

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

आयकर अपील सं./ITA No.586/SRT/2023

Assessment Year: (2012-13)

(Physical Court Hearing)

Shree Om Sai Developers A/204, Yash Plaza, B/s. Ashirwad Hotel, Varachha Road, Surat- 395006	Vs.	Income Tax Officer, Ward- 3(3)(1), Room No.418 Aaykar Bhawan, Majura Gate, Surat- 395001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABYFS 0820 P		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Suresh K. Kabra, CA
निर्धारिती की ओर से /Respondent by	Shri Vinod Kumar, Sr. DR
सुनवाई की तारीख /Date of Hearing	01/11/2023
घोषणा की तारीख /Date of Pronouncement	23/11/2023

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2012-13, is directed against the order passed by the National Faceless Appeal Centre, Delhi [in short “NFAC/Ld. CIT(A)”] dated 17.08.2023, which in turn arises out of an assessment order passed by Assessing Officer u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 04.12.2019.

2. Shri Suresh K Kabra, Learned Counsel for the assessee at the outset, pointed out that during the appellate proceedings assessee has participated and filed response to the notices issued by NFAC/Ld. CIT(A). However, NFAC/Ld. CIT(A) without waiting further passed impugned *ex parte* order which is against the

principle of natural justice. The Ld. Counsel therefore contended that one more opportunity should be given to the assessee to plead its case before Assessing Officer. As some basic documents and details are to be submitted before Assessing Officer therefore, assessee's *lis* may be remitted back to the file of Assessing Officer for *de novo* adjudication.

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) has passed *ex parte* order, hence further hearing should not be given to the assessee. Therefore matter should not be remitted back to the file of lower authorities and the appeal of assessee should be dismissed at this stage.

4. We have heard both the parties. Considering the above facts, we also note that NFAC/Ld. CIT(A) has not passed the order after considering the submission of assessee and assessment order. Moreover, the Ld. CIT(A) did not pass the order as per the mandate of provision of Section 250(6) of the Act. 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. We also direct the assessee to provide relevant documents and details before the Assessing Officer, as and when required by him and assessee shall

cooperate in the proceedings before the Assessing Officer for disposal of its 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 23/11/2023 in the open court.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

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

सूरत/Surat

दिनांक/ Date: 23/11/2023

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