

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM

आयकरअपीलसं./ITA No.735/SRT/2018
(निर्धारणवर्ष / Assessment Year: (2014-15))

(Virtual Court Hearing)

M/s. Bhavna Gems Plot No. 5-6, Bhavna Gems Building, Community Hall Road, Katargam, Surat	V s.	DCIT Circle-3(2), Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAGFB5166J		
(Assessee)		(Respondent)

Assessee by : Shri Ashwin K. Parekh, CA
Respondent by : Mrs. Anupama Singla – Sr.DR

सुनवाईकीतारीख/ Date of Hearing : 16/07/2021
घोषणाकीतारीख/Date of Pronouncement: 16/07/2021

आदेश / O R D E R

PER DR. A. L. SAINI, ACCOUNTANT MEMBER:

Captioned appeal filed by the Assessee pertaining to A.Y.2014-15 is directed against the order passed by the Id.Commissioner of Income Tax(Appeals)-3, Surat, [Ld.CIT(A)] in Appeal No.CIT(A).Surat-3/10804/2016-17 dated 28.09.2018 which in turn arises out of an assessment order passed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 [hereinafter referred to as the “Act”] dated 19.12.2016.

2. At the outset, learned counsel submits that order passed by the learned CIT(A) is an ex parte order without adjudicating the assessee’s issues on merits and without considering the statement of facts submitted by the assessee. Learned counsel submitted that during the appellate proceedings, the assessee has participated and sought adjournment. Learned counsel also submitted that the assessee could not file the written submission and could not attend the last hearing as his counsel was busy in finalizing the time barred tax audit matter (vide paper book page no.5) letter submitted during the appellate proceedings, before learned CIT(A).

3. On the other hand, learned DR for the Revenue has fairly agreed that since the assessee has not submitted his written submissions before the CIT(A) and could not plead his case before the learned CIT(A), therefore, matter should be remitted back to the file of the learned CIT(A).

4. We have heard both the parties and perused the materials available on record. We note that assessee could not plead his case before the learned CIT(A) successfully. Besides, the learned CIT(A) did not consider the statement of facts submitted by the assessee alongwith Form No.35 and also learned CIT(A) did not consider the assessment records to adjudicating issues involved in assessee's appeal. Therefore, order passed by the learned CIT(A) is not a speaking order. Hence, we are of the view that one more opportunity should be given to the assessee to plead his case before the learned CIT(A). Therefore, we set aside the order of the learned CIT(A) and remit the matter back to the file of the learned CIT(A) for de novo adjudication. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced on 16/07/2021 by placing result on Notice Board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

True Copy

Surat /दिनांक/ Date: 16/07/2021 / *SIS*

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr.CIT
5. DR/AR, ITAT, Surat
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat