

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH : KOLKATA

[Before Hon’ble Sri N.V.Vasudevan, JM & Dr.Arjun Lal Saini, AM]

I.T.A No. 588/Kol/2009

Assessment Year : 2004-05

I.T.O., Ward-10(2),  
Kolkata

-vs.-

M/s. R.P.Edible Oil Ltd.  
Kolkata  
[PAN : AA ECS 4337 H]  
(Respondent)

(Appellant)

For the Appellant : None  
For the Respondent : None

Date of Hearing : 26.07.2016.

Date of Pronouncement : 26.07.2016.

**ORDER**

**Per N.V.Vasudevan, JM**

This is an appeal by the Revenue against the order dated 19.01.2009 of CIT(A)-XXXII, Kolkata relating to AY 2004-05.

2. The appeal by the revenue was fixed for hearing on several occasions. On many occasions such as 27.09.2012, 16.09.2015, 14.01.2016, 15.03.2016, 19.05.2016, notice was directed to be served through the DR. The Department has not complied with the directions of the Tribunal. Today when the case was called for hearing none appeared on behalf of the department nor was any application for an adjournment was filed by the department. It appears to us that the department is not serious in prosecuting this appeal. Hence the appeal filed by the revenue is liable to be dismissed for non prosecution. For this view we find support from the following decisions :-

“1. In the case of CIT vs B.N.Bhattacharjee and another, reported in 118 ITR 461 [relevant pages 477 & 478] wherein their Lordships have held that :

*“The appeal does not mean merely filing of the appeal but effectively pursuing it.”*

2. In the case of Estate of late Tukojirao Holkar vs CWT; 223 ITR 480 (MP) while dismissing the reference made at the instance of the assessee in default made following observation in their order :

*“If the party, at whose instance the reference is made, fails to appear at the hearing, or fails in taking steps for preparation of the paper books so as to enable hearing of the reference, the court is not bound to answer the reference.”*

3. In the case of Commissioner of Income-tax vs Multiplan India (P) Ltd.: 38 ITD 320(Del), the appeal filed by the revenue before the Tribunal, which was fixed for hearing. But on the date of hearing nobody represented the revenue/appellant nor any communication for adjournment was received. There was no communication or information as to why the revenue chose to remain absent on that date. The Tribunal on the basis of inherent powers, treated the appeal filed by the revenue as un admitted in view of the provisions of Rule 19 of the Appellate Tribunal Rules, 1963.

3. The Revenue, if so desired, shall be free to move this Tribunal praying for recalling this order and explaining reasons for non-compliance etc. then this order may be recalled.

4. In the result, the appeal of the Revenue is dismissed for non-prosecution.

**Order pronounced in the Court on 26.07.2016.**

Sd/-  
[Dr.Arjun Lal Saini]  
Accountant Member

Sd/-  
[ N.V.Vasudevan ]  
Judicial Member

Dated : 26.07.2016.

[RG PS]

Copy of the order forwarded to:

1. M/s. R.P.Edible Oil Ltd., 25B, Black Burn Lane, 3<sup>rd</sup> Floor, Room No.304, Kolkata-700012.
2. I.T.O., Ward-10(2), Kolkata.
3. CIT(A)-XXXII, Kolkata.      4. CIT-IV, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

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By Order

Asstt.Registrar, ITAT, Kolkata Benches

