

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT**

**BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI O.P. MEENA, ACCOUNTANT MEMBER**

ITA No. 684/SRT/2018

Assessment Year: 2009-10

Shri Sunilkumar Laxmikant Saini, B-2/418, Priyanka Metro City, Godadara Nahar, AAS-PASS, Surat – 395 010. [PAN: CNHPS 7623 H] (Appellant)	Vs.	ITO, Ward-1(2)(4), Surat. (Respondent)
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Assessee by	Shri K.K.Shah – CA
Department by	Smt.Anupama Singla – Sr.DR.

Date of Hearing	30.04.2019
Date of Pronouncement	01.05.2019

ORDER

PER H.S. SIDHU, JM

This appeal is filed by the assessee against the impugned order dated 28.05.2018 passed by the Ld. CIT(A)-1, Surat pertaining to assessment year 2009-10.

2. Facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of convenience.

3. During the hearing, Ld. counsel for the assessee has submitted that Ld. CIT(A) has passed the ex parte order without giving sufficient opportunity to the assessee to substantiate his case, which is contrary to the principle of natural justice. Therefore, he requested that the impugned order may be cancelled and the issues in dispute may be set aside to the file of the Ld. CIT(A) to decide the same afresh, after giving adequate opportunity of being heard to the assessee.

4. Ld. Sr. DR. did not raise any serious objection on the request of the Ld. Counsel for the assessee.

5. We have heard both the parties and perused the records as well as the relevant provisions of law. We are of the view that there is no doubt that assessee remained non-cooperative before the Ld. CIT(A). We find that Ld. CIT(A) has passed the ex parte order, which in our opinion is not in accordance with the principles of natural justice and it is an erroneous approach. After reading Section 250(6) of the Act, we are also of the considered view that Assessee's case should be decided on merits, which the Ld. CIT(A) has not done. However, it is a settled law that even an administrative order has to be speaking one. In this regard, we draw support from Hon'ble Apex Court in the case M/s Sahara India (Farms) Vs. CIT & Anr. in [2008] 300 ITR 403 wherein, it has been held that even "an administrative order has to be consistent with the rules of natural justice".

5.1 In the background of the aforesaid discussions and in the interest of justice, we remit back the issues in dispute to the file of the Ld. Commissioner of Income Tax (Appeals) to decide the same afresh, after giving adequate opportunity of being heard to the assessee. The Assessee is directed through his counsel to appear before the Ld. CIT(A) on **26.06.2019 at 10.00 AM** for hearing and did not take any unnecessary adjournment. Since the date of hearing before the Ld. CIT(A) has already been informed, there is no need to send the notice to the assessee.

6. In the result, the Assessee's Appeal is allowed for statistical purposes in the aforesaid manner.

Order pronounced on 01-05-2019.

Sd/-
(O.P. MEENA)
ACCOUNTANT MEMBER

Dated: 01/05/2019

Sd/-
(H.S. SIDHU)
JUDICIAL MEMBER

"SRB/GANGADHAR"

Copy forwarded to:

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

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Asst. Registrar,
ITAT, Surat