

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

आयकर अपील सं./ITA No.557/SRT/2023

Assessment Year: (2018-19)

(Physical Hearing)

Vishal Rajendra Madhavani, A-702, Silver Spring Apartment, Shree Ram Petrol Pump, Anand Mahal Road, Surat – 395009.	Vs.	The Assessing Officer, National Faceless Assessment Centre (NFAC), Delhi
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ASAPM7005R</b>		
(Appellant)		(Respondent)

Appellant by	Shri Bipin Jariwala, Advocate
Respondent by	Shri Vinod Kumar, Sr. DR
Date of Hearing	11/10/2023
Date of Pronouncement	11/10/2023

**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 Learned Commissioner of Income Tax (Appeals), [in short “the ld. CIT(A)”], National Faceless Appeal Centre (in short ‘the NFAC’), Delhi, dated 14.07.2023, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) r.w.s 144B of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 24.09.2021.

2. At the outset itself, Learned Counsel for the assessee assailed the impugned order by contending that assessee could not represent his case before Ld. CIT(A) and the order being an *ex parte* order, stood vitiated on account of violation of principle of natural justice. During the appellate proceedings, the assessee filed adjournment

application before the ld. CIT(A) to submit further documents and evidences, however the ld. CIT(A) has passed an *ex parte* order without giving opportunity to the assessee to represent his case. The Ld. Counsel further pointed out that during the assessment proceedings also, the assessee has not submitted entire documents and evidences, therefore matter may be remitted back to the file of the Assessing Officer for fresh adjudication. The Ld. Counsel for the assessee submitted that one more opportunity should be given to the assessee to plead his case before the Assessing Officer.

3. On the other hand, Learned Departmental Representative (Ld. DR) for the Revenue stated that matter should not be remitted back to the file of the lower authorities as the assessee was negligent in his approach and did not file the relevant documents and evidences before the ld. CIT(A), hence the appeal of the assessee may be dismissed.

4. We have heard both the parties. Considering the above facts, we note that assessee could not plead his case successfully before the ld. 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 11/10/2023 in the open court.

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

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

सूरत /Surat

दिनांक/ Date: 11/10/2023

*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