

**अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।**  
**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.671/RJT/2024**

**निर्धारणवर्ष /Assessment Year: 2017-18**

Shyamlal Mohandas Kheskwani Plot NO.705, Sector 05 Gandhidham-370 201 Pan : BEWPK 8592Q	Vs.	ITO, Ward-2 Gandhidham.
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Chetan Agarwal, Id.AR

राजस्व की ओर से/Revenue by : Shri Abhimanyu Singh Yadav, Sr-DR

सुनवाई की तारीख/Date of Hearing : 27/01/2025

घोषणा की तारीख/Date of Pronouncement : 28/02/2025

**ORDER**

**PER DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER:**

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)/National Faceless Appeal Centre, [in short 'Ld.CIT(A)/NFAC'], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), dated 29.04.2024, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act,1961 (hereinafter referred to as 'the Act'), vide order dated 28.11.2019.



2. At the outset, the Learned Counsel for the assessee, begins by pointing out that assessee did not file relevant documents and evidences before the assessing officer, as these documents and evidences were not available with the assessee, when the proceedings before the assessing officer, was going on. However, the assessee filed the required documents and evidence before the Id.CIT(A), first time. The Id.CIT(A) did not call for a remand report in respect of documents and evidences submitted by the assessee, during the appellate proceedings. Therefore, the assessing officer did not get opportunity to examine these additional evidences, submitted by the assessee, before the Id. CIT(A), first time. Therefore, Id. Counsel argued that in order to avoid the multiplicity, in the proceedings, the issue may be remitted back to the file for the assessing officer for fresh adjudication.

3. On the other hand, Id.DR did not raise any objection, if the matter is restored back to the file of the assessing officer, for fresh adjudication.

4. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. It is clear that the assessment records that assessee has not submitted the details and evidences, during the assessment proceedings, but the same were submitted during appellate proceedings, before the Id CIT(A). However, the Id.CIT(A) has not sent these additional documents and evidences to the assessing officer for his comment/remand report, before passing the appellate order. Therefore, the assessing officer has not been given opportunity to examine these documents and evidences, so furnished by the assessee, before the Id.CIT(A) and the impugned order has been passed, by Id CIT(A), without giving an opportunity to the assessing officer to furnish the remand report. We find the Id CIT(A)



neither considered these additional documents/evidences of the assessee nor he sent these additional documents and evidences to the assessing officer, for remand report, hence the assessee`s case has not been adjudicated on merits and therefore, it is violation of principle of natural justice. Therefore, we are of the view that one more opportunity should be given to the assessee to plead his case before the assessing officer.

5. Therefore, we find that the assessee did not have proper opportunity of being heard before CIT(A) and *ex-parte* order of CIT(A), dismissing the appeal of the assessee, has to be set aside. The Id. Counsel for the assessee also pointed out that order of CIT(A) may be set aside and the issues raised before CIT(A) be remanded to the assessing officer for fresh consideration. It has been submitted that at the assessment stage the assessee could not produce any proper evidences. We accept the prayer of the assessee and set aside the order of CIT(A) and remand the various issues raised by the assessee in the grounds of appeal before CIT(A) for fresh consideration by the assessing officer with a liberty to the assessee to prove his case by producing sufficient evidence/material to the satisfaction of the assessing officer. For statistical purposes the appeal of the assessee, is allowed.

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

Order is pronounced in the open court on 28/02/2025

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

**Sd/-**  
**(DR. ARJUNLAL SAINI)**  
**ACCOUNTANT MEMBER**

राजकोट /Rajkot

दिनांक/ Date: 28/02/2025



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आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेशसे,

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot

	Date
1. Draft dictated on	27.01.2025
2. Draft placed before author	27.01.2025
3. Draft proposed & placed before the second member	
4. Draft discussed/approved by Second Member.	
5. Approved Draft comes to the Sr.PS/PS	
6. Kept for pronouncement on	
7. File sent to the Bench Clerk	13-3-2025
8. Date on which file goes to the AR	
9. Date on which file goes to the Head Clerk.	
10. Date of dispatch of Order.	
11. Draft dictation sheets are attached	