

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

आयकरअपीलसं./ITA No.13/SRT/2020

(निर्धारणवर्ष / Assessment Years: (2012-13))

(Physical Court Hearing)

Mohammadmunaf G. Nagori, House No.3818, Mota Nagoriwad, Bharuch-392002. Email: mrmconsultants@yahoo.com kkdesai2012@gmail.com	Vs.	The ACIT, Bharuch.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ANTPN9314J		
(Assessee)		(Respondent)

Assessee by: Shri Krutarth Desai, AR

Revenue by: Shri J. K. Chandani, Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 05/05/2022

घोषणाकीतारीख/Date of Pronouncement: 06/05/2022

**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 the Learned Commissioner of Income Tax (Appeals)-3, Vadodara [in short 'ld. CIT(A)'] in Appeal No. CIT(A)-Vadodara-3/10453/2015-16 dated 25.11.2019, which in turn arises out of an order passed by Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act').

2. At the outset itself, the ld. Counsel for the assessee assailed the impugned order by contending that 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. Therefore, Ld. Counsel prays that another opportunity to represent the case before first appellate authority may be granted to the assessee.

3. On the other hand, Learned Departmental Representative (ld. DR) for the Revenue did not have any objection if the matter is remitted back to the file Ld. CIT(A).

4. 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 ld. CIT(A). The Ld. Counsel pointed out before us that counsel appointed by the assessee failed to appear before ld.CIT(A). We also note that Ld. CIT(A) did not pass the order on merits. 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 ld. CIT(A) and remit the matter back to the file of the ld. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced on 06/05/2022 by placing result on notice board.

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

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

सूत्र /Surat / दिनांक/ Date: 06/05/2022

***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

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS  
ITAT, Surat