

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH : KOLKATA

[Before Hon'ble Shri A.T.Varkey, JM & Sri M.Balaganesh, AM ]

I.T.A Nos. 2227 & 2228/Kol/2014

Assessment Year : 2008-09

Avtara Singh Chera  
Durgapur  
[PAN : AIOPC 8684 Q]  
(Appellant)

-vs.-

I.T.O., Ward-1(4)  
Durgapur.

(Respondent)

For the Appellant : None

For the Respondent : None

Date of Hearing : 14.06.2017

Date of Pronouncement : 07.07.2017

**ORDER**

**Per M.Balaganesh, AM**

1. These appeals of the assessee arise out of the orders of the Learned Commissioner of Income Tax (Appeals) Durgapur [ in short the Id CITA] in Appeal Nos.69 & 83/CIT(A)/DGP/2011-12 dated 08.09.2014 & 17.09.2014 passed against the orders passed by the Income Tax Officer, Ward-1(4), Durgapur [in short the Id. AO] under section 144 of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') dated 31.12.2010 for the Asst Year 2008-09.

2. These appeals were listed for hearing on 19.04.2017 and was adjourned to 14.06.2017. When the case was called for hearing today i.e. 14.06.2017 none appeared on behalf of the assessee nor any adjournment was moved on behalf of the assessee. Notice was sent to the assessee by RPAD at the address given by the assessee in Form No.36. The notice was returned unserved as the addressee was not found in the address given in Form No.36. It means that assessee is not interested to prosecute the appeal. Hence the appeal filed by the assessee is liable to be dismissed for non prosecution. For this view we find support from the following decisions :-

“1. In the case of CIT vs B.N.Bhattachrgee and another, reported in 118 ITR 461 [relevant pages 477 & 478] wherein their Lordships have held that :

*“The appeal does not mean merely filing of the appeal but effectively pursuing it.”*

2. In the case of Estate of late Tukoji Rao Holkar vs CWT; 223 ITR 480 (MP) while dismissing the reference made at the instance of the assessee in default made following observation in their order :

*“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.”*

3. In the case of Commissioner of Income-tax vs Multiplan India (P) Ltd.: 38 ITD 320(Del), the appeal filed by the revenue before the Tribunal, which was fixed for hearing. But on the date of hearing nobody represented the revenue/appellant nor any communication for adjournment was received. There was no communication or information as to why the revenue chose to remain absent on that date. The Tribunal on the basis of inherent powers, treated the appeal filed by the revenue as unadmitted in view of the provisions of Rule 19 of the Appellate Tribunal Rules, 1963.

3. The assessee, if so desires, shall be free to move this Tribunal praying for recalling this order and explaining reasons for non-compliance etc. then this order may be recalled.

4. In the result, the appeals of the assessee are dismissed for non-prosecution.

**Order pronounced in the Court on 07.07.2017**

Sd/-  
[A.T.Varkey]  
Judicial Member

Sd/-  
[ M.Balaganesh]  
Accountant Member

Dated : 07.07.2017

[RG PS]

Copy of the order forwarded to:

1. Avtara Singh Chera, Kwality Complex, G.T.Road, Bhiringhee, Durgapur-713213.
2. I.T.O., Ward-1 (4), Durgapur.
3. CIT(A)-Durgapur 4. CIT-Durgapur.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary  
Head of Office/ D.D.O., ITAT Kolkata Benches