

## **Appeal cannot be dismissed by CIT(A) without deciding on merits: ITAT**

**Summary – The Delhi ITAT in a recent case of Pawan Kumar Singhal, (the Assessee) held that Appeal cannot be dismissed by CIT(A) without deciding on merits**

### **Facts**

- The Assessing Officer passed assessment order under section 143(3) by making certain additions/disallowances.
- The assessee filed appeal before the Commissioner (Appeals) which was dismissed by holding that the impugned assessment order, demand notice and challan for payment of appeal fee were not placed on record by the assessee.
- On appeal before the Tribunal, the assessee submitted that the appeal before the Commissioner (Appeals) was e-filed in time and the assessment order was duly filed with e-filed appeal.

### **Held**

- The HC held that the Commissioner (Appeals) was obliged to dispose of the appeal in writing after stating the points for determination and to then pass an order on each of the points which arose for consideration. The Commissioner (Appeals), cannot dismiss assessee's appeal for non-prosecution without deciding the appeal on merits.
- In view thereof the HC set aside the order and the matter was restored to the file of the Commissioner (Appeals) with the direction to pass fresh order on admissibility and maintainability of the appeal filed by the assessee.