

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

आयकर अपील सं./ITA No.483/SRT/2023

Assessment Year: (2016-17)

(Physical Hearing)

Surat Glass India Limited, 215 Sahyog Chambers, Opp. Kohinoor Society Varachha Road, Surat - 395006	Vs.	The DCIT, Circle -2(1)(2), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AALCS9419F		
(Appellant)		(Respondent)

Appellant by	Shri Preetesh Shah, CA
Respondent by	Shri Vinod Kumar, Sr. DR
Date of Hearing	13/09/2023
Date of Pronouncement	14/09/2023

**आदेश / O R D E R**

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

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2016-17, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), [in short “the Id. CIT(A)”], National Faceless Appeal Centre (in short ‘the NFAC’), Delhi, dated 15.05.2023, which in turn arises out of an assessment order passed by Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 13.12.2018.

2. At the outset itself, Learned Counsel for the assessee submitted that assessee company has closed its operation, therefore notices sent by the Id. CIT(A) on the address of the company remain unattended. Therefore the Id. CIT(A) has passed the *ex parte* order. The Id. counsel for the assessee submitted that one more opportunity should

be given to the assessee company to plead his case either before the Id. CIT(A) or before the Assessing Officer.

3. On the other hand, Learned Departmental Representative (Ld. DR) for the Revenue for the Revenue submitted that assessee company did not appear during the appellate proceeding, hence assessee is gross negligent, therefore appeal of the assessee may be dismissed.

4. Without prejudice to the above, Id. DR for the Revenue also submitted that the matter may be remitted back to the file of the Assessing Officer for *de novo* adjudication.

5. We have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the facts of the case including the findings of the Id. CIT(A) and other material brought on record. We note that assessment order is framed under section 143(3) of the Act and during the assessment proceedings, the assessee company appeared before the Assessing Officer and submitted the details. However, before the Id. CIT(A) during the appellate proceedings, the assessee could not appear as the assessee company has closed its business activities, therefore the notices sent by the Id. CIT(A), on the company's address remains unattended and consequently the Id. CIT(A) has passed an *ex parte* order. Therefore in this circumstances, we are of the view that one more opportunity should be given to the assessee to plead his case before the Assessing Officer.

6. Considering the above facts, we note that assessee could not plead his case successfully before the Id. CIT(A). We 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, 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.

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

Order is pronounced on 14/09/2023 in the open court.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

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

सुरत /Surat

दिनांक/ Date: 14/09/2023

*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