

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

**ITA No.3828/Mum/2023
(Assessment Year :2016-17)**

Mahindra & Mahindra Limited (As successor to Mahindra Electric Mobility Limited) Mahindra Tower, Ground Floor Corporate Taxation Department, P.K. Kurne Chowk Worli, Mumbai	Vs.	Assessment Unit, Income Tax Department National Faceless Assessment Centre Local Jurisdictional Assessing Officer- Assistant Commissioner of Income Tax, Circle 2(2)(1), Mumbai
PAN/GIR No.AAACM3025E		
(Appellant)	..	(Respondent)

Assessee by	Shri H.P. Mahajani
Revenue by	Smt. Mahita Nair
Date of Hearing	05/03/2024
Date of Pronouncement	06/03/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 06/09/2023 passed by NFAC, Delhi for the quantum of assessment passed u/s.147 for the A.Y.2016-17.

2. Before us ld. Counsel submitted that the ld. CIT (A) had erroneously dismissed the appeal of the assessee on the ground that assessee has opted for 'Vivad se Vishwas Scheme' vide application dated 30/03/2021 and held that appeal filed by the assessee in infructuous. However, assessee had not gone into VSVS in the proceedings u/s.147 r.w.s.144B against order dated 26/04/2023. Assessee had filed VSVS scheme against original assessment order u/s. 143(3) and not against the present assessment order dated 26/04/2023 and therefore, he has erred in dismissing the assessee's appeal on this ground. He further submitted that here the assessment order has been passed on non-existing entity i.e. Mahindra Electric Mobility Limited, because the said entity has merged with Mahindra & Mahindra Ltd w.e.f. 02/02/2023 and he appointed date being 01/04/2021. Apart from that he has also challenged validity of proceedings u/s.147 and other issues on merits.

3. On the other hand ld. DR submitted that matter should be restored back to the file of the ld. CIT (A) to decide the issue afresh.

4. From the perusal of the records, it is seen that appeal was filed against order dated 26/04/2023 passed u/s.147 r.w.s. 144B of the Act by faceless assessment unit. The National Faceless Appeal Centre has held the appeal to be infructuous, on the ground that assessee had opted for VSVS vide application dated 30/03/2021 i.e. which was more than 2 years before. How assessee can opt for VSVS in March 2021 against order passed

by the ld. AO on 26/04/2023. If that was doubt at least it should have been verified from the assessee or AO. This shows hastiness and completely lack of application of mind on facts on record and callous attitude towards justice. Now because of this impetuous and slovenly attitude, once again matter has to go back to NFAC to decide on merits wasting so much time of the litigant. Accordingly, the order passed by NFAC is set aside and matter is restored back to the file of appellate authority to decide the issues in the grounds before this Tribunal in accordance with law after giving due opportunity of hearing to the assessee, within reasonable time.

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

Order pronounced on 6th March, 2024.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 06/03/2024
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai