$~3,4,7 & 57 to 60

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 2812/2019 & CM Nos.13024-25/2019**

HARVANSH CHAWLA ..... Petitioner

versus

PR. CIT (CENTRAL-1), DELHI & ANR. ..... Respondents

\+ **W.P.(C) 2904/2019 & CM Nos.13490-91/2019**

HARVANSH CHAWLA ..... Petitioner

versus

PR. CIT (CENTRAL-1), DELHI & ANR. ..... Respondents

\+ **W.P.(C) 2598/2019 & CM No.12072/2019**

HARVANSH CHAWLA ..... Petitioner

versus

PR. CIT (CENTRAL-1), DELHI & ANR. ..... Respondents

\+ **W.P.(C) 3953/2019 & CM No. 17935/2019**

HARVANSH CHAWLA ..... Petitioner

versus

PR. CIT (CENTRAL-1), DELHI & ANR. .... Respondents

+ **W.P.(C) 3954/2019 & CM No.17936/2019**

HARVANSH CHAWLA ..... Petitioner

versus

PR. CIT (CENTRAL-1), DELHI & ANR. ..... Respondents

+ **W.P.(C) 3955/2019 & CM No.17937/2019**

HARVANSH CHAWLA ..... Petitioner

versus

PR. CIT (CENTRAL-1), DELHI & ANR. ..... Respondents

+ **W.P.(C) 3956/2019 & CM No.17938/2019**

HARVANSH CHAWLA ..... Petitioner

versus

PR. CIT (CENTRAL-1), DELHI & ANR. ..... Respondents

Present : Mr. P. Roychaudhuri, Adv. for petitioner.
Mr. Zoheb Hossain, Sr. Standing Counsel with Mr.Deepak Anand, Jr. Standing Counsel for respondents.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **16.04.2019**

The common grievance of the petitioners in these proceedings is that their application for stay under Section 220(6) of the Income Tax Act, against the demands issued consequent upon the search assessments finalized under Section 153A, were not considered on merits but rather on the basis of the circulars/notifications, issued by the CBDT – especially, the one dated 29.02.2016, indicating that the suspension of demand should be subject to deposit of at least 20% of the tax.

This court is of the opinion that the facts of individual cases should be considered having regard to the merits of the contentions seeking suspension of the demand either in fully or in substantial part. The order declining relief in this case is bereft of any reasoning, save and except the reliance on the concerned circulars. This approach was dealt with by the Supreme Court in *Principal Commissioner of Income Tax v. L.G. Electronics India Pvt. Ltd*. (C.A.No.6850/2018 dated 20.07.2018). In these circumstances, the application needs to be considered afresh and an order containing brief and relevant reasons has to be passed.

Having regard to the facts and circumstances of these cases, this court is also of the opinion that instead of the Principal Commissioner, the concerned Commissioner (Appeals) should hear the application under Section 220(6) since the hearing on the merits of the appeals have commenced before that official. In these circumstances, the Commissioner (Appeals) is directed to hear and decide the applications afresh on their merits uninfluenced by the previous orders of the Principal Commissioner of Income Tax which are hereby set aside. The Commissioner of Income Tax (Appeals) shall complete the process of hearing and issue orders within six weeks from today. In that duration, the respondents are directed not to enforce the demands made consequent upon the final assessment.

The parties shall appear before the Commissioner of Income Tax (Appeals) on 13.05.2019 at 2:00 pm.

These writ petitions are allowed in the above terms.

Dasti under signatures of the Court Master.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

APRIL 16, 2019
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