

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI
BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER
AND SHRI B.P JAIN, ACCOUNTANT MEMBER
ITA No. 2578/Del./2016 : Asstt. Year : 2011-12**

Uttam Sucrotech Ltd., C/o. M/s. Malik & Co., Advocates, 305/7, Thapar Nagar Meerut PAN: AAACU4042K	Vs.	DCIT, Central Circle, Aayakar Bhawan, C.G.O. Complex-2, Hapur Road Ghaziabad
[Appellant]		[Respondent]

Appellant by :	Sh. Sanjay Malik, Adv.
Respondent by :	Ms. Shefali Swroop, CIT-DR

Date of Hearing:	16	10	2017
Date of Pronouncement:	18	10	2017

ORDER

PER DIVA SINGH, JUDICIAL MEMBER :

The present appeal has been filed by the assessee assailing the correctness of the order dated 15.03.2016 of CIT(A)-IV, Kanpur pertaining to 2011-12 assessment year .

2. Ld. AR inviting attention to the impugned order and the grounds of appeal submitted that the assessee had challenged the addition made by the assessing officer before the CIT(A). The CIT(A), sustained the addition by dismissing the appeal of the assessee in limine. The following specific three grounds raised in the appeal were addressed :

“1. On receipt of the notice of hearing, the Company informed the counsel M/s. B.K.Kapoor & Co. (CA) and requested to pursue the appeal. We are informed that office of the counsel requested for adjournment of the appeal and fixation of the same at next camp at Ghaziabad on the ground that representation at Kanpur would involved two nights journey and the whole day and will be quite expensive and inconvenient.

2. On facts and in law thus the Ld. CIT(A) was not justified to dismiss the appeal ‘in limine’ for non attendance by Appellant in view of the ratio laid down by Higher Courts.

3. That the Ld. CIT(A) ought to have adjudicated the issue as per grounds of appeal. Non adjudication of the appeal on merit as per grounds of appeal vitiate the Appellate order.”

3. Referring to the aforesaid grounds, it was submitted that the Id. CIT(A) has given only one opportunity and that too ignoring the request of the assessee that it was inconvenient and expensive to travel to camp at Kanpur and the assessee would wait for the hearing at Ghaziabad. Accordingly, it was his limited prayer that the impugned order may be set aside to the file of the CIT(A) in order to afford an opportunity of being heard to the assessee.
4. Considering the material available on record, the said request was not opposed by the Id. CIT-DR.
5. We have heard the submissions and perused the material available on record. On consideration thereof, we are of the view that the impugned order does not meet the statutory requirements as set out in section (6) of section 250 of the Income Tax Act. Accepting the oral undertaking of the Id. AR that the assessee shall participate in the proceedings before the CIT(A) the impugned order is set aside back to the file of the said authority with the direction to pass a speaking order in accordance with law, after giving the assessee a reasonable opportunity of being heard. While so directing it is hoped that the opportunity so provided is utilised by the assessee by making full and proper participation before the CIT(A). In the eventuality of abuse of the same, it is made clear that

the Id. CIT(A) would be at liberty to pass an order on the basis of material available on record.

6. In the result, appeal of the assessee is allowed for statistical purposes.

(Order Pronounced in the Open Court on 18/10/2017)

Sd/-
(B.P.Jain)
Accountant Member

Sd/-
(DIVA SINGH)
Judicial Member

DATED: 18 .10.2017

Binita

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Assistant Registrar

		Date	<u>Initial</u>	
1.	Draft dictated on	17 /10/2017		
2.	Draft placed before author	17/10/2017		
3.	Draft proposed & placed before the second member	17/10/2017		
4.	Draft discussed/approved by Second Member.			
5.	Approved Draft comes to the Sr.PS/PS			
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			