

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “डी”, दिल्ली में
**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH ‘D’, NEW DELHI**

सुश्री सुषमा चावला, उपाध्यक्ष एवं श्री आर.के. पांडा, लेखा सदस्य के समक्ष

**BEFORE MS. SUSHMA CHOWLA, VICE PRESIDENT
&
SHRI R.K. PANDA, ACCOUNTANT MEMBER**

आयकर अपील सं / ITA Nos. 239 & 240/Del/2019
निर्धारण वर्ष / Assessment Years: 2010-11 & 2011-12

Vikas Bhagat,
B-113, Sector-64, Noida
Uttar Pradesh
PAN-AJGPB9033M

.....अपीलार्थी / Appellant

vs.

DCIT, Central Circle,
Noida

.....प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Manoj Kumar, CA

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

सुनवाई की तारीख / Date of Hearing : 15.1.2020	घोषणा की तारीख / Date of Pronouncement: 27.1.2020
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आदेश / ORDER

PER SUSHMA CHOWLA, VP

The appeals filed by assessee are against order of CIT(A)-IV, Kanpur dated 12.11.2018 relating to assessment years 2010-11 & 2011-12.

2. In these 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.
3. 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.
4. The learned DR for the Revenue on the other hand pointed out that sufficient opportunity has been afforded to the assessee.
5. We have heard the rival contentions and perused the record. Under the provisions of Section 250(6) of the Income tax Act, 1961 (in short "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 appeals 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 appeals 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 give 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 appeals, we find that the CIT(A) has dismissed the appeals *ex-parte* qua the assessee

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

6. 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 these 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 are thus decided in favour of assessee. Since these appeals are being decided on the preliminary issue, we are not addressing the issue raised on merit.

8. In the result, these appeals of the assessee are allowed.

Order pronounced in the open court on 27th day of January, 2020.

Sd/-

(R.K. PANDA)

लेखा सदस्य/ACCOUNTANT MEMBER

दिल्ली / दिनांक Dated : 27th January, 2020.

SH

Sd/-

(SUSHMA CHOWLA)

उपाध्यक्ष/VICE PRESIDENT

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