

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

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

I.T.A No. 663/Kol/2014

Assessment Year : 2009-10

Manisha Nath
Kolkata

-vs.-

I.T.O., Ward-1 (1),
Kolkata

[PAN : AHHPN 8993 M]
(Appellant)

(Respondent)

For the Appellant : None

For the Respondent : Shri R.S.Biswas, CIT

Date of Hearing : 01.03.2017.

Date of Pronouncement : 01.03.2017.

ORDER

Per N.V.Vasudevan, JM

This is an appeal by the Assessee against the order dated 22.01.2013 of C.I.T.(A)-XXIV, Kolkata relating to A.Y.2009-10.

2. This case was listed for hearing on 18.01.2017. But on that date on the request of the Id. DR the hearing was adjourned to 01.03.2017. Notice was issued to the assessee at the address given by the assessee in Form No.36. However, none appeared on behalf of the assessee on 18.01.2017. For hearing on 01.03.2017 again notice was issued to the assessee by speed post at the address given in Form No.36. None appeared on behalf of the assessee today when the case was called for hearing. It means that assessee is not interested in prosecuting this appeal. Hence the appeal filed by the assessee 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 Tukoji Rao 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 unadmitted in view of the provisions of Rule 19 of the Appellate Tribunal Rules, 1963.

4. The assessee, 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.

5. In the result, the appeal of the assessee is dismissed for non-prosecution.

Order pronounced in the Court on 01.03.2017.

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

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

Dated : 01.03.2017.

[RG PS]

Copy of the order forwarded to:

1. Manish Nath, C/o A.K.Banerjee & Co., 2nd Floor, Room No.5A, 2A Ganesh Chandra Avenue, Kolkata-700013.
2. I.T.O., Ward-1(1), Kolkata.
3. CIT(A)-XXIV, Kolkata
4. C.I.T.-I, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Asstt.Registrar, ITAT, Kolkata Benches

