

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

आयकर अपील सं./ITA No.321/SRT/2023

Assessment Year: (2018-19)

(Physical Court Hearing)

Shri Madhusudan Rayons Pvt. Ltd 283, Laxminarayan Industrial Estate, N.H. 08, Palsana, Surat- 394317	Vs.	Deputy Commissioner of Income Tax, Circle-2(1)(1), Aayakar Bhavan, Majura Gate, Surat-395001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AADCM 4738 M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Rasesh Shah, CA
निर्धारिती की ओर से /Respondent by	Shri Vinod Kumar, Sr. DR
सुनवाई की तारीख /Date of Hearing	21/09/2023
घोषणा की तारीख /Date of Pronouncement	27/09/2023

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2018-19, is directed against the order passed by the National Faceless Appeal Centre, Delhi [in short “NFAC/Ld. CIT(A)”] dated 23.03.2023, which in turn arises out of an assessment order passed by National e-Assessment Centre, Delhi u/s 143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 19.03.2021.

2. Learned Counsel for the assessee, at the outset, contended before the Bench that during the appellate proceedings assessee could not receive any notice of hearing therefore assessee could not appear before NFAC/Ld. CIT(A) and as a result, NFAC/Ld. CIT(A) has passed impugned *ex parte* order. The Ld. Counsel

further contended that one more opportunity should be given to the assessee to plead its case before Assessing Officer therefore matter may be remitted back to the file of Assessing Officer for *de novo* assessment.

3. On the other hand, Learned Senior-DR for the Revenue submitted that assessee did not appear during appellate proceeding thereafter NFAC/Ld. CIT(A) adjudicated the issue on merit also based on the statement of facts and the facts narrated in the assessment order. Therefore matter should not be remitted back to the file of lower authorities and the appeal of assessee should be dismissed.

4. We have heard both the parties. Considering the above facts, we note that the assessee could not receive any notice of hearing as notice of hearing served on wrong e-mail *i.d.* therefore assessee could not plead its case before NFAC/Ld. CIT(A). We also note that NFAC/Ld. CIT(A) has not passed the order after considering the submission of assessee. 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 its case. Accordingly, we set aside the order of NFAC/Ld. CIT(A) and restore the issue back to the file of the Assessing Officer for *de novo* assessment afresh after providing due opportunity of hearing to the assessee in accordance with law. Needless to mention, that the assessee shall cooperate in the proceedings before the lower

authorities for disposal of its case. 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 27/09/2023 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

lwjr /Surat

दिनांक/ Date: 27/09/2023

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