

IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT  
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.51/RJT/2024

Assessment Year: (2017-18)

Seenivasan, Gandhidham Plot No.277-300, Ward-10- A Gandhidham-370201	Vs.	Assistant Commissioner of Income- Tax, Central Circle-1, Gandhidham
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BSTPS 6049 N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी ओर से/ Appellant by	Shri Kalpesh Doshi, AR
प्रत्यर्थी की ओर से/Respondent by	Shri Shakeel Ansari, Sr. DR
सुनवाई की तारीख/Date of Hearing	22/08/2024
घोषणा की तारीख /Date of Pronouncement	30/08/2024

**आदेश / O R D E R**

**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 Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short “the Id. CIT(A)/NFAC”] dated 29.11.2023, which in turn arises out of an assessment order passed by Assessing Officer u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 25.12.2019.

2. At the outset itself, the Id. Counsel for the assessee assailed the impugned order by contending that during the appellate proceedings, notices of hearings were not served on the assessee. Therefore, assessee could not represent its case before Id. CIT(A) . The Id. Counsel also

pointed out that during assessment proceedings, there was non-compliance by the assessee, hence, Assessing Officer had framed the assessment order u/s 144 of the Act. Now, the assessee is ready to produce relevant documents and evidences before the Assessing Officer. The Learned Counsel stated that one more opportunity should be granted to the assessee to represent his case before Assessing Officer.

3. On the other hand, Learned Senior Departmental Representative (Ld. Sr. DR) submitted that despite of providing several opportunities of hearing, the assessee could not appear before Ld. CIT(A) during the appellate proceedings as well as during the assessment proceedings before the Assessing Officer. The assessee was negligent in his approach; therefore assessee's appeal may be dismissed.

4. We have heard both the sides and gone through the relevant material on record. It is seen that during the appellate proceedings, the assessee did not submit details and documents before the Ld. CIT(A), as no notices were served on the assessee therefore, the Ld. CIT(A) passed an *ex parte* order. We note that assessee could not plead his case successfully before the Ld. CIT(A) as notices for hearing were not served on the assessee. 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 as the order was passed by Ld.CIT(A) without hearing the assessee. 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 Assessing Officer to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced on 30/08/2024 in the open court.

Sd/-  
**DINESH MOHAN SINHA**  
JUDICIAL MEMBER

Sd/-  
**DR. A. L. SAINI**  
ACCOUNTNAT MEMBER

Rajkot

दिनांक/ Date: 30/08/2024

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, Rajkot
6. Guard File

// True Copy //

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot