

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'D' NEW DELHI**

**BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER  
AND  
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 3209/Del/2017  
Assessment Year: 2014-15**

Logix Infratech (P) Ltd., vs. ACIT, Circle 50(1),  
301A, World Trade Tower, New Delhi  
Barakhamba Road, Connought Place,  
New Delhi  
**PAN : AADCL8158L**

**ITA Nos. 3210 & 3211/Del/2017  
Assessment Year: 2012-12 & 2014-15**

Logix City Developers (P) Ltd., vs. ACIT, Circle 50(1),  
301A, World Trade Tower, New Delhi  
Barakhamba Road, Connought Place,  
New Delhi  
**PAN : AABCL9744L**

**ITA Nos. 3212 & 3213/Del/2017  
Assessment Year: 2012-12 & 2014-15**

Logix Infrastructure (P) Ltd., vs. ACIT, Circle 50(1),  
301A, World Trade Tower, New Delhi  
Barakhamba Road, Connought Place,  
New Delhi  
**PAN : AABCL4533H**  
(Appellants) (Respondent)

Appellants by: Sh. B.K. Aggarwal, AR  
Ms. Sweta Bansal, CA  
Respondent by: Sh. Sohail Malik, Sr. DR

Date of hearing: 24.02.2021  
Date of order : 24.02.2021

**ORDER****PER K. NARASIMHA CHARY, J.M.**

Challenging the orders dated 20.03.2017 and 21.03.2017 passed by the learned Commissioner of Income Tax (Appeals)-41, New Delhi (“the Id. CIT(A”), for the assessment years 2012-13 and 2014-15, Logix Infratech (P) Ltd., Logix City Developers (P) Ltd., and Logix Infrastructure (P) Ltd. (“the assessee”) preferred these appeals.

2. Brief facts of the cases are that the assessee companies paid lease rents for assessment years 2012-13 and 2014-15, which are relevant for the purpose of these appeals, to Noida Authority towards the cost of land allotted to the assessee for group housing project. Since the Noida Authority vide letter No. 149 dated 04.04.2013 informed the assessee that no tax should be deducted on the lease rent, the assessee could not deduct TDS on such payments. Learned Assessing Officer held the assessee as an assessee in default and made addition u/s.194-1 of the Income-tax Act (“the Act” for short).

3. Assessee preferred appeal and the Id. CIT(A) by way of the impugned order followed the decision of Hon’ble Delhi High Court in the case of Rajesh Projects (India) Pvt. Ltd. vs. CIT (2017) 78 taxmann.com 263 (Delhi) and held that the assessee is not to be treated as an assessee in default in view of the letter received from Noida Authority, which disabled the assessee from deducting TDS on the payments made to NOIDA. Learned CIT(A), however, further held that it does not absolve the assessee from the interest liability u/s. 201(1A) of the Act. In view of the

provision of first proviso to section 201(1), she directed the Assessing Officer to modify the demand after recalculating the interest amount.

4. Aggrieved by the same, the assessee preferred this appeal before us.

5. The facts are simple and go unchallenged by either of the parties. As a matter of fact, learned CIT(A), while following the decision in Rajesh Projects (India) Pvt. Ltd. (supra), recorded a finding that the assessee is not to be considered as an assessee in default in view of specific requirement of Noida Authority not to deduct TDS on the payments made to them. It could be seen from such judgment, that the Hon'ble High Court specifically stated that since the petitioners could not make the deductions due to the insistence of GNOIDA, a direction need to be issued to the said Authority to comply with the provisions of law and make all payments, which would have been otherwise part of the deductions for the period till the end of the date of such judgment, namely 16.02.2017 and all payments payable subsequent to 16.02.2017 shall be subject to TDS. Hon'ble High Court further observed that the amounts which are payable towards interest on the payment of lump sum lease premium, in terms of the Lease, which are covered by section 194A are covered by the exemption under section 194A(3)(f) and therefore, not subjected to TDS and any payment of interest accrued in favour of GNOIDA by any petitioner who is a bank to the GNOIDA, towards fixed deposits, are also exempt from TDS. Apart from these directions, Hon'ble Court further directed that wherever amounts have been paid by the petitioners, towards TDS as a result of the coercive process used by the Revenue, the GNOIDA shall make appropriate orders to credit/reimburse such

payments; and that in case payments are made through deposit, over and above the rental amounts paid to the GNOIDA without TDS, the income tax authorities shall not pursue any coercive proceedings and the GNOIDA shall duly reimburse the petitioners for such amounts.

6. Above observations made by Hon'ble High Court in Rajesh Projects (India) Pvt. Ltd. clearly go to show that the relief granted to the assesseees was not only in respect of rents, but to all amounts which are paid over and above the rental amounts to GNOIDA without TDS. We are, therefore, of the considered opinion that since the assessee was directed not to be treated as assessee in default and in view of the directions of the Hon'ble High Court in respect of the payments made to GNOIDA over and above the rental amounts, no addition could be made in terms of the orders of the Id. CIT(A) also. We direct the authorities not to add any amount on this score.

7. In the result, appeals of the assesseees are allowed.

Order pronounced in the open court on conclusion of virtual hearing on this the 24<sup>th</sup> day of February, 2021.

Sd/-  
**(B.R.R. KUMAR)**  
ACCOUNTANT MEMBER

Sd/-  
**(K. NARASIMHA CHARY)**  
JUDICIAL MEMBER

Dated: 24/02/2021  
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