



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

BEFORE SHRI. A. D. JAIN, VICE PRESIDENT

ITA No.735/LKW/2019
Assessment Year: 2015-16

Chandra Shekhar Khosla 25, Shahnajaf Road Hazratganj, Lucknow	v.	Dy. CIT-2 Lucknow
TAN/PAN:AFBPK1352D		
(Appellant)		(Respondent)

Appellant by:	Shri Devashish Mehrotra, Advocate		
Respondent by:	Smt Alka Singh, D.R.		
Date of hearing:	28	01	2020
Date of pronouncement:	28	01	2020

ORDER

This is assessee's appeal against the order of the ld. CIT(A)-1, Lucknow, dated 24/10/2019, for assessment year 2015-16, taking the following grounds:

1. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the addition made by the Assessing Officer by passing an ex-parte order.
2. That no proper opportunity as required by law has been provided to the appellant failing which the order passed is void ab initio, bad in law and deserves to be cancelled.
3. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in holding that the appellant had not attended the appellate proceedings whereas, on the date fixed for hearing, the Ld. CIT(A) was not available in office because of which the hearing could not be attended.
4. That without prejudice in any way of the matter, the Ld. CIT(A) has not considered the facts duly given in the Statement of Facts alongwith the appeal and is not

justified in ignoring the same while passing an ex-parte order for alleged non prosecution of the case.

5. That in any way of the matter, the order passed by the Ld. CIT(A) is bad in law, illegal and deserves to be set aside.

3. By virtue of the impugned order, the ld. CIT(A) has dismissed the assessee's appeal for non-prosecution, observing that the assessee is not interested in prosecuting the appeal. The ld. Counsel for the assessee, in support of Ground no.2, has submitted before me that the notice issued to the assessee by the ld. CIT(A) was wrongly posted in the diary by the staff of the Counsel as 24/10/2019 in place of 23/10/2019; and that therefore, the assessee could not appear before the ld. CIT(A) on the date fixed for hearing, i.e., on 23/10/2019.

4. Heard. I 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. In this view of the matter, 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 28/01/2020.

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

DATED:28/01/2020
JJ:2801

Copy forwarded to:

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

By order
Assistant Registrar