

IN THE INCOME TAX APPELLATE TRIBUNAL, SURATBENCH

BEFORE SHRI PAWAN SINGH, JM & DR. A.L.SAINI, AM

ITA No.755/SRT/2018

(A.Y: 2010-11)

Kamdhenu Gems Pvt. Ltd., 402, Ghanshyam Building, House No.6/2005, Hat Falia Haripura, Surat-395003.	Vs.	The ITO, Ward-1(1)(3), Surat.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No.: AADCK3944K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Appellant by : None
Revenue by : Ritesh Mishra, CIT-DR

Date of Hearing : 03/09/2021

Date of Pronouncement : 03/09/2021

आदेश / O R D E R

Per Dr. A. L. Saini, AM:

The captioned appeal filed by the assessee, pertaining to Assessment Year 2010-11, is directed against the order passed by Id. Commissioner of Income Tax (Appeals)-1, Surat, in Appeal No. CIT(A) Surat-1/11021/2017-18, dated 27.09.2018, which in turn arises out of an assessment order passed by the Assessing Officer u/s 144 r.w.s 147 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

2. At the outset itself, we note that impugned order passed by the Id CIT(A) is an ex-parte order and assessee could not represent his case before Ld. CIT(A) therefore, we are of the view that in the interest of justice, another opportunity to contest the appeal before the Ld. first appellate authority may be granted to the assessee.

3. None appeared on behalf of the assessee in spite of issuance of notice of hearing. We have heard Id DR for the Revenue and observed that order passed by the Id CIT(A) is an *ex parte* order, non-speaking order, hence Id DR for the Revenue has fairly agreed that one more opportunity should be given to the assessee to plead his case before the Id. CIT(A).

4. We note that order passed by the Id CIT(A) is not in accordance with the mandate of the provisions of section 250(6) of the Act. We note that in the assessee's case under consideration, the assessment was carried out u/s 144 r.w.s 147 of the Act and the impugned order passed by the Id. CIT(A), is an ex parte order and non-speaking order, therefore, we do not wish to make any comments on the merits of the grounds raised by the assessee.

Considering the above facts, we note that assessee could not plead his case successfully before the Id. CIT(A). We note that the Id. CIT(A) did not discuss the assessee's case on merits based on the material available before him hence it is a violation of principle of natural justice. Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(A) for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the order of the Id CIT(A) and remit the matter back to the file of the Id CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced at the time of hearing of appeal on 03/09/2021 in the Virtual Court of hearing.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

Surat, Dated: 03/09/2021 ****SAMANTA****

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. Pr. CIT
5. DR
6. Guard File

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By order
Assistant Registrar/Sr. PS/PS
ITAT, Surat