

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

**BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

ITA Nos. 3412 to 3414/Del/2017

Assessment Years: 2012-13 to 2014-15

M/s. Bajaj Infrastructure Development Co. Ltd., B-10, Sector-3, Noida. AADCB0423G Appellant	Vs	ACIT (TDS), Noida. Respondent
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**Assessee by Sh. N.K. Garg, Advocate
Revenue by Sh. Sanjog Kapoor, Sr. DR**

**Date of Hearing 10.12.2019
Date of Pronouncement 12.12.2019**

ORDER

PER K. NARASIMHA CHARY, JM

Aggrieved by the common order dated 16/3/2016 in appeal numbers 170 to 172/2015-16 Noida, passed by the learned Commissioner of Income Tax (Appeals)-1, Noida ("Ld. CIT(A)"), for the assessment years 2012-13 to 2014-15, M/s Bajaj infrastructure development company Ltd ("the assessee") filed these appeals.

2. Challenging the order passed under section 154/201(1) and 201(1-A) of the Income Tax Act, 1961 (for short "the Act") passed by the learned Assessing Officer on 26/5/2015 for assessment years 2012-13 to 2014-15

raising a demand of Rs. 3,79,55,861/-against short/non-deduction of tax and holding the assessee to be an assessee in default, assessee preferred separate appeals before the Ld. CIT(A).

3. Ld. CIT(A) recorded that in spite of several opportunity is granted, assessee failed to cooperate with the disposal of the matter on merits and the counsel for the assessee sought adjournments on various grounds. Ld. CIT(A) recorded that in view of the persistent non-prosecution of appeal by the assessee, no meaningful purpose would be served by keeping the appeal pending and therefore, he confirmed the assessment order and dismissed the appeal in limine.

4. Challenging such dismissal of appeals, assessee preferred these appeals before us on various grounds. According to the Ld. AR, the Ld. CIT(A) should have disposed of the matter while referring to the written submissions made by the assessee and basing on the record, so that the assessee could have addressed his submissions basing on the reasons recorded by the Ld. CIT(A).

5. Per contra, the Ld. DR submitted that the assessee did not cooperate with the disposal of the appeal on merits and when the Ld. CIT(A) sought the presence of the assessee or his representative on several occasions, the assessee and his AR did not enter appearance thereby compelling the Ld. CIT(A) to take a view basing on the record.

6. We have gone through the record in the light of the submissions made on either side. Impugned order speaks that the Ld. CIT(A) did not refer to any reason for his upholding the assessment order. If the assessee is non-cooperative with the disposal of the appeal, it is also

open for the Ld. CIT(A) to dispose of the appeal by looking into the material, but it certainly does not mean that the appeal could be disposed of without speaking the reasons for reaching the conclusion. Unless and until the reasons are recorded the appellate court would not be in a position to appreciate the soundness of the order impugned.

7. In these circumstances, we are of the considered view that impugned order requires to be set-aside and the issue needs to be remanded back to the file of the Ld. CIT(A) for recording the detailed reasons to reach any conclusion. Ld. DR does not oppose this proposal. We, therefore, set-aside the impugned order and remand the issue to the file of the Ld. CIT(A) for disposing of the appeal afresh by recording detailed reasons, after affording opportunity to the assessee to put-forth his case. This does not mean that if the assessee does not appear, the Ld. CIT(A) cannot proceed ex-parte. What we stress upon is that the appeal should be disposed of by assigning the reasons to support the conclusion.

8. In the result, all the appeals of the assessee are allowed for statistical purpose.

Order pronounced in the Open Court on 12th December, 2019.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Dated: 12/12/2019
'aks'