

**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT (SMC) BENCH  
BEFORE DR. A. L. SAINI, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.465/SRT/2023**

**Assessment Year: (2014-15)**

**(Virtual Hearing)**

Piyush Kantilal Patel, E-101, Stuti Universal, Green City Road, Pal, Surat – 395009.	<b>Vs.</b>	The ITO, Ward – 2(2)(3), Surat
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AUUPP6600P</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri Sapnesh Sheth, CA
<b>Respondent by</b>	Shri Vinod Kumar, Sr. DR
<b>Date of Hearing</b>	04/09/2023
<b>Date of Pronouncement</b>	04/09/2023

**आदेश / O R D E R**

**PER DR. A. L. SAINI, AM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2014-15, 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 ‘the NFAC’), Delhi, dated 29.05.2023, which in turn arises out of an assessment order passed by Assessing Officer u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 28.11.2016.

2. At the outset itself, Learned Counsel for the assessee submitted that during the appellate proceedings, the assessee has filed the adjournment application, however the ld. CIT(A) did not consider the adjournment application and pass the *ex parte* order without hearing the assessee on merit. The ld. counsel for the assessee also submitted that order passed by the ld. CIT(A) is an *ex parte* order without

deciding the issue on merit in accordance with provisions of Section 250(6) of the Act. Therefore ld. counsel contended that since the order passed by the Assessing Officer is also under section 144 of the Act and the Assessing Officer has not examined the basic facts of the assessee's case, therefore the ld. counsel prays the Bench that the matter may be remitted back to the file of Assessing Officer for fresh adjudication.

3. On the other hand, Learned Departmental Representative (ld. DR) for the Revenue submitted that assessee was negligent during the assessment stage as well as during the appellate proceedings; therefore appeal filed by the assessee may be dismissed.

4. I have heard both the parties. Considering the above facts, I note that assessee could not plead his case successfully before the ld. CIT(A). I also note that Ld. CIT(A) has not passed the order as per the mandate of provisions of section 250(6) of the Act. That is, ld. CIT(A) did not pass order on merit based on the material available on record. Hence, I am of the view that one more opportunity should be given to the assessee to plead his case before the Assessing Officer. I 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, I 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, I 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.

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

Order is pronounced on 04/09/2023 in the open court.

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

सूरत /Surat

दिनांक/ Date: 04/09/2023

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 //

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat