



**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.157/ALLD/2019  
Assessment Year: 2009-10

Sudama Devi L/H of Late Lalchand Yadav Owie Colony, Anpara Sonebhadra	v.	Income Tax Officer Mirzapur
TAN/PAN:AAIPY5242N		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri S. K. Madhuk, CIT (DR)
Date of hearing:	12 02 2020
Date of pronouncement:	13 02 2020

**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 2009-10.

2. None has appeared on behalf of the assessee, despite issuance of notice through RPAD, which has been returned back unserved, with the postal remark "incomplete address". The notice of hearing was sent to the assessee on the address mentioned in form No.36. The assessee has not communicated any change of address. However, we find that this appeal can be disposed of in the absence of the assessee. Therefore, we proceed to dispose of the appeal after hearing the ld. D.R. and after considering the material placed on record.

3. 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, 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.

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 13/02/2020.

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

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

DATED:13/02/2020

JJ:1202

Copy forwarded to:

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

By order

Assistant Registrar