

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member and
Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. Nos. 1573 & 1574/KOL/ 2014
Assessment Years: 2003-2004 & 2004-2005**

Pradeep Kumar Jhawar,.....Appellant
4, Fairlie Place,
Kolkata-700 001
[PAN: ACPPJ 8809 B]

-Vs.-

Deputy Commissioner of Income Tax,.....Respondent
Central Circle-XXI, Kolkata,
110, Shanti Pally, E.M. Bye Pass,
Aayakar Bhawan Poorva,
Kolkata-700 107

Appearances by:

N o n e, for the assessee
Shri Sallong Yaden, Additional CIT, D.R., for the Department

Date of concluding the hearing : June 07, 2017

Date of pronouncing the order : June 07, 2017

O R D E R

Per Shri P.M. Jagtap, A.M.:

These two appeals filed by the assessee are directed against two separate orders passed by the Id. Commissioner of Income Tax (Appeals), Central-II, Kolkata, both dated 26.05.2014, whereby he confirmed the penalties of Rs.2,13,332/- and Rs.2,57,705/- imposed by the Assessing Officer for assessment years 2003-04 and 2004-05 respectively.

2. In this case, the appeals filed by the assessee were initially fixed for hearing before the Tribunal on 20.03.2017. None, however, appeared on behalf of the assessee on the said date. The hearing, therefore, was

adjourned to 07.06.2017 with a direction to the Registry to send the notice of the said hearing to the assessee at the address given in the appeal memo by Registered Post with A/D. On 07.06.2017, i.e. today, none, however, has appeared on behalf of the assessee nor any application seeking adjournment has been filed. Even the notice sent to the assessee by Registered Post with A/D has come back undelivered from the Postal Authorities with the remark "insufficient address". The assessee thus has not furnished his full address in order to facilitate the service of notice. It appears from this conduct of the assessee that he is not seriously interested in prosecuting these appeals 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, we treat these appeals as unadmitted and dismiss the same for non-prosecution.

4. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced in the open Court on June 07, 2017.

Sd/-
(S.S. Viswanethra Ravi)
Judicial Member

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

Kolkata, the 7th day of June, 2017

Copies to : (1) Shri Pradeep Kumar Jhavar,
4, Fairlie Place,
Kolkata-700 001

- (2) **Deputy Commissioner of Income Tax,
Central Circle-XXI, Kolkata,
110, Shanti Pally, E.M. Bye Pass,
Aayakar Bhawan Poorva,
Kolkata-700 107**
- (3) *Commissioner of Income Tax (Appeals), Central-II,
Kolkata;*
- (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.