

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM
आयकर अपील सं./ITA No.259/SRT/2022
(निर्धारण वर्ष / Assessment Years: (2017-18)
(Virtual Court Hearing)

Aphrodite Infra Pvt. Ltd., Avenue 77, Besides L. P. Savani School, Vesu, Surat -395007.	Vs.	The ACIT, Central Circle-4, Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAKCA0773D		
(Assessee)		(Respondent)

Assessee by: Shri Akshay Modi, CA

Revenue by: Shri Vinod Kumar, Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 02/01/2023

घोषणाकीतारीख/Date of Pronouncement: 09/01/2023

आदेश / O R D E R

PER DR. A. L. SAINI, AM:

The captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-4, Surat [in short 'ld. CIT(A)'], in Appeal No. CIT(A), Surat-4/10175/2019-20 dated 14.06.2022, 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 30.12.2019.

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. Learned Counsel for the assessee submits that the assessee has participated in appellate proceedings and sought adjournment. However, due to circumstances beyond its control, the assessee could not file the details and documents before the ld. CIT(A), therefore an another opportunity to contest the appeal before the 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 of the lower authorities. He also stated that basic facts were not examined by Assessing Officer, hence matter may be restored to the file of Assessing Officer.

4. Considering the above facts, we note that assessee could not plead his case successfully before the ld. CIT(A). We also note that Ld. CIT(A) did not pass the order as per the mandate of previous of section 250(6) of the Act. 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 Assessing Officer 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 Assessing Officer to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced on 09/01/2023 by placing result on notice board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

सूरत /Surat / दिनांक/ Date: 09/01/2023

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