

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JM & DR. A. L. SAINI, AM
आयकरअपीलसं./ITA No.291/SRT/2022
(निर्धारणवर्ष / Assessment Years: (2011-12)
(Physical Court Hearing)

Krushnalal Bhagwandas Patel, 3/36, Amba Krishna Bhavan, Ambaji Chowk, Rander, Surat – 395005, Gujarat.	Vs.	The ITO, Ward-1(3)(7), Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ADPPP8611A		
(Assessee)		(Respondent)

Assessee by: Shri Bipin Jariwala, AR

Revenue by: Shri Vinod Kumar, Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 01/03/2023

घोषणाकीतारीख/Date of Pronouncement: 03/03/2023

आदेश / O R D E R

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

The captioned appeal filed by the assessee, pertaining to Assessment Year 2011-12, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), [in short 'ld. CIT(A)'], National Faceless Appeal Centre (in short 'NFAC'), in Appeal No. ITBA/NFAC/S/250/2022-23/1045270881(1), dated 07.09.2022, which in turn arises out of an assessment order passed by Assessing Officer u/s 143(3) r.w.s 147 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 13.12.2018.

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 submitted that assessee did not receive notice from CIT(A) during appellate proceedings, therefore assessee could not attend proceeding before the Ld. CIT(A), hence, 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 Ld. 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 ld. CIT(A) as the notices for hearing could not be served on assessee during the appellate proceedings. 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 ld. CIT(A) and remit the matter back to the file of the ld. 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, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced on 03/03/2023 by placing result on notice board.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

सूरत /Surat / दिनांक/ Date: 03/03/2023

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 //

Assistant Registrar/Sr. PS/PS
ITAT, Surat