

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT

BEFORE SHRIPAWAN SINGH, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA Nos.371-372/SRT/2019

(निर्धारणवर्ष / Assessment Years: (2010-11 & 2011-12)

(Virtual Court Hearing)

Shri Kalpesh Hasmukhbhai Patel, Sardar Chowk, Mota, Mota, Mota, Surat, Bardoli-395345	V s.	Income Tax Officer, Ward-2 Bardoli,
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AHVPP1451E		
(Appellant)		(Respondent)

Assessee by : Shri Sarveshwar B Sharma, C.A

Respondent by :Mrs. Anupama Singhla, Sr-DR

सुनवाईकीतारीख/ **Date of Hearing** : 30/09/2021

घोषणाकीतारीख/**Date of Pronouncement**: 07/10/2021

आदेश / O R D E R

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

These two captioned appeals filed by the assessee, pertaining to assessment years 2010-11& 2011-12, are directed against the separate orders passed by the Id.Commissioner of Income Tax(Appeals)-3, Surat,all dated 29.05.2019, which in turn arise out of separate assessment orders passed by the Assessing Officer, under section 144 r.ws. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), all dated 08.08.2017.

2.Since these two appeals pertain to same assessee, identical issues are involved, therefore, these have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity.

3.At the outset itself, Id. Counsel for the assessee submits that due to marriage ceremony of assessee`s daughter, the assessee could not appear before the Ld. CIT(A), therefore Id CIT(A) passed an *ex-parte* order. The Id Counsel, therefore prays the Bench that in the interest of justice, another opportunity to contest the appeal before the Ld. first appellate authority may be granted to the assessee.

4.The Id. DR for the Revenue debarred from objecting the stand of the Id. Counsel.

5. We have heard both the parties and 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. We note that Id. CIT(A) has not decided the issues ground-wise in respect of the grounds raised by the assessee in memo of appeal. The Id. CIT(A) has not examined assessment records and relevant documents, and has not passed any speaking order. Therefore, we are of the view that matter should be remanded back to the file of the Id. CIT(A) for fresh adjudication. 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, 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, both appeals of the assessee are treated as allowed.

6. In the result, both appeals of the Assessee are allowed for statistical purposes. A copy of the instant common order be placed in the respective case file(s).

Order is pronounced at the time of hearing of appeal on 07/10/2021 in the Virtual Court of hearing.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat/दिनांक/ Date: 07/10/2021 /
Dkp outsourcing Sr.P.S

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

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

By Order

/ / TRUE COPY / /

Assistant Registrar/Sr. PS/PS
ITAT, Surat