

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI H.S.SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 2555/Del/2016
(Assessment Year: 2011-12)

M/s. AN Construction, C/o. Ahsaan Colony, Diamond Road, Moshin E-Azam Colony, Diamond Road, Rampur PAN:AAJFA1468M	Vs.	ITO-I, Rampur
(Appellant)		(Respondent)

Assessee by :	None
Revenue by:	Amt Aparna Karan, CIT DR
Date of Hearing	20/11/2017
Date of pronouncement	21/11/2017

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This is an appeal filed by the assessee against the order of the Id CIT(A)-Moradabad dated 25.02.2016 for the Assessment Year 2011-12.
2. Today, i.e. on 20.11.2017 when this case was called on board, none appeared on behalf of the assessee nor any request for adjournment has been filed before the Tribunal. It seems that the assessee is not interested in prosecuting the appeal; hence, the appeal filed by the assessee is liable to be un-admitted and dismissed for non-prosecution. In our above view, we find support from the following decisions:-
 - (i). In the case of CIT Vs. B.N. Bhattachargee & Another 118 ITR 461 (relevant pages 477 & 478) wherein their Lordships have held that "The appeal does not mean merely filing of appeal but effectively pursuing it."
 - (ii). In the case of Estate of Late Tukoji Rao Holker Vs. CWT 223 ITR 480 (MP) while dismissing the reference made at the instance of assessee in default made following observations 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, this court is not bound to answer the reference.
 - (iii). In the case of CIT Vs. Multiplan India Pvt. 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 / applicant, nor any communication for adjournment was received. There was no communication or information as to why revenue choose to remain absent on that date. The Tribunal on the basis of inherent power treated the appeal filed by the revenue as un-admitted in view of Rule 19 of the Appellate Tribunal Rules, 1963.

3. Therefore, keeping in view the above, the appeal filed by the assessee is dismissed for non-prosecution. The assessee, if so advised, shall be free to move this Tribunal praying for recalling of this order and explaining the reasons for non-compliance etc. and if the Bench is so satisfied about the reasons etc, then this order shall be recalled.
4. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 21/11/2017.

-Sd/-

(H.S.SIDHU)
JUDICIAL MEMBER

-Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 21/11/2017
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi