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

+ W.P.(C) 645/2017  
+ W.P.(C) 646/2017  
+ W.P.(C) 667/2017  
+ W.P.(C) 668/2017  
+ W.P.(C) 671/2017  
+ W.P.(C) 672/2017  
+ W.P.(C) 673/2017

MEERA GUPTA

..... Petitioner

Through: Mr. Mukul Gupta, son of the  
petitioner in person

versus

DEPUTY COMMISSIONER OF INCOME  
CIRCLE-20(1) & ORS.

..... Respondents

Through Mr. Ruchir Bhatia and Mr. Puneet  
Rai, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MR. JUSTICE CHANDER SHEKHAR**

**ORDER**

**21.02.2018**

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Mr. Mukul Gupta, son of the petitioner is present in person in Court. He has been heard.

Mr. Mukul Gupta states and accepts that her mother, the petitioner, has preferred an appeal against the order under Section 153A of the Income Tax Act, 1961 ('Act'), which is also impugned in the present writ petition. He submits that the petitioner was asked to



file an appeal against the order under Section 153A of the Act, notwithstanding that the writ petitions are preferred and filed before this Court.

We do not think that the petitioner should be permitted to avail of two remedies impugning the same order under Section 153A of the Act. It is in this context that a detailed order on 26.10.2017 was passed.

Mr. Mukul Gupta states that the order under Section 153A of the Act is bad in law, violates principles of natural justice as sufficient time and opportunity was not granted. It is alleged that the order was passed within nine days.

Be that as it may, the petitioner having preferred an appeal, is entitled to raise all contentions before the Commissioner of Income Tax(Appeal), including the contention of lack of adequate and fair opportunity. The respondent, as is apparent from the counter-affidavit, have contested the said contentions.

Normally, the writ petitions are not entertained, when alternative statutory remedy is available. In the present case, right to appeal has been exercised and invoked by the petitioner. Assertions made and merits of the additions can be examined and decided by the first appellate authority.

Mr. Mukul Gupta states that the total demand raised, as per the orders under Section 153A of the Act is about Rupees 18/19 crore and the petitioner is not in a position to pay the tax demand.

By order dated 24.1.2017, it was directed that no coercive steps would be taken to enforce the impugned order. The stay order shall



continue for a period of five weeks to enable the petitioner to move an application for stay etc. The petitioner, if aggrieved by any order passed on the application, would be entitled to challenge and question the same in accordance with law.

In view of the aforesaid discussion, we are not inclined to exercise our discretion and entertain the writ petitions. They are accordingly disposed of. We again clarify that we have not expressed any opinion on merits.

*Dasti.*

  
SANJIV KHANNA, J.

  
CHANDER SHEKHAR, J.

**FEBRUARY 21, 2018**

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