

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “जी”, दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, ‘G’, NEW DELHI**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री एन. के. बिलैया, लेखा सदस्य के समक्ष

**BEFORE MS. SUSHMA CHOWLA, JUDICIAL MEMBER &  
Sh. N.K. BILLAIYA, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No:-461/Del/2018

निर्धारण वर्ष / Assessment Year: 2013-14

M/s Singh Automobiles,  
21, Zila Panchayat Market,  
Court Road, Kala Aam,  
Bulandshahr (U.P.)  
PAN-AAPFS7607C

.....अपीलार्थी/Appellant

vs

ITO,  
Ward-3(2),  
Bulandshahr (U.P.)

..... प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No:-525/Del/2018

निर्धारण वर्ष / Assessment Year: 2013-14

ITO,  
Ward-3(2),  
Bulandshahr (U.P.)

.....अपीलार्थी/Appellant

vs

M/s Singh Automobiles,  
21, Zila Panchayat Market,  
Court Road, Kala Aam,  
Bulandshahr (U.P.)  
PAN-AAFPS7607C

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None

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

सुनवाई की तारीख / <b>Date of Hearing:</b> <b>18.12.2019</b>	घोषणा की तारीख / <b>Date of Pronouncement:</b> <b>20.12.2019</b>
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**आदेश / ORDER**

**PER SUSHMA CHOWLA, JM:**

This cross appeal filed by assessee and the Revenue is against order of CIT(A)-Aligarh, dated 30/10/2017 relating to assessment year 2013-14.

2. Despite of service of notice, none appeared on behalf of the assessee and because of issue involved, we proceed to decide both the appeals after hearing the Ld. DR for the Revenue.

3. On perusal of the record, we find that the CIT(A) has passed the present order *ex-parte* qua the assessee without allowing sufficient opportunity of hearing to the assessee. The CIT(A) has further upheld the certain additions made by the Assessing Officer and has deleted two additions made by the Assessing Officer. Both assessee and Revenue are in appeal against the respective order of the CIT(A).

4. We find that the present appeals have been decided *ex-parte* qua the assessee and hence there is violation of principle of natural justice. In this circumstances, we are of the view that the CIT(A) should allow reasonable opportunity of hearing to the assessee.

5. 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.

7. Hence both appeals are restored back to the file of CIT(A) 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 these 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.

8. In the result, cross appeal filed by the assessee and the Revenue are allowed.

Order pronounced in the open court on 20<sup>th</sup> day of December, 2019.

**Sd/-**

**Sd/-**

**(N. K. BILLAIYA)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

**(SUSHMA CHOWLA)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

**दिल्ली / दिनांक Dated : 20<sup>th</sup> December, 2019.**

S. Shekhar, Sr. P.S.

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,

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