

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

आयकर अपील सं./ITA Nos.173 & 174/SRT/2023

Assessment Year: (2009-10 & 2011-12)

(Physical Hearing)

Mahek Shah, L/h. of Pramod Keshrichand Shah, Jain Street, Nani Daman, Daman & Diu – 396210.	Vs.	Income Tax Officer, Ward Daman, Hotel Diwanji Building, Devkanand, Daman.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AEUPS4588R		
(अपीलार्थी /Appellant)		(प्रत्यर्थी /Respondent)

निर्धारिती की ओर से /Appellant by	Shri Rasesh Shah, CA
राजस्व की ओर से /Respondent by	Shri Vinod Kumar, Sr. DR
सुनवाई की तारीख/Date of Hearing	12/04/2023
घोषणा की तारीख/Date of Pronouncement	18/04/2023

आदेश / O R D E R

PER DR. A. L. SAINI, AM:

Captioned two appeals filed by the assessee, pertaining to Assessment Years (AYs) 2009-10 and 2011-12, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals), [in short “the Id. CIT(A)”], National Faceless Appeal Centre (in short ‘NFAC’), which in turn arise out of separate assessment orders passed by Assessing Officer under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”).

2. At the outset, Learned Counsel for the assessee submitted that in case of these two appeals, original assessee was died. Later on, legal heir of the deceased-assessee submitted their names and address before the Ld. CIT(A), so that Id CIT(A) can pass the order in the name of legal heir. The said details so

filed by the legal heirs are getting reflected in the portal of Income Tax Department vide Acknowledgment No.FOS001649376421. In spite of this, Ld. CIT(A) has passed the order in the name of deceased person (died person). Apart from this, the legal heir of the assessee has participated in the appellate proceedings and requested Ld CIT(A) to allow them adjournment. The legal heir could not file the detail and documents before the Ld. CIT(A) because at that point of time the legal heir was out of India. Therefore, Ld. Counsel contended that another opportunity should be given to the assessee to plead his case before the NFAC/Ld. CIT(A). Alternatively, Ld. Counsel also submitted that no appellate order can be passed on a deceased person where the legal heir of deceased person has submitted the details about him before the NFAC/Ld. CIT(A), therefore, on this reason the appeals of the assessee may be allowed and addition made by the Assessing Officer may be deleted.

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 NFAC/Ld. CIT(A) for fresh adjudication.

4. We have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee. Considering the above facts, we note that assessee could not plead his both cases successfully before the NFAC/Ld. 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 NFAC/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 NFAC/Ld. CIT(A) and remit the matter back to the

file of the NFAC/ld. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, both the appeals of the assessee are treated as allowed.

5. In the result, both appeals of the assessee are allowed for statistical purposes. A copy of the instant common order be placed in the respective case file(s)

Order is pronounced on 18/04/2023 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

सूरत /Surat

दिनांक/ Date: 18/04/2023

SAMANTA /Dkp Outsourcing Sr.P.S

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