

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

**BEFORE SHRI George Mathan, Judicial Member and
Shri Anil Chaturvedi, Accountant Member**

**I.T.A. No. 1928/PUN/2018
Assessment Years: 2013-14**

Shri Maruti Infrastructure Developers
Office No. 507, 5th floor,
Lunkad Sky Vista, Vimannagar,
Pune-411 014.

PAN : ABNFS 0599Q Appellant

Vs.

Dy. CIT Cir. 14, Pune Respondent

**I.T.A. No. 1929/PUN/2018
Assessment Years : 2013-14**

Shri Maruti Wind Park Developers
Office No. 507, 5th floor,
Lunkad Sky Vista, Vimannagar,
Pune-411 014.

Appellant

PAN ABKFS 4687 A

Vs.

Dy. CIT Cir. 14, Pune, Respondent

Appellants by : Ms. Deepa Khare
Respondent by : Shri Deepak Garg

Date of hearing : 17-02-2020

Date of Pronouncement: 18-02-2020

ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER:

These are two appeals filed by two different assesseees against the orders of learned CIT(A) 7, Pune, in Appeal No. PN/CIT(A)-7/Cir.

14/10463/2016-17 in the case of Shri Maruti Infrastructure Developers and No. PN/CIT(A)/Dy. CIT, Cir. 14/10467/2016-17 for A.Y. 2013-14 in the case of Shri Maruti Wind Park Developers, both dated 28-9-2018.

2. Ms. Deepa Khare is represented for the assesseees and Shri Deepak Garg is represented for the Revenue.

3. It was submitted by the learned A.R. that the appeals of the assesseees have been disposed of ex parte. It was her submission that the appeals of the assesseees have been dismissed on the ground that admitted tax in respect of returned income has not been paid before filing of the appeals. It was her submission that consequently, the learned CIT(A) has dismissed the appeals of the assesseees for violation of provision of sec. 249(4) of the Income-tax Act, 1961 (hereinafter referred to "the Act"). It was further her submission that having dismissed the appeals as non-est, the learned CIT(A) proceeded to adjudicate the issue on merits which were also held against the assessee. It was her submission that it is an admitted fact that when the return of income was filed, the admitted tax has not been paid. It was her submission that returns of income have been filed in both the cases on 30-3-2015. It was also her submission that however, the assessee had made substantial payment against the assessed tax which admittedly covered the requirement of tax due on the admitted tax. It was her submission that without considering the said fact, the learned CIT(A) had proceeded to treat the appeals of the assessee as *non-est* and further proceeded to dismiss the issues raised in the appeals of the assessee on merits. It was her submission in the case of Shri Maruti Infrastructure Developers, that as on 31-3-2018 itself, the assessee had made

the payment of Rs. 2.00 crores. It was the submission that the assessee had no objection if the issue is restored back to the file of the A.O for verification and re-adjudication after setting aside the orders of the learned CIT(A). It was fairly agreed by the learned A.R that fresh evidence was required to be filed before the A.O.

5. In reply the learned D.R submitted that it is an admitted fact that certain taxes have been paid. It was his further submission that the taxes have not been paid before filing the appeals before the learned CIT(A) but had been paid before disposal of the appeals by the learned CIT(A). It was however, fairly agreed by the learned D.R that he had no objection if this issue is restored back to the file of the A.O for verification and issues on merits are restored back for re-adjudication. It was further submitted that the assessees had not responded to the opportunity of hearing provided by the learned CIT(A). It was his submission that it was on account of failure on the part of the assessee that the learned CIT(A) was compelled to adjudicate the issues against the assessees. It was further his submission that in the interest of justice the issues could be restored to the file of the A.O.

5. We have heard the rival contentions and perused the material on record. A perusal of the orders of the learned CIT(A) clearly shows that the assessees have not availed of the opportunity granted by the learned CIT(A) at the time of hearing of the appeals. The assessees have also placed before us certain challans which show the payment of taxes before adjudication of the appeals by the learned CIT(A) which would adequately cover the taxes on the returned income. It is also noticed that the learned A.R has also specifically requested

for an opportunity to produce further evidence before the A.O. Under the circumstances, considering the above facts and principles of natural justice, we are of the view that the orders of the learned CIT(A) are liable to be set aside and the issues raised in these appeals restored back to the file of the A.O for re-adjudication and we do so accordingly. The A.O shall verify the facts of payment of admitted tax and then re-adjudicate the issue after granting the assessee adequate opportunity of being heard and to enable them to produce all such evidence as are necessary to substantiate their claims.

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

Order pronounced in open Court on this 18th day of February 2020.

Sd/-
(ANIL CHATURVEDI)
Accountant Member

sd/-
(GEORGE MATHAN)
Judicial Member

Pune; Dated : 18th February 2020.

Ankam

Copy of the Order is forwarded to :

1. Assesseees
2. Department
3. The CCIT Pune
4. The Pr. CCIT Pune
5. The Addl. CIT Range 14, Pune
6. The Assessing Officer
7. The D.R. ITAT Pune Bench 'B'
8. Guard file

True copy

By order

Sr. Private Secretary
ITAT Pune Bench, Pune

2	Draft placed before author	17.02.2020	Sr. PS/PS
3	Draft proposed and placed before the second Member		
4	Draft discussed/approved by second Member		
5	Approved draft comes to the Sr. PS/PS		Sr. PS/PS
6	Kept for pronouncement on		Sr. PS/PS
7	Date of uploading of order		Sr. PS/PS
8	File sent to Bench Clerk		Sr. PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		