

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM
आयकरअपीलसं./ITA No.122/SRT/2018
(निर्धारणवर्ष / Assessment Years: (2014-15)
(Virtual Court Hearing)

Sai Developers, Plot No.96, R.S. No.163/2, Block No.214, T. P. Scheme, 37, Althan Road, Althan, Surat.	Vs.	The DCIT, Central Circle*-4, Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABJFS4342M		
(Assessee)		(Respondent)

Assessee by: Shri Brijesh Ariwala, AR

Revenue by: Shri Vinod Kumar, Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 28/02/2023

घोषणाकीतारीख/Date of Pronouncement: 28/02/2023

आदेश / O R D E R

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

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)-4, Surat [in short 'ld. CIT(A)'], in Appeal No. CAS/4/156/2016-17, dated 22.12.2017, which in turn arises out of a penalty order passed by Assessing Officer u/s 271AAB of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 29.09.2016.

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. The Ld. Counsel for the assessee submitted that because of legal dispute amongst the partners, the assessee could not appear before the Ld. CIT(A) and therefore, Ld. CIT(A) has passed an *ex parte* order without adjudicating the issue on merits. Therefore, Ld. Counsel contended that

an another opportunity to contest the appeal before the First Appellate Authority may be granted to the assessee.

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

4. Considering the above facts, we note that assessee could not plead his case successfully before the Id. CIT(A) and Ld. CIT(A) did not adjudicate the issue 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 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.

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

Order is pronounced on 28/02/2023 by placing result on notice board.

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

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

सुरत /Surat / दिनांक/ Date: 28/02/2023

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

By Order

// True Copy //

Senior Private Secretary/Private Secretary
ITAT, Surat