

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC-II : NEW DELHI

BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER

ITA No.6524/Del/2014
Assessment Year : 2005-06

Shivam Udyog Pvt. Ltd.,
109, First Floor,
9, Sikka Galaxy,
Shreshtha Vihar,
New Delhi.

Vs. ITO,
Ward 8(2),
New Delhi.

PAN : AABCS6866Q

(Appellant)

(Respondent)

Appellant by : None

Respondent by: Shri F.R. Meena, Sr.DR

Date of Hearing : 26.10.2016

Date of Pronouncement: 26.10.2016

ORDER

This appeal by the assessee is directed against the order passed by the CIT(A) on 08.09.2014 in relation to Assessment Year 2005-06.

2. When the matter was called up for hearing today, no one has appeared on behalf of the assessee. The assessee has not filed any adjournment

application also. The notice of hearing sent to the assessee to the address given in Column No.10 of Form No.36 has not been returned unserved. Earlier, on two occasions also when the matter was fixed for hearing none was present on behalf of the assessee. In these circumstances, it appears that the assessee is not interested in prosecuting its appeal. The appeal filed by the assessee is, therefore, liable to be dismissed, for non-prosecution. Our above view finds support from the following decisions:-

1. CIT vs. B.N. Bhattachargee & anr., 118 ITR 461, wherein their Lordships have held:

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

2. Estate of late Tukojirao Holkar vs. CWT, 223 ITR 480 (M.P.), wherein, while dismissing the reference made at the instance of the assessee in default, their Lordships made the following observation:-

“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 reference, the court is not bound to answer the reference.”

3. Commissioner of Income-tax vs. Multiplan India (P.) Ltd, 38 ITD 320 (Del.), wherein the appeal filed by the revenue before the Tribunal, 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 provision of Rule 19 of the Income-tax (Appellate Tribunal) Rules, 1963.

3. Moreover, it is found that the appeal is defective inasmuch as the power of attorney is not filed by the assessee. On this count also the appeal is liable to be dismissed.

4. In the result, the appeal filed by the assessee is dismissed for non-prosecution.

The decision was pronounced in the open court on 26th October, 2016.

Sd/-

(R.S. SYAL)
ACCOUNTANT MEMBER

Dated: 26th October, 2016.

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Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Dy. Registrar, ITAT, New Delhi