

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

आयकर अपील सं./ITA No.201/SRT/2023

Assessment Year: (2011-12)

(Physical Hearing)

The Kosamba Merchantile Co. Op. Bank Ltd., 1, Shrinidhi, Zanda Chowk, Tarsadi, Kosamba, Surat - 394120	Vs.	The ITO, Ward-1, Bardoli.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABFT4785E		
(Appellant)		(Respondent)

Appellant by	Shri P. M. Jagasheth, CA
Respondent by	Shri Ravinder Sindhu, CIT(DR)
Date of Hearing	31/05/2023
Date of Pronouncement	31/05/2023

आदेश / O R D E R

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2011-12, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), [in short “the ld. CIT(A)”], National Faceless Appeal Centre (in short ‘NFAC’), dated 14.02.2023 which in turn arises out of an assessment order passed by Assessing Officer u/s. 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 17.12.2018.

2. At the outset, Ld. Counsel for the assessee begins by pointing out that Assessing Officer has framed assessment order under section 144 r.w.s. 147 of the Act, however the assessee in response to notices issued under section 148 of the Act submitted its reply on 31.03.2012 before the Assessing Officer. However, the assessee has not filed its return of income quoting the PAN as

reported under the ITS data. The PAN: AABFT4785E on which the subject transactions are reported is not quoted by the assessee and the return is filed quoting other PAN hence the return filed by the assessee quoting PAN: AABAT3742N was not accepted.

3. During the appellate proceedings, the assessee did not receive the notices of hearings, therefore could not attend the appellate proceedings before Ld. CIT(A), hence Ld. Counsel contended that another opportunity should be given to the assessee to plead his case before the Assessing Officer.

4. 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 Assessing Officer for *de novo* adjudication.

5. Considering the above facts, we note that assessee could not plead his case successfully before the Assessing Officer. We also note that Assessing Officer passed the order as per the provisions of section 144 of the Act, "Best judgment assessment". That is Assessing Officer did not pass order on merit. Hence, we are of the view that one more opportunity should be given to the assessee to plead his case before the Assessing Officer 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.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order is pronounced on 31/05/2023 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

सूरत /Surat

दिनांक/ Date: 31/05/2023

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