



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

BEFORE SHRI. A. D. JAIN, VICE PRESIDENT

ITA No.426/LKW/2019
Assessment Year: 2014-15

Smt Archana Shukla 5.358, Gomti Nagar Extension Gomti Nagar, Lucknow	v.	ITO 4(1) Lucknow
TAN/PAN:DBBPS3822R		
(Appellant)		(Respondent)

Appellant by:	Ms Shweta Mittal, FCA
Respondent by:	Shri Ajay Kumar, D.R.
Date of hearing:	05 02 2020
Date of pronouncement:	05 02 2020

ORDER

This is assessee's appeal against the order of the ld. CIT(A)-2, Lucknow, dated 4/6/2019 for assessment year 2014-15, taking the following grounds:

1. The Ld. Commissioner of Income Tax (Appeal) has erred in law and on facts in passing the order which is illegal, improper and against the principles of natural justice.
2. The Ld. Commissioner of Income Tax (Appeal) has erred in law and on facts in passing the order without giving adequate opportunity of being heard and confirming the order passed by the Ld. Assessing Officer u/s 144 of the Income-tax Act, 1961.
3. The Ld. Commissioner of Income Tax (Appeal) has erred in law and on facts in confirming adhoc disallowance of expenses amounting to Rs.6,33,970/-.

4. The Ld. Commissioner of Income Tax (Appeal) has erred in law and on facts in confirming addition of Rs.2,29,000/-.

2. 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 prosecution of the present appeal. The ld. CIT(A) had issued two notices, dated 15/4/2019 and 15/5/2019, fixing the dates of hearing on 25/4/2019 and 20/5/2019 respectively and passed the order on 4/6/2019, dismissing the appeal qua the assessee. 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.

3. 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.

4. 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.

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

Order pronounced in the open Court on 05/02/2020.

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

DATED:05/02/2020

JJ:0502

Copy forwarded to:

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

By order
Assistant Registrar