

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

आयकर अपील सं./ITA No.244/SRT/2022

Assessment Year: (2011-12)

(Physical Court Hearing)

Tapi Developers, R S No.10, Paikee 2, At: Uchchhal, Dist. Tapi, Surat-394375.	Vs.	The ACIT, Central Circle, Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAHFT1990R		
(Appellant)		(Respondent)

Assessee by	Shri Suresh K. Kabra, CA
Respondent by	Shri Vinod Kumar, Sr. DR
Date of Hearing	28/12/2022
Date of Pronouncement	29/12/2022

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2011-12, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-4, Surat [in short “the Id. CIT(A)”] in Appeal No. CIT(A), Surat-4/10542/2018-19, dated 26.07.2022 which in turn arises out of an assessment order passed by the Assessing Officer under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 11.12.2018.

2. At the outset, Ld. Counsel argued that assessee has participated during the appellate proceedings and took adjournment to file details and documents. However, documents and details could not be filed due to circumstances beyond its control. Therefore, Ld. Counsel contended that one more opportunity should be granted to the assessee to plead his case before first appellate authority.

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 of the Id. CIT(A) for fresh adjudication.

4. We have heard both the parties. Considering the above facts, we note that assessee could not plead his case successfully before the Id. CIT(A). We also note that Ld. CIT(A) has not passed the order as per the mandate of provisions of section 250(6) of the Act. That is Ld. CIT(A) did not pass order on merit based on the material available on record. Hence, we are of the view that one more opportunity should be given to the assessee to plead his case before the Id. CIT(A). 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.

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

Order is pronounced in the open court on 29/12/2022 by placing the result on the Notice Board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 29/12/2022

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

// TRUE COPY //

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Sur