

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

BEFORE SHRI T. S. KAPOOR, ACCOUNTANT MEMBER

ITA No.348/Lkw/2016
Assessment Year:2012-13

Shri Sumit Agarwal, Railway Ganj, Hardoi. PAN:AAPPA 9130 Q (Appellant)	Vs.	Income Tax Officer, Ward-II, Hardoi. (Respondent)
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Appellant by	None
Respondent by	Shri C. K. Singh, D. R.
Date of hearing	13/02/2019
Date of pronouncement	15/02/2019

ORDER

This is an appeal filed by the assessee against the order of learned CIT(A), Bareilly dated 16/03/2016 pertaining to assessment year 2012-2013.

2. At the time of hearing of appeal none appeared on behalf of the assessee. An application for adjournment was received which was rejected and therefore, I decided to dispose of the appeal after hearing Learned D. R. and considering the material placed on record. I noted that learned CIT(A) has passed the 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 and upheld the order of Assessing Officer. However, I feel that one more opportunity

should be given to the assessee. 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.

4. 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