



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER  
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No.271 & 272/CTK/2018**

Assessment Years : 2011-12 & 2013-2014

OLF Reality & Construction Pvt Ltd., Plot No.N-5/47, IRC Village, Nayapalli, Bhubaneswar.	Vs.	ACIT, Corporate Circle 1(2), Bhubaneswar.
PAN/GIR No.AABCO 2360 F		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Prachi Saurav Patnaik, AR  
Revenue by : Shri Subhendu Datta, DR

**Date of Hearing : 27/09/ 2018**  
**Date of Pronouncement : 27 /09/ 2018**

**ORDER**

**Per N.S.Saini, AM**

These are appeals filed by the assessee against the separate orders of the CIT(A)-1, Bhubaneswar both dated 20.4.2018 for the assessment years 2011-12 & 2012-13, respectively.

2. The common grounds taken in both the appeals are as under:

- "1.That the order passed by the Learned CIT(A) is arbitrary, excessive, contrary to facts and bad in law.
2. That on the facts and in the circumstances of the case, the learned CIT(Appeals) has grossly erred in dismissing the appeal filed by the appellant against the order passed by the Ld. Assessing officer u/s 143(3) of the Income Tax Act,1961.

3. That the appellant sought adjournment before the Learned CIT(Appeals) because of certain details /documents getting from the previous A.R of the appellant which are required for appeal proceeding. However, the order of dismissing the appeal passed by the learned CIT (Appeals) on 20.04.2018 merely for non-appearance to adjourned date 11.04.2018 is violating the principles of natural justice.”

3. At the outset, Id A.R. of the assessee submitted that the assessee failed to put in appearance before the CIT(A) on the dates of hearing fixed on 23.8.2017, 19.9.2017, 28.9.2017, 1.11.2017, 4.1.2018 and 11.4.2018, therefore, the CIT(A) dismissed the appeals of the assessee ex parte following the decision of ITAT Delhi Bench in the case of CIT vs. Multiplan India Ltd., 38 ITR 320 (Del) and Cuttack Bench in the case of M/s. Balaji Builders in ITA n.79/ctk/2007 order dated 3.12.2008. Hence, he prayed that one more opportunity should be granted to the assessee to present its case before the CIT(A). He submitted that he undertakes before this Bench to appear before the CIT(A) as and when called upon to do so.

4. Ld D.R. opposed the submission of Id A.R. of the assessee

5. After hearing the rival submissions and perusing the orders of lower authorities, we find that the assessee could not appear on the dates fixed for hearing by the CIT(A) and hence, the CIT(A) dismissed the appeals of the assessee ex parte without discussing or deciding the merits of the case. It is a settled position of law



that the CIT(A) should decide the appeals of the assessee on merits even if the assessee fails to appear on the date of hearing. Before us, Id A.R. submitted that in one more opportunity is given, he will appear before the CIT(A). We, therefore, set aside the orders of Id CIT(A) and restore the matter back to his file to adjudicate the appeals of the assessee on merits after allowing reasonable and proper opportunity of hearing to both the parties.

6. In the result, appeals of the assessee are allowed for statistical purposes.

Order pronounced on 27 /09/2018.

Sd/-

**(Pavan Kumar Gadale)**  
**JUDICIALMEMBER**

Cuttack; Dated 27 /09/2018  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : OLF Reality & Construction Pvt Ltd.,  
Plot No.N-5/47, IRC Village, Nayapalli,  
Bhubaneswar.
2. The Respondent. ACIT, Corporate Circle 1(2),  
Bhubaneswar.
3. The CIT(A)-1, Bhubaneswar
4. Pr.CIT-1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

sd/-

**(N.S Saini)**  
**ACCOUNTANT MEMBER**

By order

Sr. Pvt. Secretary,  
ITAT, Cuttack