$~64, 65 & 69.

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

\+ **ITA 853/2019**

\+ **ITA 854/2019**

\+ **ITA 864/2019**

RJ CORP LIMITED ..... Appellant

Through: Mr. Paritosh Jain, Mr. Divyansh Jain, Mr. Shubhan Jain and Mr. R. Madav, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE - 7 & ANR. ..... Respondents

Through: Mr. Ruchir Bhatia, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **26.09.2019**

Issue notice. Mr. Bhatia accepts notice.

A short grievance has been raised by the appellant in the present appeals. The ITAT by the impugned order dated 02.04.2019 passed, inter alia, in respect of assessment years 2008-09, 2009-10 & 2010-11 while allowing the assessee before it to raise additional grounds – in relation to the validity of the notice under Section 153A, while observing that there is no need to investigate into fresh facts, remanded the matter back to the CIT (Appeals) for consideration of the said issue. The Tribunal also observed that the CIT (Appeals) had relied upon its earlier order in respect of assessment year 2007-08 against which the departmental appeal has been dismissed by the Tribunal on account of the low tax effect. The grievance of the appellant is that the ITAT should have itself proceeded to decide the said appeals including the additional grounds considering the fact that the CIT (Appeals) had already formed its view in respect of assessment year 2007-08 on the merits of the case.

In the aforesaid background, in our view, the question of law that arises for consideration is whether the ITAT was justified in the circumstances of the case in remanding the assessment back to the CIT (Appeals) in respect of the aforesaid assessment years.

Since the CIT (Appeals) had already formed an opinion on the merits of the case while deciding the case in relation to the assessment year 2007-08 and considering the fact that even according to the Tribunal, there was no need to investigate into fresh facts to adjudicate on the aspect of validity of the notice under Section 153A, we are of the view that the Tribunal should have decided all the issues raised in the appeals and the cross-objections raised before it on its own rather than remanding the proceedings to the CIT (Appeals). The remand to the CIT (Appeals), in the aforesaid background, would entail incurring of unnecessary expenditure by the parties and also prolong the proceedings.

We, therefore, answer the question of law in favour of the appellant and set aside the impugned order dated 02.04.2019 with a direction to the Tribunal to proceed to decide the appeals and the cross-objections filed before it on its own. The appeals are restored before the Tribunal and the rights and contentions of the parties are left open to be considered.

The parties shall appear before the Tribunal on 06.11.2019.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 26, 2019
B.S.Rohella