

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

आयकर अपील सं./ITA No.111/SRT/2023

(Virtual Hearing)

The Surat Colour Chemical Merchants Association, C/230, Udhana Udhyanagar Sangh, Commercial Complex, Central Road No.10, Udhana, Surat - 394210.	Vs.	The ITO, Ward-3(3)(3), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAATT8731F		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Shri Ashok B. Koli. CIT (DR)
Date of Hearing	31/07/2023
Date of Pronouncement	02/08/2023

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, is directed against the order passed by the Learned Commissioner of Income Tax (Exemption), [in short “the ld. CIT(E)”], Ahmedabad, dated 13.12.2022.

2. Notice of hearing of this appeal was sent to the assessee at the address given by the assessee in Form No.36. The said notice has not been returned unserved. Today when the case was called for hearing, none appeared on behalf of assessee, however we have received adjournment application. We note that ld CIT(E) has passed an *ex parte* order and solitary grievance of the assessee in the grounds of appeal raised before us that ld CIT(E) has not given opportunity of hearing. This Tribunal has remitted similar cases to the file of the ld

CIT(E), directing the ld CIT(E) to provide sufficient opportunity to the assessee and pass order in accordance with law. In these circumstances, we have heard learned Departmental Representative (ld. DR) for the Revenue. The ld. DR for the Revenue pointed out that in the grounds of appeal raised by the assessee, it is stated that during the proceedings before the ld. CIT(E), the notices of hearing were not served on the assessee, therefore the ld. CIT(E) passed the *ex parte* order. The solitary grievance of the assessee in the grounds of appeal raised by him along with Form No.36 is that ld. CIT(E) has erred in not providing adequate opportunity of being heard and therefore overlooked the principle of natural justice. Therefore, ld DR stated that in these circumstances, the Tribunal cannot adjudicate the issue on merit, hence ld DR prays the Bench that matter may be remitted back to the file of ld CIT(E) for fresh adjudication on merit.

3. We have gone through the order of ld. CIT(E) and noted that assessee did not appear before him, therefore the ld. CIT(E) has passed the *ex parte* order considering the material available on record. We note that 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(E) for fresh adjudication. We note that notices issued by the ld. CIT(E) during the proceedings, have not been served on the assessee, therefore, we note that assessee could not plead his case successfully before the ld. CIT(E), hence we are of the view that one more opportunity should be given to the assessee to plead his case before the ld. CIT(E).

4. 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 Id. CIT(E) 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(E) and remit the matter back to the file of the Id. CIT(E) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced on 02/08/2023 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 02/08/2023

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

// TRUE COPY //

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat