

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.4363/Del./2016  
(ASSESSMENT YEAR : 2012-13)**

**ITA No.4364/Del./2016  
(ASSESSMENT YEAR : 2013-14)**

M/s. Raj Associates, vs. DCIT, TDS,  
(Unit of Rajinder Singh Chadha-HUF), Noida,  
L – 1, Centre Stage Mall, Sector – 18,  
Noida.

**(PAN : AAIHR9757D)**

**ITA No.4365/Del./2016  
(ASSESSMENT YEAR : 2012-13)**

**ITA No.4366/Del./2016  
(ASSESSMENT YEAR : 2013-14)**

M/s. Prakash Trading Co., vs. DCIT, TDS,  
(Unit of Manpreet Singh Chadha-HUF), Noida,  
L – 1, Centre Stage Mall, Sector – 18,  
Noida.

**(PAN : AAHHM3631E)**

**(APPELLANT)**

**(RESPONDENT)**

**ASSESSEE BY : Shri G.C. Srivastava, Advocate  
REVENUE BY : Shri Deepak Garg, Senior DR**

Date of Hearing : 27.09.2017  
Date of Order : 29.09.2017

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Since common question of law and facts is involved in all the aforesaid appeals filed by the assessee against order dated 30.05.2016 passed by the Id. CIT (A)-I, Noida, the same are being disposed off by way of consolidated order to avoid repetition of discussion.

2. Appellant, M/s. Raj Associates (hereinafter referred to as 'the assessee'), by filing the present appeals being ITA Nos.4363/Del/2016 & 4364/Del/2016 sought to set aside the impugned order dated 30.05.2016 passed by the Commissioner of Income-tax (Appeals)-I, Noida, for the Assessment Years 2012-13 & 2013-14 on the similar grounds inter alia that :-

**ITA NO.4363/DEL/2016 (AY 2012-13)**

**ITA NO.4364/DEL/2016 (AY 2012-13)**

***““1. The learned Commissioner of Income-tax (Appeals)-I, Noida has erred in law as well as on facts by treating the assessee in default under section 201(1) & 201(1A) of the I.T. Act, 1961, by invoking section 194C(7) of the LT. Act, 1961.***

***2. The learned Commissioner of Income-tax (Appeals)-I, Noida has erred in law as well as on facts by adjudicating on the issue which was not the subject matter of the appeal, without providing any opportunity to the assessee.***

***3. Any other ground of appeal, which may be taken up during the course of appellate proceedings.***

***4. The appellant craves leave to add, alter, amend, raise or delete any or all grounds of appeal.”***

3. Appellant, M/s. Prakash Trading Co. (hereinafter referred to as ‘the assessee’), by filing the present appeals being ITA Nos.4365/Del/2016 & 4365/Del/2016 sought to set aside the impugned order dated 30.05.2016 passed by the Commissioner of Income-tax (Appeals)-I, Noida, for the Assessment Years 2012-13 & 2013-14 on the similar grounds inter alia that :-

**ITA NO.4365/DEL/2016 (AY 2012-13)**

**ITA NO.4366/DEL/2016 (AY 2013-14)**

***“1. The learned Commissioner of Income-tax (Appeals)-I, Noida has erred in law as well as on facts by treating the assessee in default under section 201(1) & 201(1A) of the I.T. Act, 1961, by invoking section 194C(7) of the LT. Act, 1961.***

***2. The learned Commissioner of Income-tax (Appeals)-I, Noida has erred in law as well as on facts by adjudicating on the issue which was not the subject matter of the appeal, without providing any opportunity to the assessee.***

***3. Any other ground of appeal, which may be taken up during the course of appellate proceedings.***

***4. The appellant craves leave to add, alter, amend, raise or delete any or all grounds of appeal.”***

3. Briefly stated the facts necessary for adjudication of the controversy at hand in all the aforesaid appeals are : Assessing Officer noticed that the assessee has failed to comply with the provisions contained u/s 194C of the Income-tax Act, 1961 (for short ‘the Act’) by deducting TDS qua the payments made by the assessee to the transport operator in Assessment Years 2012-13 and 2013-14. Being not satisfied with the explanation furnished by the assessee, the AO proceeded to hold that since the assessee is not in the business of plying, hiring or leasing goods carrier, the provisions contained u/s 194C (6) are not applicable to the assessee who was liable to deduct the tax u/s 194C of the Act. AO found the assessee as assessee in default u/s 201(1) and 201(1A) of the Act and thereby fixed the total tax liability of the assessee at Rs.90,896/- & Rs.15,096/- for AYs 2012-13 & 2013-14 respectively in case of M/s. Raj Associates and Rs.1,00,351/- & Rs.13,013/- for AYs 2012-13 & 2013-14 respectively in case of M/s. Prakash Trading Co..

4. Assessee carried the matter by way of filing appeals before the Id. CIT (A) who has dismissed the appeals. Feeling aggrieved,

the assessee has come up before the Tribunal by way of challenging the impugned order passed by Id. CIT (A) by filing aforesaid appeals.

5. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Bare perusal of the impugned orders passed by the Id. CIT (A) goes to prove that the Id. CIT (A) has passed the impugned orders in a mechanical manner without issuing any notice to the assessee. The Id. CIT (A) being a quasi-judicial authority is required to adjudicate upon the controversy at hand in accordance with the rules of natural justice.

7. Ld. AR for the assessee contended that since legal issue is required to be decided in these cases, he is ready to argue the cases before the Tribunal. However, when the power to decide appeals have been conferred upon Id. CIT (A) by a statute, the issue in controversy is firstly required to be decided by Id. CIT (A) by affording adequate opportunity of being heard to the assessee.

8. So, without entering into the merits of the controversy at hand, we deem it necessary to set aside the impugned orders and to remit these cases back to the file of Id. CIT (A) to decide afresh

after providing an opportunity of being heard to the assessee. Consequently, appeals bearing ITA No.4363/Del./2016, ITA No.4364/Del./2016, ITA No.4365/Del./2016 & ITA No.4366/Del./2016 are decided in favour of the assessee for statistical purposes.

**Order pronounced in open court on this 29<sup>th</sup> day of September, 2017.**

**Sd/-  
(N.K. SAINI)  
ACCOUNTANT MEMBER**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 29<sup>th</sup> day of September, 2017  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-I, Noida
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**