

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

Before Sh. N. K. Saini, AM and Sh. Lalit Kumar, JM

ITA Nos. 3663 & 2160/Del/2013 : Asstt. Years : 2008-09 & 2009-10

Team Computers Pvt. Ltd., 1, Mohd. Pur, New Delhi-110016	Vs	Commissioner of Income Tax(A)- XIX, Vikas Bhawan, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAAC3478J		

Assessee by : None

Revenue by : Sh. Umesh Chand Dubey, Sr. DR

Date of Hearing : 29.11.2016	Date of Pronouncement : 29.11.2016
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ORDER

Per N. K. Saini, AM:

These two appeals by the assessee are directed against the separate orders of the Id. CIT(A)-19, New Delhi dated 27.11.2012 and 21.01.2013 for the assessment years 2008-09 and 2009-10 respectively.

2. During the course of hearing nobody was present on behalf of the assessee neither any adjournment was sought. In spite of the fact that notices of hearing were issued on 18.10.2016 by RPAD at the address mentioned in the impugned orders and Form Nos. 36 which have not yet been returned back by the Postal Authority. It, therefore, appears that the assessee is not interested to prosecute the matter.

3. The law aids those who are vigilant, not those who sleep upon their rights. This principle is embodied in well known dictum, *“VIGILANTIBUS ET NON DORMIENTIBUS JURA SUBVENIUNT”*. Considering the facts and keeping in view the provisions of rule 19(2) of the Income-tax Appellate Tribunal Rules as were considered in the case of CIT vs. Multiplan India Ltd., (38 ITD 320)(Del), we treat this appeal as unadmitted.

4. Similar view has been taken by the Honøble Madhya Pradesh High Court in the case of Estate of Late Tukoji Rao Holkar vs. CWT (223 ITR 480) wherein it has been held as under:

“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.”

5. Similarly, Honøble Punjab & Haryana High Court in the case of New Diwan Oil Mills vs. CIT (2008) 296 ITR 495) returned the reference unanswered since the assessee remained absent and there was not any assistance from the assessee.

6. Their Lordships of Honøble Supreme Court in the case of CIT vs. B. Bhattachargee & Another (118 ITR 461 at page 477-478) held that the appeal does not mean, mere filing of the memo of appeal but effectively pursuing the same.

7. So, respectfully by following the view taken in the cases cited supra, we dismiss the appeals for non-prosecution. The assessee is at liberty to request for setting aside this order by moving an application as per the proviso to Rule 24 of the Income Tax (Appellate Tribunal) Rules, 1963 and explaining the reasons for its non-appearance.

8. In the result, the appeals filed by the assessee are dismissed.
(Order Pronounced in the Court on 29/11/2016)

Sd/-
(Lalit Kumar)
JUDICIAL MEMBER

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 29/11/2016

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR