

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' NEW DLEHI**

**BEFORE SHRI O.K. KANT, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA Nos. 3698 to 3704/Del/2016
Assessment Years: 2005-06 to 2011-12**

Prabodh Kumar Tewari, vs. DCIT, Central Circle-13,
6, Southern Avenue, New Delhi.
Maharani Bagh, New Delhi.

PAN : AAGPT4272M

**ITA Nos. 3705 to 3711 to 3704/Del/2016
Assessment Years: 2005-06 to 2011-12**

Meena Tewari, vs. DCIT, Central Circle-13,
6, Southern Avenue, New Delhi.
Maharani Bagh, New Delhi.

PAN : AAGPT4204K

(Appellants)

(Respondent)

Appellants by: Sh. Rajender Handa, CA
Respondent by: Ms. Sunita Singh, CIT/DR

Date of hearing: 15/02/2021

Date of order : 15/02/2021

ORDER

PER BENCH.

Challenging the orders of learned Commissioner of Income-tax
(Appeals)-25, New Delhi [“CIT(A)"] dated 21.03.2016 and 14.03.2016 for

assessment years 2005-06 to 2011-12, Prabodh Kumar Tewari and Meena Tewari ("the assessees") filed these appeals.

2. At the outset, the Id. AR submitted that the Id. Assessing Officer passed the assessment orders ex parte u/s. 144 of the Income-tax Act, 1961 ("the Act" for short), whereas Id. CIT(A) in the first appeal declined to admit the additional evidences without considering the circumstances, namely, that the CBI raid occurred on assessee on 07.02.2012; that the assessee was under CBI judicial custody from 18.07.2012 to 15.10.2012; that the accountant and other staff of the assessee who had knowledge of all these documents had left while the assessee was in judicial custody; that in abeyance of the staff, the documents could not be traced out timely; that the assessee was under mental agony after getting released from the CBI judicial custody but still tried to file the document but the Assessing Officer did not take the reply dated 15.03.2012 on record; and that thus, the assessee could not produce the evidences before the Assessing Officer due to above reasons.

3. In so far as Meena Tewari is concerned her grievance is that she did not have any knowledge of her accounts and finances, as the same were dealt with by her husband and son. Her husband was under CBI Custody whereas her son was on death bed owing to chronic and serious ailment, to which he ultimately succumbed. These are the circumstances urged by both the assessees, who happened to be the parents of Anand Tewari who died of chronic disease.

4. It is brought to our notice that these facts and circumstances have been considered by a co-ordinate Bench of this Tribunal in the cases of

Reena Tewari (ITA No. 3784 to 3790/Del/2016) for A.Yrs. 2005-06 to 2011-12 and Aradhana Tewari (ITA No. 3782 & 3783/Del/2016) for A.Yrs. 2010-11 and 2011-12. Co-ordinate Bench of this tribunal, taking into consideration the exceptional circumstances involved in this matter, set aside the impugned orders of the CIT(A) and remanded the issue back to the file of CIT(A) after allowing the request of the assessee to receive the additional evidence and to decide the issue afresh on merits after affording an opportunity to the assessee and the Assessing Officer of being heard. The facts and circumstances, being similar, we are of the considered opinion that the same view can reasonably be taken in these two sets of matters also with similar directions.

5. With this view of the matter, we allow the request of the assessees under Rule 46A(1)(b) of the Income-tax Rules, set aside the impugned orders and remand the appeals to the file of CIT(A) to receive the additional evidence and to decide the appeals on merits after giving an opportunity of being heard to both the assessees and the Id. Assessing Officer.

6. In the result, the appeals of both the assessees are allowed for statistical purposes.

Order pronounced in the open court on this 15th day of February, 2021 immediately after the conclusion of hearing over virtual mode.

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 15/02/2021