

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : E : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No.3342/Del/2017
Assessment Year : 2012-13

Sunstar Builders Pvt. Ltd., Vs. DCIT,
Flat No.4, R.R. Apartment, Central Circle-14,
3-4, Manglapuri, Mehrauli, New Delhi.
New Delhi.
PAN: AAICS5794C

ITA Nos.3343 to 3346/Del/2017
AYs : 2007-08, 2008-09, 2012-13, 2013-14.

MDLR Airlines Pvt. Ltd., Vs. DCIT,
Flat No.4, R.R. Apartment, Central Circle-14,
3-4, Manglapuri, Mehrauli, New Delhi.
New Delhi.
PAN: AAECM5231C

ITA Nos.3347/Del/2017
Assessment Year : 2008-09

MDLR Estates Pvt. Ltd., Vs. DCIT,
Flat No.4, R.R. Apartment, Central Circle-14,
3-4, Manglapuri, Mehrauli, New Delhi.
New Delhi.
PAN: AAECM5222D

ITA Nos.3348/Del/2017
Assessment Year : 2008-09

MDLR Builders Pvt. Ltd., Vs. DCIT,
Flat No.4, R.R. Apartments, Central Circle-14,
3-4, Manglapuri, Mehrauli, New Delhi.
New Delhi.
PAN: AAECM5223C

ITA Nos.3349 to 3352/Del/2017)
Assessment Years : 2005-06 to 2008-09

Nageshwar Builders Pvt. Ltd., Vs. DCIT,
Flat No.4, R.R. Apartment, Central Circle-14,
3-4, Manglapuri, Mehrauli, New Delhi.
New Delhi.
PAN: AACCN0116B

ITA No.2887/Del/2017
Assessment Year : 2012-13

RRG Buildwell (P) Ltd., Vs. ITO,
Flat No.4, R.R. Apartment, Ward-20(3),
3-4, Manglapuri, Mehrauli, New Delhi.
New Delhi.
PAN: AAECR9333C

(Appellants)

(Respondents)

Assessee By : Shri Gautam Jain &
Shri Piyush Kamal, Advocates
Department By : Shri Sameer Srivastava, CIT, DR

Date of Hearing : 03.01.2018
Date of Pronouncement : 04.01.2018

ORDER

PER BENCH:

This batch of 12 appeals by different, but, related assesseees involve assessment years 2005-06 to 2008-09, 2012-13 & 2013-14. Since some of the issues raised in these appeals are common, we are, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

All appeals except ITA No.2887/Del/2017

2. We have heard both the sides and gone through the relevant material on record. It is noticed that the assessment orders were passed u/s 153A of the Income-tax Act, 1961 (hereinafter also called 'the Act') read with section 144, determining the total income at different levels. The assesseees belatedly approached the Id. CIT(A), who condoned the delay but dismissed the appeals *in limine* for non-compliance by the assessee. It is a settled legal position that the first appellate authority cannot dismiss an appeal *in limine* for want of the assessee's presence. Even if the assessee remains absent, the CIT(A) is obliged to dispose of the appeal on merits *albeit ex parte qua* the assessee. Since the Id. CIT(A) instantly has dismissed all these appeals *in limine*, without going on merits, we cannot countenance the orders under

challenge. We, therefore, set aside the impugned orders and remit the matter to his file for disposal of appeals on merits, after allowing a reasonable opportunity of being heard to the assessee. The ld. AR has undertaken to extend full co-operation to the ld. first appellate authority during the course of such fresh proceedings.

ITA No.2887/Del/2017

3. Having heard both the parties and perused the relevant material on record, it is observed that though the ld. CIT(A) dismissed the appeal of the assessee on merits, but, the impugned order has been passed *ex parte qua* the assessee. The ld. AR submitted that the assessee could not participate in the proceedings before the ld. CIT(A) for some justifiable reasons. It was prayed that one more opportunity be granted to the assessee to put forth its case before the ld. first appellate authority, so that proper adjudication could be done. Concurring with the submissions advanced on behalf of the assessee, we set aside the impugned order and remit this matter also to the file of the ld. CIT(A) for disposing this appeal afresh, after allowing a reasonable opportunity of being heard to the assessee.

4. In the result, all the appeals are allowed for statistical purposes.

The order pronounced in the open court on 04.01.2018.

Sd/-

[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

Sd/-

[R.S. SYAL]
VICE PRESIDENT

Dated, 04th January, 2018.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.