

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH `D' NEW DELHI

BEFORE SHRI J.S. REDDY, ACCOUNTANT MEMBER
AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

I.T.A.No.5545/Del/2015
Assessment Year : 2006-07

I.T.A.No.5546/Del/2015
Assessment Year : 2007-08

I.T.A.No.5547/Del/2015
Assessment Year : 2008-09

Shri Sanjeev Sharma,
26/58, West Patel Nagar,
Delhi.

(PAN: AARPS7233G)
(Appellant)

vs Asstt. Commissioner of Income Tax,
Central Circle-3, New Delhi.

(Respondent)

Appellant by: Shri V.K. Tulsian, CA, Shri Sankarsh Dwivedi

Respondent by : Shri Ashis Mohanty, Sr. DR

Date of Hearing: 26.11.2015

Date of pronouncement:

ORDER

PER CHANDRAMOHAN GARG, J.M.

The above captioned all three appeals by the assessee have been directed against the orders of the CIT(A)-XXVI, New Delhi, all dated 21.7.2015 by which appeals of the assessee have been dismissed on the allegation of non-prosecution without any adjudication on the grounds raised by the assessee.

2. We have heard arguments of both the sides and carefully perused the appeal records and all other relevant material placed before us. Ld. AR vehemently contended that the CIT(A) has no legal right to dismiss appeals of the assessee summarily without adjudicating them on the grounds raised by the

assessee, hence, these appeals should be restored to the file of the CIT(A) for a fresh adjudication.

3. Ld. DR strongly supported the action of the first appellate authority and submitted that when the assessee is not cooperating and not complying with the notices, then the CIT(A) has no alternative but to dismiss the appeals. However, he fairly accepted that the CIT(A) ought to have decided the appeals on merits on the grounds raised before him and summary dismissal of appeals for non-prosecution is not a proper recourse.

4. On careful consideration of above, we are of the view that the CIT(A) is required to adjudicate the appeals on all grounds raised before him even if the assessee did not prosecute the appeals and appeals cannot be dismissed for non-prosecution at the first appellate stage. Thus, we are inclined to set aside the impugned orders and restore these appeals to the file of the CIT(A) with the direction that he shall adjudicate the appeals after providing due opportunity of hearing to the assessee.

5. In the result, all three appeals of the assessee are allowed for statistical purposes.

The order is pronounced in the open court on 27.11.2015.

Sd/-

**(J.S. REDDY)
ACCOUNTANT MEMBER**

Sd/-

**(C. M. GARG)
JUDICIAL MEMBER**

Dated: 27th November, 2015
'GS'

I.T.A. Nos. 5545, 5546, 5547/D/2015
Assessment years: 2006-07, 07-08, 08-09

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT 4.CIT(A)
5. DR

Asstt. Registrar