

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH 'A', LUCKNOW**

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

ITA No.827/Lkw/2017
Assessment Year:2014-2015

M/s Alliance Promoters Ltd., 24/4, The Mall, Kanpur. PAN:AAFCA7641H (Appellant)	Vs.	A.C.I.T., Range-VI, Kanpur. (Respondent)
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Appellant by	Shri Ashish Jaiswal, Advocate
Respondent by	Shri Ajay Kumar, D.R.
Date of hearing	12/08/2021
Date of pronouncement	17/08/2021

ORDER

PER T. S. KAPOOR, A.M.

This is an appeal filed by the assessee against the order of learned CIT(A)-II, Kanpur dated 05/09/2017 pertaining to assessment year 2014-15.

2. Learned counsel for the assessee, at the outset, submitted that there is a delay of 10 days in filing the appeal and which has happened due to the fact that after preparing Form No. 36, such filled up form mixed up with other office folder and consequently escaped the attention of assessee and, therefore, the inadvertent delay has happened. Learned counsel for the assessee in this respect invited our attention to the copy of petition for condonation of delay along with affidavit of the staff who was responsible for filing the appeal. Therefore, in view of these facts, it was prayed that the delay may be condoned and appeal may be heard on merits.

3. Learned D. R. had no objection to the condonation of delay. Finding the reason for delay in filing the appeal plausible, the delay was condoned and Learned counsel for the assessee was directed to proceed with his arguments.

2. We have heard the rival parties and have gone through the material placed on record. We noted that learned CIT(A) has passed ex-parte order as according to him, nobody had appeared on the dates when the appeal was fixed for hearing before him. From the order of CIT(A), it is apparent that the CIT(A) had issued only one notice dated 04/08/2017 for compliance on 31/08/2017 and when nobody appeared nor filed written submissions on behalf of assessee the CIT(A), without issuing any further notice to the assessee, passed the ex-parte order. Under these facts, we feel that one more opportunity should be given to the assessee to explain its case before learned CIT(A), as learned CIT(A) has not decided the appeal on merits. The provision of section 250 which deals with the procedure in appeal before the CIT(A), allows a right to an assessee to be heard at the time of hearing of appeal. Even the natural justice demands that no appeal should be disposed of without being heard the party or without giving him the proper and sufficient opportunity. We are of the view from the facts of the case that the assessee has not been given proper and sufficient opportunity before disposing of the appeal by the CIT(A). We, therefore, in the interest of justice and fair play to both the parties, set aside the order of CIT(A) and restore the appeal to the file of the CIT(A) with the direction that the CIT(A) shall refile the said appeal and decide the appeal afresh within two months from the date of receipt of this order after giving proper and sufficient opportunity of being heard to the assessee. The assessee is also directed to be present on the date of hearing fixed by learned CIT(A) and not seek

undue adjournment and co-operate with learned CIT(A) in disposing of the appeal.

3. In the result, the appeal filed by the assessee is allowed for statistical purposes.

(Order pronounced in the open court on 17/08/2021)

Sd/.
(A. D. JAIN)
Vice President

Sd/.
(T. S. KAPOOR)
Accountant Member

Dated:17/08/2021
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. The CIT(A)
5. D.R., I.T.A.T., Lucknow

By Order
Assistant Registrar