

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

आयकर अपील सं./ITA No.605/SRT/2023

Assessment Year: (2017-18)

(Hybrid Hearing)

Hitesh IshwarlalThakar A/8, Raj Mahel Raw House, Nr. River Deal School, Adajan Surat-395009	Vs.	Income Tax Officer, Ward-1(3)(7), Surat, AnvilBusiness Centre, Adajan Hazira Road, Adajan, Surat-395007
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABHH 9239 K		
(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	06/11/2023
घोषणा की तारीख /Date of Pronouncement	21/11/2023

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2017-18, is directed against the order passed by the National Faceless Appeal Centre, Delhi [in short “NFAC/Ld. CIT(A)”] dated 29.08.2023, 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 30.12.2019.

2. Shri Rasesh Shah, Learned Counsel for the assessee, at the outset, submitted that during the appellate proceedings assessee has participated and filed adjournment application. However, NFAC/Ld.CIT(A) passed non-speaking impugned *ex parte* order. The Ld. Counsel therefore contended that one more opportunity

should be given to the assessee to plead his case before NFAC/Ld.CIT(A) therefore matter may be remitted back to the file of NFAC/Ld.CIT(A).

3. On the other hand, Learned Senior-DR for the Revenue submitted that assessee did not appear during appellate proceeding therefore 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 NFAC/Ld.CIT(A) and the appeal of assessee should be dismissed, at this stage.

4. We have heard both the parties. Considering the above facts, we note that assessee could not successfully plead his case before NFAC/Ld.CIT(A). The assessee sought adjournment during the appellate proceedings to file details and documents, however, NFAC/Ld.CIT(A) without waiting further, has passed the *ex parte* order, which is against the principle of natural justice. We also note that NFAC/Ld.CIT(A) did not adjudicate the issue as per the mandate of provisions of Section 250(6) of the Act, on merit. Hence, we are of the view that one more opportunity should be given to the assessee to plead his case before the NFAC/Ld.CIT(A). 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, we restore the issue back to the file of the NFAC/Ld.CIT(A). We also direct the assessee to furnish relevant documents and evidences, before NFAC/Ld.CIT(A) and assessee

shall co-operate in the proceedings before NFAC/Ld.CIT(A) for disposal of assessee's case. 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 21/11/2023 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

सूरत/Surat

दिनांक/ Date: 21/11/2023

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