

**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.590/SRT/2018

Assessment Year: 2015-16

Shri. Vipulbhai Vjljibhai Vaghasiya, B/10, Matruchaya Row House, Nana Varachha, Surat.  <b>[PAN: AFPPV 3628 F]</b> <b>(Appellant)</b>	Vs.	DCIT, Central Circle-3, Surat.  <b>(Respondent)</b>
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Assessee by	Shri Nitin Gheewala – CA
Department by	Shri Sreenivas T.Bidari – Sr.CIT-DR.

Date of Hearing	03.05.2019
Date of Pronouncement	03.05.2019

**ORDER**

**PER H.S. SIDHU, JM**

This appeal filed by the assessee is against the order dated 16.07.2018 passed by the Ld. CIT(A)-3, Surat pertaining to assessment year 2015-16.

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 as per Law after giving adequate opportunity of being heard to the assessee.

6. In the result, appeal filed by the Assessee is allowed for statistical purposes in the aforesaid manner.

Order pronounced on 03-05-2019.

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

Dated: 03/05/2019

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

"GANGADHAR"

**Copy forwarded to:**

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

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Asst. Registrar,  
ITAT, Surat