

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

BEFORE SHRI H. S. SIDHU, JUDICIAL MEMBER

I.T.A. No. 3274/Del/2018

Assessment Year: 2014-15

KISHORE KUMAR,
PLOT NO. 90, AMBIANCE FORT
COLONY, ATTAPUR,
HYDERABAD – 500048
(PANACFPK7109P)

VS. ITO, WARD 1(3)(4)
HALDWANI

(ASSESSEE)

(RESPONDENT)

Assessee by: Sh. Gautam Jain, Adv. & Sh. Piyush
Kumar Kamal, CA

Revenue by: Shri Pradeep Kumar Meel, Sr. DR.

ORDER

This appeal is filed by assessee against the Order dated 30.1.2018 passed by the Ld. CIT(A), Haldwani relating to Assessment Year 2014-15.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of brevity.

3. At the time of hearing, Ld. Counsel of the assessee submitted that Ld. CIT(A) has passed an exparte order dated 30.1.2018 without giving proper opportunity to the assessee. He further submitted that the assessee's father in law was suffering from medical illness from the last one year and passed away on 24.1.2018 and due to this fact the assessee

was unable to respond to any of the notices and dismissed the appeal of the Assessee by upholding the action of the AO.

4. Ld. DR has stated that assessee remained non-cooperative before the AO as well as before the Ld. CIT(A) and is not entitled for any lenient view from this Bench. Hence, he requested that the Appeal filed by the Assessee may be dismissed.

5. After hearing both the parties and perusing the record, especially the impugned order, I am of the view that there is no doubt assessee remained non-cooperative before the Ld. CIT(A) and the Ld. CIT(A) has mentioned the same in his order dated 30.1.2018, but Ld. CIT(A) has confirmed the assessment order in a routine manner, without discussing in detail the facts and circumstance of the case and also did not deal the issue on merit and passed a non-speaking order, which in my opinion, is not in accordance with the principles of natural justice and it is an erroneous approach. I am also of the opinion that Ld. CIT(A) has not considered the fact that the assessee's father in law was suffering from medical illness and passed away on 24.1.2018. It is a settled law that even an administrative order has to be speaking one.

6. In this regard I draw support from Hon'ble Apex Court in the case M/s Sahara India (Farms) Vs. CIT & Anr. in [2008] 300 ITR 403 has held that even "an administrative order has to be consistent with the rules of natural justice".

7. In the background of the aforesaid discussions and respectfully following the precedent, I remit back the issues to the files of the Ld. Commissioner of Income Tax (Appeals) to consider each and every aspects of the issues involved in the Appeal and decide the same afresh, after passing a speaking order and considered all the evidences/documents. Needless to add that the assessee should be given adequate opportunity of being heard.

8. In the result, the appeal filed by the assessee stand allowed for statistical purposes.

Order pronounced on 29/10/2018.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Date 29/10/2018

“SRBHATNAGAR”

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches

