

**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

ITA Nos.31, 32 & 33 of 2016.

Decided on: August 10, 2016.

ITAs No.31 to 33 of 2016

Chattar Singh Tomar

.....Appellant.

versus

Commissioner of Income Tax

.....Respondent.

Coram

The Hon'ble Mr.Justice Mansoor Ahmad Mir, Chief Justice.

The Hon'ble Mr.Justice Sandeep Sharma, Judge.

Whether approved for reporting? Yes. .

For the Appellant(s): Mr.Ajay Vaidya, Advocate.

For the Respondent(s): Mr.Vinay Kuthiala, Senior Advocate, with
Ms.Vandana Kuthiala, Advocate.

Mansoor Ahmad Mir, C.J.(Oral)

Subject of these appeals is the common order, dated 4th January, 2016, passed by the Income Tax Appellate Tribunal (for short, ITAT), whereby the miscellaneous applications preferred by the appellant(s) came to be dismissed, (for short, the impugned order).

2. Mr.Ajay Vaidya, learned counsel for the appellant(s), submitted that the appellant(s) filed miscellaneous applications before the ITAT for recalling

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the order, dated 24th May, 2013, (Annexure A-2), whereby the applications preferred for recalling the order dated 7th July, 2008, (Annexure A-1), were dismissed in default. However, the ITAT, vide the impugned order, (Annexure A-3), dismissed the said miscellaneous applications. It was submitted that the impugned orders are against the mandate of Rule 24 of the ITAT Rules and prayed that the same be set aside and the ITAT be directed to hear the miscellaneous applications No.185, 186 & 187/Chd/2008 on merits.

3. Learned counsel for the respondent(s) was not in a position to resist the prayer made by the learned counsel for the appellant(s).

4. We have gone through the material available on record. It appears that the applications No.185, 186 & 187/Chd/2008 came to be dismissed in default without hearing the appellant(s). Therefore, principles of natural justice demand that the said applications be heard on merits.

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5. Accordingly, we allow the appeals, and, set aside the order dated 24th May, 2013 (Annexure A-2), the order dated 4th January, 2016 (Annexure A-3) and direct the ITAT to hear the miscellaneous applications No.185, 186 & 187/Chd/2008 on merits. Parties through their counsel are directed to cause appearance before the ITAT 1st September, 2016.

6. All the appeals stand disposed of accordingly.

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(Mansoor Ahmad Mir)
Chief Justice.

August 10, 2016.
(Tilak)

(Sandeep Sharma)
Judge.