

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI I.C.SUDHIR, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No.6052/Del/2013
(Assessment Year: 2009-10)

Harish Kumar Arora, Street No.10, Sharda Nowas, Naini Vhar, Nainital PAN:AIIPA8804A (Appellant)	Vs.	ITO-I, Aayakar Bhawan, Nainital Road, Haldwani, Nainital (Respondent)
--	-----	--

Assessee by :	None
Respondent by:	Sh. T. Vasanthan, Sr. Dr
Date of Hearing	05/05/2016
Date of pronouncement	05/05/2016

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal by the assessee is directed against the order of the Id CIT(A)-II, Dehradun dated 23.07.2013 for the Assessment Year 2009-10.
2. Today, i.e. on 05.05.2016 when the case was called on board, none appeared on behalf of the assessee nor any request for adjournment has been filed before the Tribunal. It seems that the assessee is not interested in prosecuting the appeal; hence, the appeal filed by the assessee is liable to be un-admitted and dismissed for non-prosecution. In our above view, we find support from the following decisions:-
 - (i). In the case of CIT Vs. B.N. Bhattachargee & Another 118 ITR 461 (relevant pages 477 & 478) wherein their Lordships have held that "The appeal does not mean merely filing of appeal but effectively pursuing it."
 - (ii). In the case of Estate of Late Tukoji Rao Holker Vs. CWT 223 ITR 480 (MP) while dismissing the reference made at the instance of assessee in default made following observations 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, this court is not bound to answer the reference.

- (iii). In the case of CIT Vs. Multiplan India Pvt. 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 / applicant, nor any communication for adjournment was received. There was no communication or information as to why revenue choose to remain absent on that date. The Tribunal on the basis of inherent power treated the appeal filed by the revenue as un-admitted in view of Rule 19 of the Appellate Tribunal Rules, 1963.
3. Therefore, keeping in view the above, the appeal filed by the assessee is dismissed for non-prosecution. The assessee, if so advised, shall be free to move this Tribunal praying for recalling of this order and explaining the reasons for non-compliance etc. and if the Bench is so satisfied about the reasons etc, then this order shall be recalled.
4. In the result, the assessee's appeal is dismissed.

Order pronounced in the open court on 05/05/2016.

-Sd/-

**(I.C.SUDHIR)
JUDICIAL MEMBER**

-Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated:05/05/2016
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

**ASSISTANT REGISTRAR
ITAT, New Delhi**