

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER
and
SHRI VIJAY PAL RAO, JUDICIAL MEMBER**

ITA Nos.1535 & 1536/Bang/2014
(Assessment years: 2008-09 & 2009-10)

M/s.L.G.Builders & Developers,
No.4, L.G.Rose Heritage,
Hennur Bagalur Main Road,
Bande Hosur Village,
Bangalore.

... Appellant

Vs.

Asst. Commissioner of Income-tax,
Central Circle 1(2),
Bangalore.

... Respondent

Appellant by: Shri K.Yadavan, ITP.
Respondent by: Shri M.Vijay Kumar, ACIT (DR)

Date of hearing : 26/11/2015
Date of pronouncement: 30/11/2015.

ORDER

Per ABRAHAM P GEORGE, AM:

These are appeals filed by the assessee directed against the orders dated 26/8/2014 of the CIT(A)-VI, Bangalore, for the impugned assessment orders.

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2. Assessee in both these appeals assail levy of penalty under section 271AAA r.w.s.274 of the IT Act. Penalty levied was on account of addition pursuant to proceedings u/s 153C of the Act. AO has mentioned in his order that explanation of the assessee was not acceptable and section 271AAA stood attracted. Assessee's appeals before CIT(A) was not successful. It seems despite number of chances, assessee did not appear, except for filing adjournment petition.

3. We have heard the counsel. It is true that the assessee was given number of chances by the AO for explaining why penalty should not be imposed on the addition made to the returned income. The CIT(A) had also given five opportunities to the assessee, when the matter came before him. It is a fact that the assessee had filed adjournment letters in each of these occasions. The CIT(A) himself has in his order summarized the contents of such adjournment letters. The reasons mentioned in the adjournment letters were different and not identical. In our opinion, assessee was not acting mechanically while seeking adjournment. Ends of justice will be met if one last chance is given to the assessee to explain its position. We, therefore, set aside the order of the CIT(A) and remit the matter back to his file for consideration afresh in accordance with law. Assessee shall be given one final opportunity by the CIT(A). CIT(A) will be free to proceed in accordance with law whether the assessee enters appearance on that day or not.

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7. In the result, the appeals of the assessee for both the years are treated as allowed for statistical purposes.

Pronounced in the open court on 30th November, 2015

sd/-
(Vijay Pal Rao)
JUDICIAL MEMBER
eksrinivasulu,sps

sd/-
(Abraham P George)
ACCOUNTANT MEMBER

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore