

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "A", LUCKNOW**

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

ITA No.540/LKW/2018  
A.Y. 2013-14

Motilal Dulichand Pvt. Ltd., 20, Industrial Estate, Kanpur PAN AAACM9362J	Vs.	DCIT, Range 4, Kanpur
(Appellant)		(Respondent)

Appellant by	Shri J.J. Mehrotra, CA
Respondent by	Shri Jai Nath Verma, DR
Date of hearing	23/10/2019
Date of pronouncement	25/10/2019

**ORDER**

**PER: A.D. JAIN, VICE PRESIDENT:**

This is assessee's appeal for Assessment Year 2013-14 against the order of the Id. CIT(A)-II, Kanpur dated 08.06.2018, taking the following grounds:

- "1. *That the Ld. C.I.T.(A)-II, Kanpur, has erred in law and on facts in dismissing the appeal ex-parte on the basis of alleged non appearance or non filing of written submissions in compliance to his very first e-notice for hearing fixed on 3rd January, 2018 after lapse of approximately 5 months vide order Dated 06.06.2018, and mentioning wrong facts in respect of earlier 2 notices.*
2. *That the Ld. C.I.T.(A)-II, Kanpur has also erred in law and on facts in not considering and appreciating the details, findings and chronology of events mentioned on the order sheets entries, particularly order sheet entries dated 21.03.2016 and 28.03.2016, as well as Statement of Shri Subodh Prahladka, Director of the appellant company recorded on oath on 28.03.2016 and statement*

*of Shri Jai Shanker Dwivedi, Executive Officer on behalf of Bioved Research Society recorded on 11.03.2016.*

3. *That the Ld. C.I.T.(A)-, Kanpur has also erred in law and on facts in disposing off the appeal even without requisitioning assessment record and examining the details and explanation filed by the appellant vide reply dated 11.03.2016 in respect of Job Charges paid without deduction of tax at source while confirming the disallowance made by the Ld. A.O. under section 40(a)(ia) of the Income Tax Act, 1961.*
4. *That the Ld. C.I.T.(A)-II, Kanpur has also erred in law and on facts in not considering and appreciating that M/s. Bioved Research Society, was granted approval under section 35(l)(ii) of the Income Tax Act, 1961, and was not withdrawn/cancelled by the Government of India till date, hence, irrespective of the allegations cast upon the said society, the contribution made by the appellant was fully admissible and allowable.*
5. *That the Ld. C.I.T. (A)-II, Kanpur has also erred in law and on facts in not considering and appreciating that Mr. Jai Shanker Dwivedi, Executive Officer, Bioved Research Society appeared before the Ld. A.O. and not only informed Research activities being done by the Society but also the contribution made by the appellant Co.”*

2. By virtue of the impugned order, the Id. CIT(A) has dismissed the assessee's appeal for non prosecution, observing that notices dated 10.11.2017, 05.12.2017 and 26.12.2017 for compliance on 30.11.2017, 21.12.2017 and 03.01.2018 were served on the e-mail address submitted by the assessee while e-filing the appeal; that however, no written submission or paper book had been filed in support of any of the grounds of appeal taken.

3. Heard. We find that the CIT(A) has dismissed the appeal without providing proper opportunity to the assessee. Moreover, he has not decided the appeal after discussing in detail, his reasons for agreeing with the assessment order. As such, another opportunity of hearing requires to be

given to the assessee to represent his case fully before the Id. CIT(A). Even otherwise, it is trite [*S. Velu Palandar Vs. DCIT* 83 ITR 683 (Mad.)] and incumbent on the Id CIT(A) to decide an appeal on merit even in the absence of any representation before them.

4. In view of the above, the matter is remitted to the file of the Id. CIT(A) to be decided afresh on merit, in accordance with law, on affording due and adequate opportunity of hearing to the assessee. The assessee, no doubt, shall cooperate in the fresh proceedings before the Id. CIT(A). All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

5. In the result, for statistical purposes, the appeal is treated as allowed.

**Order pronounced in the open court on 25/10/2019.**

Sd/-

**(T.S. Kapoor)**  
**Accountant Member**

Sd/-

**(A.D. Jain)**  
**Vice President**

Aks -

Dtd. 25/10/2019

*Copy of order forwarded to:*

(1) <i>The appellant</i>	(2) <i>The respondent</i>
(3) <i>Commissioner</i>	(4) <i>CIT(A)</i>
(5) <i>Departmental Representative</i>	(6) <i>Guard File</i>

By order

Assistant Registrar