

IN THE INCOME TAX APPELLATE TRIBUNAL ALLAHABAD "SMC"
BENCH, ALLAHABAD

BEFORE SHRI ABY T. VARKEY, JM

आयकर अपील सं/ I.T.A. No.49/Alld/2023
(निर्धारण वर्ष / Assessment Year: 2017-18)

Devlan Sadhan Sahkari Samiti Ltd. Devlan Fatehpur-212621.	<u>बनाम/</u> Vs.	ITO, Ward-2(4) Fatehpur, Income Tax Office, Fatehpur-212601.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACTD5418M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	Mayank Arora	
Revenue by:	Shri A. K. Singh (Sr. DR)	

सुनवाई की तारीख / Date of Hearing: 04/09/2023
घोषणा की तारीख /Date of Pronouncement: 08/09/2023

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. CIT(A)/NFAC, Delhi dated 08.03.2023 for AY. 2017-18.

2. None appeared for the assessee. However, from perusal of the grounds of appeal it is noted that the assessee is aggrieved by the action of the Ld. CIT(A) passing *ex-parte* order without hearing the assessee. It is noted that the Ld. CIT(A) has passed the *ex-parte* order after giving notices to the assessee on five (5) occasions. Since assessee did not file reply, Ld CIT(A) of the view that the assessee is not interested in prosecuting the matter. And therefore, he was of the opinion that he had no other option but to dispose the appeal *ex-parte*. From a perusal of the statement of facts/grounds of appeal filed by assessee before this Tribunal, it is noted that the assessee society was not aware of the proceedings/hearing of appellate proceedings since assessee was dependent upon the Ld. AR who was at Fatehpur.



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According to the assessee, due to omission on the part of the Ld. AR (at Fatehpur) no reply was filed to the online notices sent by the Ld. CIT(A), which resulted in the Ld. CIT(A) passing an *ex parte* order. According to the assessee, now assessee has engaged a new counsel (*Shri N. K. Arora and Shri Mayank Arora*) who will be representing the assessee in future. In the light of the aforesaid facts, assessee pleads that the no proper opportunity of hearing was granted by Ld. CIT(A), therefore impugned order by set-aside. It is noted that the Ld. CIT(A)/NFAC/First Appellate Authority has not disposed of the appeal in consonance with sub-section (6) of section 250 of the Income Tax Act, 1961 (hereinafter “the Act”), therefore, the action of the Ld. CIT(A) cannot be countenanced. The assessee pleads that it was not aware of the proceedings/hearing going on before the Ld. CIT(A) since online notices were given only to the earlier Ld. AR at Fatehpur, who did not respond to the same, which resulted in the impugned action of Ld. CIT(A). I am of the view in the facts and circumstances as noted supra that assessee ought not be penalized for the omission on the part of Ld. AR of assessee and since the impugned order has been passed by Ld. CIT(A) without hearing the assessee, there is *per-se* violation of natural justice. Therefore, the impugned order of the Ld. CIT(A) is set aside and restored back to the file of the Ld. CIT(A) to decide on merits in accordance to sub-section (6) of section 250 of the Act. The assessee is directed to file written submission/relevant documents to support its grounds of appeal raised before Ld CIT(A), and request for hearing if it desires as per Rules, and Ld. CIT(A) to pass orders in accordance to law after hearing the assessee.



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

Order pronounced in the open court on this 08/09/2023.

Sd/-
(ABY T. VARKEY)
JUDICIAL MEMBER

Allahabad दिनांक Dated : 08/09/2023.
Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT(A) , Allahabad
4. CIT
5. DR -

By order
Assistant Registrar