

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

BEFORE SHRI T. S. KAPOOR, ACCOUNTANT MEMBER

ITA No.399/Lkw/2018
Assessment Year:2015-16

Lok Seva Samiti, 130/90/8 L-1, Baghi Transport Nagar, Kanpur. PAN:AAATL 8834 H (Appellant)	Vs.	Income Tax Officer (Exemption), Kanpur. (Respondent)
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Appellant by	Ms. Kusum Yadav, C.A.
Respondent by	Shri C. K. Singh, D. R.
Date of hearing	11/02/2019
Date of pronouncement	15/02/2019

ORDER

This appeal has been filed by the assessee against the order of learned CIT(A)-II, Kanpur dated 20/03/2018 pertaining to assessment year 2015-16.

2. I have heard the rival parties and have gone through the material placed on record. I 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 notices to the assessee on the e-mail address provided by the assessee at the time of filing the return for earlier years. However, as per the revised grounds of appeal filed before the Tribunal, the assessee has claimed that at the time of filing appeal before learned CIT(A), in Form No. 35, the e-mail address has been updated. However, learned

CIT(A) had issued notices on the old e-mail address which were not received by the assessee. The learned CIT(A) has also not served any notice manually. Under these facts, I feel that one more opportunity should be given to the assessee as learned CIT(A) had issued notices to the assessee on the old e-mail address. However, the e-mail address of the assessee was updated before learned CIT(A) at the time of filing appeal in Form No. 35. The learned CIT(A) has also not decided the appeal on merits. 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. I am 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). I, 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 15/02/2019)

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

Dated:15/02/2019
*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