

आयकर अपीलिय अधिकरण, दिल्ली न्यायपीठ "ई", दिल्ली में

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH 'E', 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. 5927/Del/2017

निर्धारण वर्ष / Assessment Year: 2011-12

Muni Ram Verma,

1245, 2nd Floor, Kucha Mahajani

Chandani Chowk, New Delhi-110006

PAN-ACBPV8621R

vs

DCIT, Ward-5(1),

New Delhi

.....अपीलार्थी / Appellant

.....प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Ashish Goel, CA &

Ms. Umang Luthra, Adv

प्रत्यर्थी की ओर से / Respondent by : Ms. Rakhi Vimal, 2Sr. DR

DELHI BENCH 'B', NEW DELHI

आयकर अपील सं. / ITA No. 6008/Del/2017

निर्धारण वर्ष / Assessment Year: 2014-15

Deepak Gupta,

D-9, Sector-55, Noida

PAN-AKHPG1593K

vs

ACIT, Circle-1,

Noida

.....अपीलार्थी / Appellant

.....प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None

प्रत्यर्थी की ओर से / Respondent by : Sh. Pradeep Singh Gautam, Sr. DR

DELHI BENCH 'E', NEW DELHI
आयकर अपील सं. / ITA No. 5975/Del/2017
निर्धारण वर्ष / Assessment Year: 2011-12

Morgan Asia Ltd.,
J/4/57, Khirki Extension,अपीलार्थी/ Appellant
Malviya Nagar, New Delhi
PAN-AAACM8554E

vs

ACIT, Circle-5(1)
New Delhi प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Mohit Jain, CA
प्रत्यर्थी की ओर से / Respondent by : Ms. Rakhi Vimal, Sr. DR

DELHI BENCH 'D', NEW DELHI
आयकर अपील सं. / ITA No.5924/Del/2017
निर्धारण वर्ष / Assessment Year: 2014-15

Krishna Raj Educational Society
Kansen Marg, Chuna Mandi,अपीलार्थी/ Appellant
Budaun, U.P.-243601
PAN-AAAAK5285G

vs

ACIT (Exemption)
Lucknowप्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से / Respondent by : Sh. Pradeep Singh Gautam, Sr. DR

DELHI BENCH 'A', NEW DELHI
आयकर अपील सं. / ITA No.5664/Del/2017
निर्धारण वर्ष / Assessment Year: 2005-06

Aradhana Tewari,
6, Southern Avenue,अपीलार्थी/ Appellant
Maharani Bagh,
New Delhi
PAN-ADCPT9875B

vs

DCIT, Circle-13,
New Delhi

.....प्रत्यर्थी/ Respondent

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

प्रत्यर्थी की ओर से / Respondent by : Sh. Pradeep Singh Gautam, Sr. DR

DELHI BENCH 'A', NEW DELHI
आयकर अपील सं. / ITA No.5455/Del/2017
निर्धारण वर्ष / Assessment Year: 2013-14

Sh. Bhagirath Prasad Gupta,
4RPS, DDA Market, Khanpur,
New Delhi-110062
PAN-AAGPG8971L

.....अपीलार्थी/Appellant

vs

ACIT, Circle-31(1),
New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Ashish Goel, CA &

Ms. Umang Luthra, Adv

प्रत्यर्थी की ओर से / Respondent by : Sh. Pradeep Singh Gautam, Sr. DR

DELHI BENCH 'C', NEW DELHI
आयकर अपील सं. / ITA No.5383/Del/2017
निर्धारण वर्ष / Assessment Year: 2013-14

M/s Greenline Builders Ltd.,
106, Palco House, T-10, Main
PAN-AACCG6844K

.....अपीलार्थी/Appellant

vs

ITO, Ward-10(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 'C', NEW DELHI
आयकर अपील सं. / ITA No.5287/Del/2017
निर्धारण वर्ष / Assessment Year: 2011-12

M/s Viraat Consultant
& Traders (P) Ltd.,अपीलार्थी/ Appellant
Viraat 1, C-56/35
Sector 62, Noida
PAN-AABCV0602M
vs
JCIT, Range-2
New Delhiप्रत्यर्थी/ Respondent

अपीलार्थी की ओर से /Appellant by : Sh. R.P. Mall, Adv
प्रत्यर्थी की ओर से /Respondent by : Sh. S.N. Meena, Sr. DR

DELHI BENCH 'G', NEW DELHI
आयकर अपील सं. / ITA No. 5282/Del/2017
निर्धारण वर्ष / Assessment Year: 2013-14

M/s Viraat Consultant
& Traders (P) Ltd.,अपीलार्थी/ Appellant
Viraat 1, C-56/35
Sector 62, Noida
PAN-AABCV0602M
vs
JCIT, Range-2,
Noidaप्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : Sh. R.P. Mall, Adv
प्रत्यर्थी की ओर से / Respondent by : Sh. S.N. Meena, Sr. DR

DELHI BENCH 'C', NEW DELHI
आयकर अपील सं. / ITA No. 5340/Del/2017
निर्धारण वर्ष / Assessment Year: 2013-14

M/s Gloster Metals & Alloys Pvt Ltd.
A-19/B-1, Extension, Mohanअपीलार्थी/ Appellant
Cooperative Indl., Mathura Road,
Badarpur, New Delhi
PAN-AABCV0602M

vs

ITO Ward-10(2),
New Delhi

.....प्रत्यर्थी/ Respondent

DELHI BENCH 'SMC', NEW DELHI
आयकर अपील सं. / ITA No. 5362/Del/2017
निर्धारण वर्ष / Assessment Year: 2007-08

Astral Properties & Constructions

Pvt. Ltd.,

20-A, Green Meadows Farm, Satbari,
Mehrauli, New Delhi
PAN-AAACA8109P

.....अपीलार्थी/Appellant

vs

ITO Ward-3(3),
New Delhi

.....प्रत्यर्थी/ Respondent

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

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

DELHI BENCH 'D', NEW DELHI
आयकर अपील सं. / ITA No. 5348/Del/2017
निर्धारण वर्ष / Assessment Year: 2008-09

Kusharg Jindal,

25, Vaishali, 3rd Floor,

Pitampura, Delhi, New Delhi
PAN-AEBPJ5647M

.....अपीलार्थी/Appellant

vs

ACIT, Circle-25(1) Now Circle-40(1),
New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None

प्रत्यर्थी की ओर से / Respondent by : Sh. Pradeep Singh Gautam, Sr. DR

DELHI BENCH 'C', NEW DELHI
आयकर अपील सं. / ITA No. 5199/Del/2017
निर्धारण वर्ष / Assessment Year: 2012-13

Intellecash Microfinance Network
Co. Pvt. Ltd.,अपीलार्थी / Appellant

13A, Technplex-II, IT Park,
6th Floor, Off Veer Savarkar Flyover,
Goregaon (West), Mumbai
PAN-AABCC9428J

vs

DCIT, Circle-12(2)
New Delhiप्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Puneet Thukral, CA
प्रत्यर्थी की ओर से / Respondent by : Sh. S.N. Meena, Sr. DR

DELHI BENCH 'A', NEW DELHI
आयकर अपील सं. / ITA No. 5195/Del/2017
निर्धारण वर्ष / Assessment Year: 2013-14

M/s Avid Apparel Industries
J-31, Jasola Heights, Sector-9A,अपीलार्थी / Appellant

Jasola, New Delhi-110025
PAN-AAAFW0362P

vs

ACIT, Circle-63(1),
New Delhiप्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से / Respondent by : Sh. Pradeep Singh Gautam, Sr. DR

DELHI BENCH 'C', NEW DELHI
आयकर अपील सं. / ITA No. 5186/Del/2017
निर्धारण वर्ष / Assessment Year: 2013-14

Green Tourist Services Pvt. Ltd.,
Shop No. 9, Sector-2 Market,अपीलार्थी / Appellant

R.K. Puram, New Delhi, Delhi
PAN-AAACG2348C

vs

ACIT, Circle-10(2)

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 'C', NEW DELHI

आयकर अपील सं. / ITA No. 5016/Del/2017

निर्धारण वर्ष / Assessment Year: 2013-14

G.B. Morrison Travels P. Ltd.,

18, Community Centre, Kailash

Colony Extn. Zamrudpur,

New Delhi

PAN-AAACG0264D

.....अपीलार्थी/Appellant

vs

DCIT, Circle-10(1)

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 'E', NEW DELHI

आयकर अपील सं. / ITA No. 5286/Del/2017

निर्धारण वर्ष / Assessment Year: 2012-13

Modern Holdings P. Ltd.,

C-1/2, Flat No. 10, Model Town

Delhi

PAN-AAACM1203G

.....अपीलार्थी/Appellant

vs

ITO, Circle-17(1),

New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None

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

DELHI BENCH 'F', NEW DELHI
आयकर अपील सं. / ITA No. 5248/Del/2017
निर्धारण वर्ष / Assessment Year: 2010-11

Prehlad Tyagi,
Village & P.O. Makanpur,
Indrapuram, Ghaziabad
PAN-ACGPT1275N

.....अपीलार्थी/ Appellant

vs

ITO, Ward-2(1)
Ghaziabad

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None

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

DELHI BENCH 'E', NEW DELHI
आयकर अपील सं. / ITA No. 5013/Del/2017
निर्धारण वर्ष / Assessment Year: 2012-13

M/s Monochem Graphics P. Ltd.,
A-25, Mayapuri Industrial Area,
Phase-I, New Delhi
PAN-AAACM7793F

.....अपीलार्थी/ Appellant

vs

DCIT, Circle-17(1),
New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None

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

DELHI BENCH 'G', NEW DELHI
आयकर अपील सं. / ITA No. 5687/Del/2017
निर्धारण वर्ष / Assessment Year: 2010-11

SGS Traders (P) Ltd.,
A-301, A6, Aurangzeb Road,
New Delhi
PAN-AAHCS8977J

.....अपीलार्थी/ Appellant

vs

ITO, Ward-8(1),
New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None

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

DELHI BENCH 'G', NEW DELHI
आयकर अपील सं. / ITA No. 5686/Del/2017
निर्धारण वर्ष / Assessment Year: 2010-11
[Penalty u/s 271(1)(c)]

SGS Traders (P) Ltd.,
A-301, A6, Aurangzeb Road,
New Delhi
PAN-AAHCS8977J
vs

.....अपीलार्थी/Appellant

ITO, Ward-8(1),
New Delhi

.....प्रत्यर्थी/ Respondent

अपीलार्थी की ओर से / Appellant by : None

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

सुनवाई की तारीख / Date of Hearing : 26.11.2019	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 2012-13/ 2013-14/ 2014-15 and also Assessment Years 2005-06/ 2008-09/ 2010-11 and 2011-12 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. 5199/Del/2017, we find that the appeal of the assessee was dismissed by the CIT(A) as the assessee had not furnished the appeal memo electronically but filed the same manually. On the date of hearing, none appeared on behalf of the assessee, but we direct the assessee to comply with the provisions of the Act in filing the appeal before the CIT(A). Hence the matter is set aside to the file of the CIT(A) to decide the issue on merit after affording reasonable opportunity of hearing to the assessee.

10. In ITA No. 5199/Del/2017, the learned AR for the assessee pointed out that only one notice of hearing was received by the assessee as the earlier notices were not sent to the correct address. We reverse the order of the CIT(A) and restore the issue on merit back to the file of CIT(A) who shall decide the same in accordance with law after affording reasonable opportunity of hearing to the assessee. Further the assessee is also directed to file the communication before the CIT(A) and participate in the appellate proceedings.

11. 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.

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

Order pronounced in the open court on 29th day of November, 2019.

Sd/-
(R.K. PANDA)

लेखा सदस्य/ACCOUNTANT MEMBER

दिल्ली / दिनांक Dated : 29th 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