

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
ITA No. 18/SRT/2022 (AY: 2014-15)
(Virtual hearing in Virtual Court)**

Shree Madhi Vibhag Khand Udyog Sahakari mandli Ltd., At & Post. Madhi, Tal: Bardoli, Dist: Surat, 394340, Gujarat. PAN : AAAAS4732J	Vs.	The DCIT, Circle-2(3), Surat.
APPELLANT		RESPONDEDNT

Appellant by	Shri Akshay Modi, CA
Respondent by	Shri H. P. Meena, CIT(DR)
Date of hearing	05.09.2022
Date of pronouncement	05.09.2022

ORDER

PER DR. A. L. SAINI, AM:

The captioned appeal filed by the assessee, pertaining to Assessment Year 2014-15, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals) [in short 'ld. CIT(A)'], National Faceless Appeal Centre (NFAC), Delhi, in Appeal No. ITBA/NFAC/S/250/2021-22/1038007567(1), dated 22.12.2021, which in turn arises out of an assessment order passed by Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 16.12.2016.

2. At the outset, Learned Counsel for the assessee submitted that the order passed by the ld. CIT(A) is an *ex parte* order and non-speaking order and therefore vitiated on account of violation of principle of natural justice. Apart from this, Ld. Counsel also submitted before the Bench that in assessee's own case, having similar grounds of appeal, this Tribunal has remitted the case back to the file of the Assessing Officer for fresh adjudication. The ld Counsel submitted a copy of order of Tribunal in assessee's own case *vide* ITA Nos. 72,

68 & 73/SRT/2020 for AYs. 2012-13 & 2013-14, order dated 23.12.2021, wherein it was held as follows:

“7. Considering the decision of Hon'ble Supreme Court the co-ordinate Bench of this Tribunal and the fact that both the parties have agreed to restore the matter to the file of Assessing Officer to pass the order by following the decision of Hon'ble Supreme Court in the case of Tasgaon Taluka S.S.SK. Ltd. (supra) and other relevant orders of assesseees engaged in similar business. The grounds of appeal raised by assessee are restored back to the file of Assessing Officer to decide the issue afresh in accordance with law to follow the decision of co-ordinate Bench of this Tribunal in the case of Shree Khedut Sahakarai Khand Udyog Mandli Ltd. vs. Income Tax Officer, (supra). Needless to say that before passing the order afresh, the Assessing Officer shall grant fair and reasonable opportunities of hearing to the assessee and the assessee will also at liberty to raise other submission related to the issue before the Assessing Officer and when called for. In the result, appeal of assessee is allowed for statistical purposes in above terms.”

3. Therefore, Ld. Counsel contended that the issue is squarely covered by the judgment of the Tribunal in assesseees' own case, wherein the Tribunal has remitted the issue back to the file of Assessing Officer to fresh adjudication. Hence, Ld. Counsel prayed the Bench that an another opportunity should be granted to the assessee to contest the appeal before the Assessing officer.

4. 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 of the Assessing Officer for fresh adjudication.

5. We have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the facts of the case including the findings of the Id. CIT(A) and other material brought on record. We note that the Id. CIT(A) has not passed the order on merit, as per the provisions of section 250(6) of the Act. Besides, on identical facts, in assessee`s own case, this Tribunal has remitted the issue back to the file of the assessing officer for fresh adjudication, therefore, we set aside the order of Id CIT(A) and remit the issue back to the file of the Assessing Officer for fresh

adjudication. For statistical purposes, the appeal filed by the assessee is treated to be allowed.

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

Order is pronounced in the open court on 05/09/2022 by placing the result on the Notice Board as per Rule 34(5) of the Income Tax (Appellate Tribunal) Rule 1963.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

Surat, Dated: 05/09/2022
SAMANTA

Copy to:

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

By order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS
ITAT, Surat