

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

BEFORE SHRI T. S. KAPOOR, ACCOUNTANT MEMBER

ITA No.608/Lkw/2018
Assessment Year:2015-16

Shri Sachidanand Gupta, 14/102-A, Civil Lines, Kanpur. PAN:ABKPG 5405 G (Appellant)	Vs.	Income Tax Officer, Ward-3(4), Kanpur. (Respondent)
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Appellant by	Shri Ashish Jaiswal, Advocate
Respondent by	Shri C. K. Singh, D. R.
Date of hearing	12/02/2019
Date of pronouncement	15/02/2019

ORDER

This appeal has been filed by the assessee against the order of learned CIT(A)-I, Kanpur dated 13/06/2018 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 date when the appeal was fixed for hearing before him. From the order of learned CIT(A), it is apparent that the CIT(A) had issued only one notice dated 29/03/2018 fixing the date for compliance on 11/04/2018. However, from the order of learned CIT(A) it is not clear as to whether the notice issued by learned CIT(A) was actually served on the assessee or not and when nobody appeared on the date fixed, CIT(A) passed the ex-parte order. Under these facts, I feel that one more opportunity should be given to the assessee as

learned CIT(A) has 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