

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

**BEFORE SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.446/Lkw/2019  
Assessment Year:2015-16

Shri Sanjeev Agarwal, J-201, Rohtas Plumerai Homes, TCG-3/3, Vibhuti Khand, Gomti Nagar, Lucknow. PAN:ACLPA9947P	Vs.	Dy.C.I.T., Range-6, Lucknow.
(Appellant)		(Respondent)

Appellant by	Shri K. R. Rastogi, C. A.
Respondent by	Shri Ajay Kumar, D.R.
Date of hearing	18/09/2019
Date of pronouncement	20/09/2019

**ORDER**

This appeal has been filed by the assessee against the order of learned CIT(A)-2, Lucknow dated 31/05/2019 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 had 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 dismissed the appeal of the assessee for non prosecution. However, 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 20/09/2019)

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

Dated:20/09/2019

\*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