

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'C(SMC)' BENCH, KOLKATA**

Before Shri P.M. Jagtap, Accountant Member

**I.T.A. No. 1490/KOL/ 2016
Assessment Year: 2010-2011**

Rajendra Sahadeb Chatterjee,.....Appellant
H Wings, 4th Floor, Madhu Mamata Apartment,
Sagarbhanga, J.P. Avenue,
Durgapur-713 211,
Dist. Burdwan
[PAN: ACLPC 4880 F]

-Vs.-

Assistant Commissioner of Income Tax,.....Respondent
Circle-1, Durgapur,
City Centre, Aayakar Bhawan, Durgapur-713 216

Appearances by:

N o n e , for the assessee

Shri Arindam Bhattacharjee, Addl. CIT, D.R., for the Department

Date of concluding the hearing : July 12, 2017

Date of pronouncing the order : July 12, 2017

O R D E R

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals), Durgapur dated 18.01.2016, whereby he dismissed the appeal of the assessee at the threshold keeping in view the petition filed by the assessee in writing seeking withdrawal of the said appeal.

2. In this case, the appeal filed by the assessee belatedly with a delay of 124 days was initially fixed for hearing before the Tribunal on 18.11.2016. On the said date, it was noted by the Bench that the grounds raised by the assessee were not in proper form and, therefore, a direction was given to the assessee to file the revised grounds before the next date of hearing fixed on 26.12.2016. The assessee, however, did not file the revised grounds and sought adjournment on 26.12.2016. The hearing was accordingly adjourned on 01.03.2017 on which date the assessee again

sought adjournment. Thereafter the hearing was fixed on 05.04.2017 when the assessee was directed by the Bench to file original medical certificate in support of its application for condonation of delay along with affidavit by the next date of hearing fixed on 06.06.2017. The assessee, however, has not complied with the said direction of the Tribunal. Finally the appeal of the assessee was adjourned and fixed on 12.07.2017. On 12.07.2017, i.e. today, the assessee, however, has again sought adjournment on the ground that its Authorized Representative is suffering from Viral Fever. The said application is not supported by Medical Certificate. Even the person present in the Court on behalf of the assessee is not authorized to seek adjournment. Keeping in view all these facts, I am of the view that the assessee is not seriously interested in prosecuting this appeal filed before the Tribunal.

3. The law assists those who are vigilant and not those who sleep over their rights. This principle is embodied in the well known dictum - "vigilantibus, non dormientibus, jura subveniunt". Considering the facts and keeping in mind the provisions of Rule 19(2) of the ITAT Rules as was considered in the case of CIT -vs.- Multiplan India Pvt. Ltd. 38 ITD 320 (Del.) and the judgment of the Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar -vs.- C.W.T. reported in 223 ITR 480, I treat this appeal as unadmitted and dismiss the same for non-prosecution.

4. **In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open Court on July 12, 2017.

Sd/-
(P.M. Jagtap)
Accountant Member

Kolkata, the 12th day of July, 2017

Copies to : (1) **Rajendra Sahadeb Chatterjee,**
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Sagarbhanga, J.P. Avenue,
Durgapur-713 211,
Dist. Burdwan

- (2) **Assistant Commissioner of Income Tax,
Circle-1, Durgapur,
City Centre, Aayakar Bhawan, Durgapur-713 216**
- (3) **Commissioner of Income Tax (Appeals)-Durgapur;**
- (4) **Commissioner of Income Tax ,Kolkata**
- (5) **The Departmental Representative**
- (6) **Guard File**

By order

*Senior Private Secretary,
Head of Office/DDO
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.