

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ "ए", दिल्ली में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A', 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 Nos. 5665 to 5667/Del/2017

निर्धारण वर्ष / Assessment Years: 2006-07 to 2008-09

Aradhana Tewari,  
6, Southern Avenue,  
Maharani Bagh,  
New Delhi-110065  
PAN-ADCPT9875B

.....अपीलार्थी/Appellant

vs

DCIT, Central Circle-13,  
New Delhi

.....प्रत्यर्थी/Responde

अपीलार्थी की ओर से /Appellant by :Sh. Rajendra Handa, CA

प्रत्यर्थी की ओर से /Respondent by :Sh. Sanjog Kapoor, Sr. DR

सुनवाई की तारीख / Date of Hearing : 28.11.2019	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 same assessee against orders of CIT(A)-35, relating to Assessment Years 2006-07 to 2008-09 against respective orders passed by the AO under section 144 r.w.s. 153A 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.

3. 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.

4. The learned AR for the assessee pointed out 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.

5. The learned DR for the Revenue on the other hand pointed out that sufficient opportunity has been afforded to the assessee.

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 had failed to decide the appeals by passing reasoned assessment order.

7. 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.

8. 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.

9. 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