

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 354/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

MVK Energy Vs. Income Tax Officer,
Private Limited, Ward-16(3),
Hyderabad Hyderabad
[PAN No. AAECM0328G]

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.A. Sai Prasad,
appeared for Shri SK Gupta, AR

राजस्व द्वारा/Revenue by: Shri Suresh, DR

सुनवाई की तारीख/Date of hearing: 09/05/2024
घोषणा की तारीख/Pronouncement on: 15/05/2024

आदेश / ORDER

Aggrieved by the order dated 06/02/2024 passed by the learned Addl/JCIT(A)-2, Pune, in the case of MVK Energy Private Limited ("the assessee") for the assessment year 2017-18, assessee preferred this appeal.

2. At the time of hearing, it is the submission on behalf of the assessee that the learned CIT(A) disposed-of the appeal ex-parte observing that various notices under section 250 of the Income Tax Act, 1961 (for short "the Act") were issued to the assessee, but the assessee failed to comply with any of such notices nor did the assessee make any written submissions.

3. Learned AR also submitted that even otherwise also the learned CIT(A) could have referred to the facts and dispose-of the matter on merits so as to have effective assistance to the higher appellate fora. He submitted that in the interest of justice, an opportunity may be granted to the assessee to effectively prosecute the appeal, by restoring the appeal to the file of the learned CIT(A).

4. Though the learned DR vehemently opposed the request of the assessee, the fact remains that the learned CIT(A) did not refer to the facts nor did he dispose of the appeal on merits. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine.

5. Requirement of law under section 250 (6) of the Act is that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine.

6. Having regard to the facts and circumstances of the case, I am of the considered opinion that the impugned order does not comply with the requirement of Section 250(6) of the Act and cannot be sustained. If the request of the learned AR is granted, affording an opportunity to the assessee to prosecute the appeal before the learned CIT(A) by submitting the evidences, the highest that would happen is that a cause could be

decided on merits. When the technicalities are pitted against the delivery of substantial justice, the former must give way to the latter.

7. With this view of the matter, I set aside the impugned order and restore the appeal to the file of the learned CIT(A) to pass an order in compliance with the provisions under section 250(6) of the Act. I direct the assessee to co-operate with the First Appellate Authority in getting the matters disposed of on merits, without seeking any adjournments and the learned CIT(A) to take a fresh look at the matter, after affording a reasonable opportunity of being heard to the assessee. I order accordingly.

8. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 15th day of May, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 15/05/2024

TNMM

Copy forwarded to:

1. MVK Energy Private Limited, Plot No. 119, Flat No. 301, Road No. 44,
Kavuri Hills, Madhapur, Hyderabad.
2. Income Tax Officer, Ward-16(3), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD