

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'C' NEW DELHI**

**BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER
AND
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER**

I.T.A. No. 6621/Del/2016
Assessment Year: 2012-13

HIMGIRI INFRACONSTRUCTION LTD. vs.
62/13, 3RD FLOOR,
ASHOK NAGAR,
NEW DELHI - 110 018
(PAN: AACCH4177N)
(ASSESSEE)

ITO, WARD 11(3),
ROOM NO. 412,
C.R. BUILDING,
I.P. ESTATE,
NEW DELHI
(RESPONDENT)

Assessee by: NONE
Revenue by: SH. AMIT KATOCH, SR. DR.

ORDER

PER H.S. SIDHU, JM

This appeal is filed by assessee against the Order dated 31.10.2016 passed by the Ld. CIT(A)-4, New Delhi relating to Assessment Year 2012-13.

2. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor its authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, we are deciding the present appeal exparte qua assessee, after perusing the relevant records and hearing the Ld. DR.

3. Ld. DR relied upon the orders of the authorities below and stated that AO as well as Ld. CIT(A) has given various opportunities to the assessee, but the assessee remained non-cooperative and as a result thereof, the Ld. CIT(A) has no option but to dismiss the appeal of the assessee. He further stated that before the Tribunal also the Assessee did not appear on the date of hearing, hence, he requested that the appeal of the assessee may be dismissed.

4. After perusing the records, especially the orders of the authorities below as well as the grounds of appeal and after hearing the Ld. DR, we note that AO has passed the order u/s. 144 of the Income Tax Act, 1961 as well as Ld. CIT(A) has also passed the ex-parte order without providing adequate opportunity of being heard and without observing the principle of natural justice. We further note that there is no doubt that assessee remained non-cooperative before the lower authorities, therefore, Ld. CIT(A) has passed the exparte order, without discussing in detail the facts and circumstance of the case and also did not deal the issue on merit and passed a non-speaking order, which in our opinion, is not in accordance with the principles of natural justice and it is an erroneous approach. After reading Section 250(6) of the Act, we are also of the considered view that Assessee's case should be decided on merits, which the Ld. CIT(A) has not done. However, it is a settled law that even an administrative order has to be speaking one. In this regard, we draw support from Hon'ble Apex Court in the case M/s Sahara India (Farms) Vs. CIT & Anr. in [2008] 300 ITR 403 wherein, it has been held that even "an administrative order has to be consistent with the rules of natural justice".

4.1 In the background of the aforesaid discussions and in the interest of justice, we remit back the issues in dispute to the files of the Ld. CIT(A) with the directions to consider each and every aspects of the issues involved in the Appeal and decide the same afresh on merit, after giving adequate opportunity of being heard to the assessee. Assessee is also directed to cooperate with the Ld. CIT(A) in the proceedings and did

not take any unnecessary adjournment and file any other evidences / documents before him to substantiate its case.

5. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced on 25/07/2019.

Sd/-

**[B.R.R. KUMAR]
ACCOUNTANT MEMBER**

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 25/07/2019

"SRB"

Copy forwarded to: -

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

By Order,

Assistant Registrar, ITAT, Delhi Benches