

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

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**SHRI K.M. ROY, ACCOUNTANT, MEMBER**

**ITA no.343 and 344/Nag./2024**  
(Assessment Year : 2008-09 and 2009-10)

M.G. Bhangdiya And Hitbhav Engineers JV  
909, B-Wing, Lokmat Bhawan  
Wardha Road, Ramdaspath ..... Appellant  
Nagpur 440 010 PAN – AAOFM4745L

v/s

Asstt. Commissioner of Income Tax  
Central Circle-2(1), Nagpur ..... Respondent

**ITA no.345 and 346/Nag./2024**  
(Assessment Year : 2010-11 and 2011-12)

K.M. Bhangdiya (JV)  
705, Shriman Place, Dhantoli  
Wardha Road, Nagpur 440 010 ..... Appellant  
PAN – AAKFK1820C

v/s

Asstt. Commissioner of Income Tax  
Central Circle-2(1), Nagpur ..... Respondent

Assessee by : Shri Ashok Bansal  
Revenue by : Shri Sandipkumar Salunke

Date of Hearing – 21/01/2025

Date of Order – 23/01/2025

**ORDER**

**PER V. DURGA RAO, J.M.**

Captioned appeals by two different assesseees are against the impugned orders of even date 27/03/2024, passed by the learned Commissioner of

Income Tax (Appeals), National Faceless Appeal Centre, Delhi, for the assessment year 2008–09, 2009–10, 2010–11 and 2011–12 respectively.

2. In all the appeals, the only identical issue raised by the assessee is levy of penalty under section 271(1)(c) of the Income Tax Act, 1961 (*"the Act"*) except variation in figures.

3. During the course of hearing, the learned A.R., Shri Ashok Bansal, appearing for the assessee, submitted that in all the four appeals, the learned CIT(A) passed ex-parte orders, as the assessee could not appear for the situation beyond control and prayed that one opportunity may be granted by restoring all the appeals to the file of the learned CIT(A) to enable the assessee to substantiate its cases before the learned CIT(A).

2. On the other hand, the learned D.R. submitted that despite the learned CIT(A) provided sufficient opportunities to the assessee, however, the assessee did not appear before the learned CIT(A) and not furnished relevant details. He strongly supported the orders passed by the learned CIT(A).

3. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. We find that though the learned CIT(A) granted opportunities to the assessee to substantiate its cases, ultimately, the orders passed by him are ex-parte orders, which according to us is absolutely correct. However, since the order passed by the learned CIT(A) is an ex-parte order, we are of the opinion that by following

the principles of natural justice, one opportunity should be granted to the assessee to substantiate the cases before the learned CIT(A). In view of the above, the impugned orders passed by the learned CIT(A) are hereby set aside for all the years under consideration and remit these appeals back to the file of the learned CIT(A) and direct him to adjudicate the matters afresh on merit and in accordance with law and pass speaking orders after providing reasonable opportunity of being heard to the assessee. It is also directed that the assessee should not seek adjournment without there being a justified reason. Accordingly, the grounds raised by the assessee in all these appeals are allowed for statistical purposes.

4. Insofar as non-appearance of the assessee before the authorities below are concerned, the primary onus lies on the assessee to co-operate in the proceedings before the learned CIT(A) and the Assessing Officer. In case, the assessee does not do so, he deserves to be penalized and hence we feel that the penalty has to be imposed upon the assessee and the same should be commensurate to the default committed by him. As a result of non-compliance and procedural delays, we deem it fit and appropriate to impose a cost upon the assessee for an amount of ₹ 5,000 (Rupees Five Thousand Only) for each appeal aggregating to ₹ 20,000 (Rupees Twenty Thousand Only) payable to the Maharashtra State Legal Services Authority and adduce evidence of payment before the learned CIT(A). This cost underscores the importance of adhering to the procedural requirements and timely compliance during assessment and appellate proceedings.

5. In the result, appeals for 2008-09, 2009-10, 2010-11 and 2011-12 filed by the assessee are allowed for statistical purposes subject to the terms indicated above.

Order pronounced in the open Court on 23/01/2025

**Sd/-**  
**K.M. ROY**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**V. DURGA RAO**  
**JUDICIAL MEMBER**

**NAGPUR, DATED: 23/01/2025**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury*  
*Sr. Private Secretary*

True Copy  
By Order

Sr. Private Secretary  
ITAT, Nagpur