

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted Through Virtual Court)

**Before: Shri Waseem Ahmed, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 270/Rjt/2022
Assessment Year: 2012-13**

Gautambhai Shambhubhai Vaghasiya 91, Satellite Park, BH. Janakpuri Society, Rajkot PAN: ABWPV1606J (Appellant)	Vs	The ITO, Ward- 1(1)(2), Rajkot (Respondent)
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**Assessee Represented: Shri Rashmin Vekariya, AR
Revenue Represented: Shri B.D. Gupta, Sr.D.R.**

Date of hearing : 02-03-2023
Date of pronouncement : 03-03-2023

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee against the Appellate order dated 15.09.2022 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "NFAC"), arising out of the Assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2012-13.

2. The solitary grievance of the assessee is that the Ld. NFAC dismissed the appeal of the assessee without considering the written submission filed before Ld. CIT(A)-1, Rajkot on 01.02.2018 with a detailed Paper Book. Thus the Ld. A.R. pleaded to set aside the matter back to the file of Ld. NFAC for adjudication on the appeal on merits.

3. The Ld. D.R. appearing for the Revenue submitted though the appeal was originally filed before Ld. CIT(A)-1, Rajkot, it is thereafter due to Faceless assessment, the appeal is transferred to Ld. NFAC. However, it appears the written submission dated 01.02.2018 filed by the assessee before Ld. CIT(A) was not on record before Ld. NFAC and therefore the impugned order be set aside and restored to the file of the Ld. NFAC for fresh consideration.

4. We have perused the material available on record including the impugned order passed by the Ld. NFAC which is very cryptic in nature, reads as follows:

“The appellant was sent notices of hearing/submission on 26/08/2022 05/09/2022. There was no reply from the appellant at given address. Therefore, it seems appellant has no interest in pursuing the appeal. Hence, I do not find any reason to interfere with the order passed by the assessing officer. In sum, appeal is dismissed.”

4.1. The Ld. NFAC has not made any reference about the transfer of the original appeal from Ld. CIT(A)-1, Rajkot to Ld. NFAC and summarily dismissed the appeal without proper opportunity to the assessee. In the Interest of Natural Justice, the impugned order

dated 15.09.2022 passed by Ld. NFAC in DIN & Order No. ITBA/NFAC/S/250/2022-23/1045503137(1) is hereby set aside with a direction to the Ld. CIT(A), NFAC to pass fresh order on merits by giving proper opportunity to the assessee.

4.2. Needless to say, the assessee should co-operate with Ld. CIT(A), NFAC by properly filing all the required documents and written submissions in the manner known to law.

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

Order pronounced in the open court on 03-03-2023

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 03/03/2023

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
राजकोट