

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

**BEFORE SH. I.C. SUDHIR, JUDICIAL MEMBER
AND
SH. O.P. KANT, ACCOUNTANT MEMBER**

ITA No. 4861/Del/2014
Assessment Year: 2011-12

M/s. MSX Mall Pvt. Ltd., C/o- R.K. Tuli & Associates, Chartered Accountants, 11/37, Ground Floor, Old Rajender Nagar, New Delhi	Vs.	DCIT, Circle-6(1), New Delhi
PAN :AABCN8537B		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Sh. Atiq Ahmad, Sr.DR

Date of hearing	15.06.2017
Date of pronouncement	16.06.2017

ORDER

PER O.P. KANT, A.M.:

This appeal, by the assessee, is directed against order of learned Commissioner of Income Tax (Appeal) . IX, New Delhi, dated 26.06.2014 for assessment year 2011-12.

2. During the course of hearing, nobody was present on behalf of the assessee, nor any application for adjournment was filed. Notice of hearing for 15.06.2017 was sent to the assessee by RPAD on 26.04.2017 at the address mentioned in Form No. 36 vide Column No. 10 which has been returned back by the postal authority with the remark "No such company at this address". It is, thus, inferred that the assessee is not interested in prosecution of his appeal, therefore, in our considered opinion, no useful purpose would be served to send the notice again and again on the same address.

3. Considering the facts of the case and keeping in view the provisions of Rule 19(2) of the Income-tax (Appellate Tribunal) Rules, 1963 as were considered in the case of CIT vs. Multiplan India Ltd., (38 ITD 320)(Del), the assessee's appeal is liable to be dismissed for want of prosecution.

3. The Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT (223 ITR 480) has 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. "

4. Similarly, Hon'ble 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.

5. Their Lordships of Hon'ble 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.

6. Respectfully following the view taken in the cases cited supra, we dismiss the above appeal for non-prosecution. Before parting, we add that in case the assessee is serious in pursuing the appeal filed, then it would be at liberty to pray for a recall of this order by moving an appropriate application.

7. In the result, the appeal of the assessee is dismissed for non-prosecution

The decision is pronounced in the open court on 16th June, 2017.

Sd/-
(I.C. SUDHIR)
JUDICIAL MEMBER

Dated: 16th June, 2017.

RK/-

Copy forwarded to:

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

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Asst. Registrar, ITAT, New Delhi