



**IN THE INCOME TAX APPELLATE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD**

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

ITA No.277/ALLD/2017  
Assessment Year: 2012-13

M/s Dibya Construction Co. Vindya Colony Mirzapur	v.	Dy. CIT Range III Mirzapur
TAN/PAN:AAJFM3190N		
(Appellant)		(Respondent)

Appellant by:	Shri Praveen Godbole, C.A.		
Respondent by:	Shri A. K. Singh, D.R.		
Date of hearing:	20	11	2019
Date of pronouncement:	20	11	2019

**ORDER**

**PER A. D. JAIN, V.P.:**

This is assessee's appeal against the order of the ld. CIT(A), Allahabad, dated 21/9/2017 for assessment year 2012-13.

2. By virtue of the impugned order, the ld. CIT(A) has dismissed the assessee's appeal for non prosecution. The ld. CIT(A) has recorded certain dates of hearing in his order and also noted that these notices were sent through speed post, but there is no proof whether notice of hearing was ever served upon the assessee. Such service of notices has, however, been disputed by the assessee.

3. Heard. We find that the CIT(A) has dismissed the appeal without providing proper opportunity to the assessee. Moreover, the ld. CIT(A) has not disposed of the appeal on merit after affording opportunity of hearing to the assessee. 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 ‘Ms. Swati Pawa vs. Dy. CIT’, 175 ITD 622 (Del)] 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 20/11/2019.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
[A. D. JAIN]  
VICE PRESIDENT

DATED:20/11/2019  
JJ:2011

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar