT, Circle-62(1),  
New Delhi

.....अपीलार्थी / Appellant

.....प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Arun Kishore, CA

प्रत्यर्थी की ओर से / Respondent by : Ms. Rakhi Vimal, Sr. DR

**DELHI BENCH 'D', NEW DELHI**  
**आयकर अपील सं. / ITA No. 6049/Del/2017**  
**निर्धारण वर्ष / Assessment Year: 2014-15**

Kapil Jhalani,  
C-2/31, Safdarjung .....अपीलार्थी / Appellant  
Development Area,  
New Delhi  
PAN-AAHPJ5871F  
vs

ACIT, Circle-32(1)  
New Delhi ..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None

प्रत्यर्थी की ओर से / Respondent by : Ms. Ashima Neb, Sr. DR

**DELHI BENCH 'D', NEW DELHI**  
**आयकर अपील सं. / ITA No.6048/Del/2017**  
**निर्धारण वर्ष / Assessment Year: 2013-14**

Kapil Jhalani,  
C-2/31, Safdarjung .....अपीलार्थी / Appellant  
Development Area,  
New Delhi  
PAN-AAHPJ5871F  
vs

ACIT, Circle-32(1)  
New Delhi ..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None

प्रत्यर्थी की ओर से / Respondent by : Ms. Ashima Neb, Sr. DR

**DELHI BENCH 'A', NEW DELHI**  
**आयकर अपील सं. / ITA No.6058/Del/2017**  
**निर्धारण वर्ष / Assessment Year: 2011-12**

Amit Saxena,  
Legal Representative from .....अपीलार्थी / Appellant  
Estate of Sh. Sushil Saxena  
Prop. M/s Saxsons International  
C-2/261, Janakpuri, New Delhi,  
PAN-AATPS9277N

vs

DCIT, Circle-22(1),  
New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Rajesh Mahna, Adv

प्रत्यर्थी की ओर से / Respondent by : Ms. Ashima Neb, Sr. DR

**DELHI BENCH 'C', NEW DELHI**  
**आयकर अपील सं. / ITA No.6132 /Del/2017**  
**निर्धारण वर्ष / Assessment Year: 2014-15**

Gian Chand Arora,  
B-14, Madhuban Colony,  
Near Preet Vihar, New Delhi  
PAN-AADPA9441Q

.....अपीलार्थी/ Appellant

vs

ITO, Ward-58(3),  
New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None

प्रत्यर्थी की ओर से / Respondent by : Sh. S.N. Meena, Sr. DR

**DELHI BENCH 'F', NEW DELHI**  
**आयकर अपील सं. / ITA No.5332/Del/2017**  
**निर्धारण वर्ष / Assessment Year: 2014-15**

Rahul Raghav,  
C/o Kapil Goel Adv.  
F-26/124 Sector 7 Rohini  
Delhi-110085  
PAN-AORPR2121Q

.....अपीलार्थी/ Appellant

Vs

ACIT, Circle-3,  
Noida

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Kapil Goel, Adv

प्रत्यर्थी की ओर से / Respondent by : Sh. Saras Kumar, Sr. DR

**DELHI BENCH 'G', NEW DELHI**  
**आयकर अपील सं. / ITA No.5369 /Del/2017**  
**निर्धारण वर्ष / Assessment Year: 2010-11**

Suneel Galgotia,  
4405/6, Prakash Apartments-II, .....अपीलार्थी /Appellant  
5, Ansari Road, Daryaganj,  
Noida.,  
PAN-AEQPG5100F  
vs  
ACIT, Central Circle,  
Noida .....प्रत्यर्थी / Respondent

अपीलार्थी की ओर से /Appellant by : None  
प्रत्यर्थी की ओर से /Respondent by : Sh. Saras Kumar, Sr. DR

**DELHI BENCH 'F', NEW DELHI**  
**आयकर अपील सं. / ITA No. 5434/Del/2017**  
**निर्धारण वर्ष / Assessment Year: 2012-13**

Sh. Ranjeet Kumar,  
C-338, Ram Pal Chowk, .....अपीलार्थी /Appellant  
Sector-7, Dwarka,  
New Delhi  
PAN-ALAPK9771F  
vs  
ITO, Ward-33(4), .....प्रत्यर्थी / Respondent  
New Delhi

अपीलार्थी की ओर से / Appellant by : Sh. Ashish Goyal, CA  
प्रत्यर्थी की ओर से / Respondent by : Sh. Saras Kumar, Sr. DR

सुनवाई की तारीख / Date of Hearing : 27.11.2019	घोषणा की तारीख / Date of Pronouncement: 29.11.2019
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## आदेश / ORDER

### PER SUSHMA CHOWLA, JM:

The present appeals are filed by the different assessee against the separate orders of CIT(A) relating to Assessment Years 2010-11/ 2011-12/ 2012-13 and also Assessment Years 2013-14/ 2014-15 against respective orders passed by the AO under section 143(3)/144 of the Act.

2. The present bunch of appeals have been listed for hearing and we proceed to decide the same by this consolidated order for the sake of convenience. In this bunch of appeals, the assessee is aggrieved by the order of CIT(A) for deciding the appeals *ex parte* qua the assessee and without going into the merits of the addition. In some appeals, the appeal has been decided by CIT(A) on merits but *ex parte* qua the assessee.

3. In some of the cases, there is no representation on behalf of the assessee before us but because of the issue involved, we proceed to decide the said appeals after hearing the learned DR for the Revenue.

4. It is a common case raised by different ARs for the assessee before us that the CIT(A) has passed the *ex parte* order without allowing sufficient opportunity of hearing and without going into the merits of the case. In other cases, it is pointed out that where the CIT(A) has decided the issue on merits but *ex parte* qua the assessee.

5. The learned DR for the Revenue on the other hand pointed out that sufficient opportunity has been afforded to the assessee. And in some cases, the CIT(A) has decided the issues on merits also.

6. We have heard the rival contentions and perused the record. Under the provisions of Section 250(6) of the Act, it is incumbent upon the CIT(A) to decide the appeals after hearing the parties and state the points for determination, the decision thereon and also the reasons for the decision. While deciding the appeals, CIT(A) has no power to dismiss the appeal for non prosecution by relying on the ratio/s laid down in CIT vs. B.N. Bhattacharya & Another 118 ITR 461 (SC) and Late Tukoji Rao Holker vs. CWT 223 ITR 480 (MP). In these facts and circumstances, where the CIT(A) had dismissed the appeal by applying the above said ratios, the order of the learned CIT(A) suffers from infirmity. The CIT(A) while deciding the issue on merits have also to provide reasons for coming to the conclusion and in the absence of the same, the order of the CIT(A) again suffers from infirmity. In the present bunch of appeals, we find that that the CIT(A) has dismissed the appeal *ex parte* qua the assessee and in most of the cases, had failed to decide the appeals by passing reasoned assessment order.

7. In some of the appeals, CIT(A) had decided the issue on merits but without affording reasonable opportunity of hearing to the assessee. Such order/s suffers from infirmity as it violates the principles of natural justice. In such cases also, we are of the view that reasonable opportunity of hearing should be afforded to the assessee before deciding the issues on merits.

8. Accordingly, we set aside the matter back to the file of the CIT(A) with direction to the CIT(A) to decide the issue on merits by a reasoned order, after affording reasonable opportunity of hearing to the assessee. Further the assessee is also directed to appear before the CIT(A) and participate in the appellate proceedings. The appeals are thus decided on this preliminary issue without going into the merits of the addition.

9. In ITA No. 6058/Del/2017 it was pointed out that the assessee had expired and the appeal before the CIT(A) was filed by his legal heir i.e. his wife. However, the wife of the assessee also expired during the pending appellate proceedings. The learned AR for the assessee pointed out that an application was filed before the CIT(A) to bring on record the son of the assessee as his legal heir. However, the CIT(A) has passed order in the name of wife of the assessee, who had demised. It was also pointed out that the order has been passed *ex parte* qua the assessee. In line with our decision in paras above, we remit this appeal also back to the file of the CIT(A) who shall decide the same after taking the legal heir on record and after allowing reasonable opportunity of hearing to the assessee.

10. Hence this bunch of appeals are restored back to the file of respective CIT(A)/s to decide the issue on merits after affording reasonable opportunity of hearing to the assessee. The assessee is also directed to comply with notices issued by the CIT(A). The preliminary issue raised in all the appeals is thus decided in favour of assessee.

Since the appeals are being decided on the preliminary issue we are not addressing the issue raised on merit.

11. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 29<sup>th</sup> day of November, 2019.

*Sd/-*  
**(R.K. PANDA)**  
लेखा सदस्य/ACCOUNTANT MEMBER  
दिल्ली / दिनांक Dated : 29<sup>th</sup> November, 2019.  
*SH*

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

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. मुख्य आयकर आयुक्त / The Pr. CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक रजिस्ट्रार, आयकर अपीलीय अधिकरण ,दिल्ली  
Assistant Registrar, ITAT, Delhi