

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 491/KOL/ 2011
Assessment Year : 2003-2004**

Asoke Kumar Dhar,.....Appellant
Nangi, Sanipara,
P.O. Batanagar,
Kolkata-700 140
[PAN : ADRPD 5672 P]

-Vs.-

Deputy Commissioner of Income Tax,.....Respondent
Circle-33, Kolkata,
10, Middleton Row,
Kolkata-700 071

Appearances by:

N o n e, for the assessee

Shri Sudipta Guha, JCIT, Sr. D.R., for the Department

Date of concluding the hearing : November 05, 2015

Date of pronouncing the order : November 20th, 2015

O R D E R

Per Shri S.S. Viswanethra Ravi:-

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-XX, Kolkata in Appeal No. 424/CIT(A)-XX/Cir-33/2008-09/Kol dated 14.09.2010 for the assessment year 2003-04.

2. The appeal is time barred by 26 days. The assessee has submitted a condonation petition dated 23.03.2011 for condoning the delay on the ground that his accountant, who was looking after the income tax matter had suddenly left the job.

3. The assessee filed the present appeal on 24.03.2011. The date of hearing of this appeal was fixed from time to time. On 05.11.2015, the case was fixed for hearing before the Bench. Even the cause list was also posted on the Internet. However, on the date fixed for, i.e. 05.11.2015 neither anybody appeared on behalf of the assessee nor any application for adjournment was filed before us. Under these facts, we are of the view that the assessee is not interested in prosecuting this appeal.

4. The law assists those who are vigilant and not those who sleep over their rights. This principle is embodied in the well known dictum – **“vigilantibus, non dormientibus, jura subveniunt”**.

5. Considering the facts and keeping in mind the provisions of Rule 19(2) of the ITAT Rules as was considered in the case of CIT -vs.- Multiplan India Pvt. Ltd. 38 ITD 320 (Del.) and the judgment of the Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar -vs.- C.W.T. reported in 223 ITR 480, we treat this appeal as dismissed.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on November 20th, 2015.

Sd/-

Sd/-

(P.M. Jagtap)
Accountant Member

(S.S. Viswanethra Ravi)
Judicial Member

Kolkata, the 20th day of November, 2015

Copies to : (1) ***Asoke Kumar Dhar,***
Nangi, Sanipara,
P.O. Batanagar,
Kolkata-700 140

(2) ***Deputy Commissioner of Income Tax,***
Circle-33, Kolkata,
10, Middleton Row,
Kolkata-700 071

(3) ***Commissioner of Income Tax (Appeals)- XX, Kolkata***

(4) ***Commissioner of Income Tax, Kolkata***

(5) ***The Departmental Representative***

(6) ***Guard File***

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.