

आयकर अपीलिय अधीकरण, न्यायपीठ – “C(SMC)” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “C(SMC)” BENCH: KOLKATA**  
 (समक्ष) Before श्री ऐ. टी. वर्की, न्यायीक सदस्य)  
 [Before Shri A. T. Varkey, JM]

**I.T.A. No. 1032/Kol/2018**  
**Assessment Year: 2008-09**

Girish Chand Agarwal (PAN: AEOPA7922H)	Vs.	Income-tax Officer, Wd-46(1), Nadia
Appellant		Respondent

Date of Hearing	19.12.2018
Date of Pronouncement	19.12.2018
For the Appellant	Shri N. M. Bhansali, Advocate
For the Respondent	Shri Baijnath Singh, Addl. CIT

**ORDER**

This appeal preferred by the assessee is against the order of the Ld. CIT(A)-14, Kolkata dated 23.02.2018 for AY 2008-09.

2. At the outset itself, the Ld. AR brought to our notice that though in the Form 35 filed before the Ld. CIT(A), the address to which notice has to be sent was specifically stated to be “D-5A, Vandana Apartment, Meera Marg, Bani Park, Jaipur-302016”, no notice was received in the said address which must have prompted the Ld. CIT(A) to note that none appeared before him despite notice. Since ex parte order has been passed without hearing the assessee, it was prayed that the assessee should be given an opportunity to effectively participate before the Ld. CIT(A) in the appellate proceedings. We note that the assessee in the form 35 filed before the Ld. CIT(A) and in form no. 36 filed before us have specifically given the address to which the notice has to be sent is the Jaipur address (supra). We note that the Ld. CIT(A) has passed the ex parte order taking note that the assessee has not cared to appear before him. Since the assessee has not received the notice, in the address given at Jaipur, there is a violation of natural justice. Since the impugned order is an ex parte order and the Ld. CIT(A) has not decided the question of facts and law raised by the assessee, we

are inclined to set aside the order of Ld. CIT(A) and remand the matter back to the file of the Ld. CIT(A) to decide the appeal afresh after affording reasonable opportunity of being heard to the assessee. We direct the assessee to appear on 21.01.2019 before the Ld. CIT(A) and participate in the appellate proceedings before the Ld. CIT(A) and the Ld. CIT(A) to decide the appeal on merits by passing a speaking order in accordance to law.

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

Order is pronounced in the open court.

Sd/-  
(A. T. Varkey)  
Judicial Member

Dated: 19th December, 2018

Jd.(Sr.P.S.)

Copy of the order forwarded to:

- 1 Appellant – Shri Girish Chand Agarwal, D-5A, Vandana Apartment, Meera Marg, Bani Park, Jaipur-302016.
- 2 Respondent – ITO, Ward-46(1), Kolkata.
- 3 CIT(A)-14, Kolkata. (sent through e-mail)
- 4 CIT , Kolkata
- 5 DR, Kolkata Benches, Kolkata (sent through e-mail)

/True Copy,

By order,

Assistant Registrar