

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT

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

आयकरअपीलसं./ITA No.7/SRT/2021

(निर्धारणवर्ष / Assessment Years: (2012-13)

(Virtual Court Hearing)

Dilipbhai Thakorbbhai Patel, C/o. Vivya Gangadhar Tundi, Kumbhar Faliyu, Palsana, Surat-394310, Gujarat.	<b>Vs.</b>	The CIT(A)-13, Ahmedabad.
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BVVPP6033K</b>		
<b>(Assessee)</b>		<b>(Respondent)</b>

Assessee by: Shri Kiran K. Shah, CA

Revenue by: Shri Deependra Kumar, Sr. DR

**सुनवाईकीतारीख/ Date of Hearing : 08/11/2021**

**घोषणाकीतारीख/Date of Pronouncement: 08/11/2021**

**आदेश / O R D E R**

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

The captioned appeal filed by the assessee, pertaining to Assessment Year 2012-13, is directed against the order passed by Id. Commissioner of Income Tax (Appeals)-13, Ahmedabad in Appeal No.CIT(A)-13/Intl. Taxn./Ahd/223/2019-20, CIT(A)-13/Intl. Taxn./Ahd/10316/2019-20 dated 19.11.2020, which in turn arises out of an assessment order passed by Assessing Officer u/s 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 15.12.2019.

2. At the outset itself, the Id. Counsel for the assessee assailed the impugned order by contending that the assessee could not represent his case before Ld. CIT(A) and the order being an *ex parte* order, stood vitiated on account of violation of principle of natural justice. Learned Counsel for the assessee submitted that during the appellate proceedings, notice of hearing was not served on the Authorized Representative (AR) of the assessee. The AR of the assessee has sent e-mail address and had informed the Id. CIT(A) that notice of hearings should be sent on the e-mail id of the AR of the assessee

and not on the assessee. However, the Id. CIT(A) has issued notice of hearing by e-mail on the assessee's e-mail address, therefore Id. Counsel contended that the notice for hearing could not be served properly and as a result the Id. AR of the assessee could not attend the appellate proceedings before the Id. CIT(A). The Id. Counsel for the assessee contended 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. 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.

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

5. Considering the above facts, we note that assessee has not given sufficient opportunity of being heard and 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. We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. 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.

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

Order is pronounced on 08/11/2021 by placing result on notice board.

**Sd/-  
(PAWAN SINGH)  
JUDICIAL MEMBER**

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

सूरत /Surat / दिनांक/ Date: 08/11/2021  
SAMANTA

**Copy of the Order forwarded to**

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

// TRUE COPY //

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat