

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

Before Sh. N. K. Saini, Accountant Member

ITA No. 6544/Del/2016 : Asstt. Year : 2008-09

Sanni Kadian, RZ-55, B-Block, Old Roshanpura Extension, Najafgarh, New Delhi-110043	Vs	Income Tax Officer, Ward-43(2), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AMXPK5912G		

Assessee by : None

Revenue by : Sh. T. Vasanthan, Sr. DR

Date of Hearing : 21.09.2017	Date of Pronouncement : 21.09.2017
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ORDER

This is an appeal by the assessee against the order dated 18.11.2016 of Id. CIT(A)-15, Delhi.

2. Earlier this case was fixed for hearing on 14.08.2017 and on the written request of the department, it was adjourned for today i.e. 21.09.2017. Date of hearing was informed to both the parties in the Open Court. However, during the course of hearing nobody was present on behalf of the assessee neither any adjournment was sought. 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,

ØVIGILANTIBUS ET NON DORMIENTIBUS JURA SUB
VENIUNTØ 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 Tukojirao 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 appeal 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 appeal filed by the assessee is dismissed.
(Order Pronounced in the Court on 21/09/2017)

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

Dated: 21/09/2017

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR