

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'B', LUCKNOW**

**BEFORE SHRI A. D. JAIN, VICE PRESIDENT AND
SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.293/Lkw/2017
Assessment Year:2013-14

Shri Rajendra Kumar, 87/164, Acharya Nagar, Kanpur. PAN:AAWPK 1143 N (Appellant)	Vs.	A.C.I.T.-II, Kanpur. (Respondent)
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Appellant by	Shri Swarn Singh, C.A.
Respondent by	Shri C. K. Singh, (D.R.)
Date of hearing	17/01/2019
Date of pronouncement	18/01/2019

ORDER

PER T. S. KAPOOR, A.M.

This appeal has been filed by the assessee against the order of learned CIT(A)-I, Kanpur dated 02/02/2017 pertaining to assessment year 2013-14.

2. We have heard the rival parties and have gone through the material placed on record. We noted that learned CIT(A) has passed ex-parte order as according to him, nobody has appeared on the dates when the appeal was fixed for hearing before him. From the order of CIT(A), it is apparent that the CIT(A) had issued various notices to the assessee however, neither anybody appeared nor filed written submissions and ultimately the CIT(A) passed the ex-parte order. However, we feel that one more opportunity

should be given to the assessee to present its case before learned CIT(A). The provision of section 250 which deals with the procedure in appeal before the CIT(A), allows a right to an assessee to be heard at the time of hearing of appeal. Even the natural justice demands that no appeal should be disposed of without being heard the party or without giving him the proper and sufficient opportunity. We are of the view from the facts of the case that the assessee has not been given proper and sufficient opportunity before disposing of the appeal by the CIT(A). We, therefore, in the interest of justice and fair play to both the parties, set aside the order of CIT(A) and restore the appeal to the file of the CIT(A) with the direction that the CIT(A) shall refile the said appeal and decide the appeal afresh after giving proper and sufficient opportunity of being heard to the assessee. The assessee is also directed to be present on the date of hearing fixed by learned CIT(A) and not seek undue adjournment and co-operate with learned CIT(A) in disposing of the appeal.

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

(Order pronounced in the open court on 18/01/2019)

Sd/.
(A. D. JAIN)
Vice President

Sd/.
(T. S. KAPOOR)
Accountant Member

Dated:18/01/2019
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow