



**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.136/ALLD/2018
Assessment Year: 2013-14

Radha Krishna Ward No.10, Npraus Maudha, Hameerpur TAN/PAN:BEIPK8686P (Appellant)	v.	Income Tax Officer 5(5) Banda (Respondent)
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Appellant by:	None
Respondent by:	Shri A. K. Singh, D.R.
Date of hearing:	18 11 2019
Date of pronouncement:	19 11 2019

ORDER

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

This is assessee's appeal against the order of the ld. CIT(A)-I, Kanpur, dated 28/12/2017 for assessment year 2013-14.

2. In this case, an application dated 12/11/2019 has been moved on behalf of the assessee for adjournment to some other date, preferably after 15 days. Since there was no justifiable reason for adjournment and also considering the fact that there is no regular functioning of the Bench in Allahabad, we reject the application for adjournment and proceed to dispose of the appeal after hearing the ld. D.R. and after considering the material placed on record. The matter, we find, can be proceeded with in the absence of the assessee.

3. By virtue of the impugned order, the ld. CIT(A) has dismissed the assessee's appeal for non prosecution, observing that the appellant is not interested in prosecuting his appeal. The

ld. CIT(A) has recorded certain dates of hearing in his order, but it is not clear from his order whether notice of hearing was ever served upon the assessee. Such service of notices has, however, been disputed by the assessee.

4. 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 ld. 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 ld CIT(A) to decide an appeal on merit even in the absence of any representation before them.

5. In view of the above, the matter is remitted to the file of the ld. 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 ld. CIT(A). All pleas available under the law shall remain so available to the assessee. Ordered accordingly.

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

Order pronounced in the open Court on 19/11/2019.

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

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

DATED:19/11/2019
JJ:1811

Copy forwarded to:

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

By order

Assistant Registrar