



**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT**  
**BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**  
**&**  
**SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA No. 130/SRT/2025  
(निर्धारणवर्ष / Assessment Year: (2021-22))

<b>Mukesh Babulal Saini</b> 348, Hidayat Nagar, Palanpur Jakat Naka, Rander Road, Adajan, Surat, Gujarat - 395009	Vs.	<b>Income Tax Officer</b> Ward – 2(3)(1), Surat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>GLZPS1427R</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri P M Jagasheth, CA  
Respondent by : Shri Ajay Uke, Ld. Sr. DR  
**Date of Hearing** : **06/08/2025**  
**Date of Pronouncement** : **03/11/2025**

**आदेश / ORDER**

**PER, DINESH MOHAN SINHA, JM:**

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2021-22, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), [in short “the Id. CIT(A)”], National Faceless Appeal Centre (in short ‘the NFAC’), Delhi, dated 04.12.2024, 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 23.12.2022.

2. At the outset, the Ld. Counsel for the assessee submitted that the order passed by the Assessing Officer is under section 143(3) r.w.s. 144B of the



Act. The AO noted that the assessee did not avail the opportunity of being heard through VC scheduled to meet natural justice on 21.12.2022 and after that the VC was concluded. On appeal, the ld. counsel for the assessee submitted that order passed by the ld. CIT(A) is an *ex parte* order without deciding the issue on merit in accordance with provisions of Section 250 of the Act. Therefore ld. counsel contended that since the order passed by the Assessing Officer is also under section 143(3) r.w.s. 144B of the Act and the Assessing Officer has not examined the basic facts of the assessee's case, therefore the ld. counsel prays the Bench that the matter may be remitted back to the file of Assessing Officer for fresh adjudication.

3. On the other hand, Learned Sr. Departmental Representative (ld. DR) for the Revenue submitted that assessee was negligent during the assessment stage as well as during the appellate proceedings; therefore, appeal filed by 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 of the Act. We also note that assessee did not submit entire documents and evidences before the Assessing Officer. 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 Id. 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.

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

**Order pronounced in the open court on 03-11-2025.**

Sd/-  
**(BIJAYANANDA PRUETH)**  
**ACCOUNTANT MEMBER**

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

Surat

दिनांक/ Date: 03/11/2025

*True Copy*

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Surat
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat