



Act, 1961 (“the Act”) and in the Form 35, mail id was indicated as vmca9@gmail.com. The assessee came to know of the order of the Ld.CIT(A), dismissing the appeal of the assessee only when he contacted his chartered accountant to verify the portal in connection with regular return. On further enquiry, it was found that the notices of hearing were sent to mail id vmp6@yhoo.com and vmp6@yahoo.com, hence, not served on the assessee for appearing before the learned CIT(A). The assessee further submitted that the delay in filing the appeal before the Tribunal is not intentional, hence prayed for condoning the delay and admit the appeal for hearing. His main plank of argument is that even in the absence of the assessee since the assessment order is available before the learned CIT(A), learned CIT(A) could have proceeded to advert to the merits of the case and disposed of by referring to the various aspects of merits. He, therefore, submits that the provisions under section 250 (6) of the Income Tax Act, 1961 (for short “the Act”) are not complied with.

3. Though the learned DR vehemently relied on the orders of the Revenue authorities, 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.

4. As could be seen from the record, we find that the learned CIT(A) disposed-of the appeal ex-parte, observing that various notices have been issued to the assessee, but the assessee failed to comply with any of such notices nor did the assessee produce any documents, explanation and evidence to substantiate the grounds raised.

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. Learned AR submitted that since the learned Assessing Officer also finalized the assessment under section 143(3) of the Act, affording an opportunity to the assessee to prosecute his case before the learned Assessing Officer, by submitting the documents/evidence, the highest that would happen is that a cause could be decided on merits. I consider this request reasonable, and it would be in the interest of justice to remit the issue to the file of the learned Assessing Officer for considering the submissions of the assessee and take a fresh view in the matter.

7. With this view of the matter, I set aside the impugned order and restore the issue to the file of the learned Assessing Officer to decide the issue afresh. I direct the assessee to co-operate with the learned Assessing Officer in getting the matter disposed of on merits, without seeking any adjournments and the learned Assessing Officer to take a fresh look at the matter, after affording a reasonable opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

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

Order pronounced in the open court on this the 24<sup>th</sup> September, 2024.

Sd/-

**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 24/09/2024  
*L.Rama, SPS*

Copy forwarded to:

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2. The Income Tax Officer, Ward-1, Mancherial, Telanagana
3. The Pr.CIT, Hyderabad
4. The DR, ITAT, Hyderabad
5. Guard File

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ITAT, HYDERABAD