

आयकर अपीलिय अधीकरण, न्यायपीठ – “A” कोलकाता,  
*IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “A” KOLKATA*

Before **Shri Aby.T Varkey, Judicial Member** and  
**Shri Waseem Ahmed, Accountant Member**

**ITA No.481/Kol/2015**  
Assessment Year :2011-12

Joydurga Library 8A, College Row, Kolkta-70009 <b>[PAN No.AACFJ 1253 A]</b>	<b>V/s.</b>	JCIT, Range-37, 3, Govt. Place (West), Kolkata-001
PAN No.		
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri Kalyan Nath, SR-DR
सुनवाई की तारीख/Date of Hearing	10-10-2017
घोषणा की तारीख/Date of Pronouncement	10-10-2017

**आदेश /O R D E R**

**PER Waseem Ahmed, Accountant Member:-**

This appeal filed by the assessee is against the order of Commissioner of Income Tax (Appeals)-12, Kolkata for the Assessment Year 2011-120 dated 26.02.2015.

2. When the matter was called upon for hearing no one appeared on behalf of the assessee, nor any application for adjournment was filed, there was no response from the side of the assessee though the notice of hearing was issued to the assessee by RPAD at the address furnished by the assessee in column 10 of the memo of appeal in form no. 36. From the above, it is inferred that the assessee is not interested in pursuing its case.

3. Considering the facts of the case 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), the assessee's appeal is liable to be dismissed for want of prosecution.

4. The Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukoji Rao 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."*

5. Similarly, Hon'ble Punjab & Haryana High Court in the case of New Diwan Oil Mills vs. CIT (2008) 296 ITR 495) returned the reference as answered since the assessee remained absent and there was not any assistance from the assessee.

6. 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.

7. Respectfully following the view taken in the cases cited supra, we dismiss the appeal of the assessee 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 petition, as per law.

8. **In the result, the appeal filed by the assessee is dismissed *in limine*.**

Order pronounced in the court at the close of the hearing on 10<sup>th</sup> day of October, 2017

Sd/-  
(Aby. T. Varkey)  
(Judicial Member)  
Kolkata,  
\*Dkp

Sd/-  
(Waseem Ahmed)  
(Accountant Member)

दिनांक:- 10/10/2017      कोलकाता ।

**आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-**

1. अपीलार्थी/Appellant-Joydurga Library, 8A, College Row, Kolkata-700 009
2. प्रत्यर्थी/Respondent-JCIT, Range-37, 3, Govt. Place (West), Kolkata-700 001
3. संबंधित आयकर आयुक्त / Concerned CIT      Kolkata
4. आयकर आयुक्त- अपील / CIT (A)      Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary, Head of Office/DDO  
आयकर अपीलीय अधिकरण,  
कोलकाता ।