

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH : KOLKATA

[Before Hon’ble Sri N.V.Vasudevan, JM & Dr. Arjun Lal Saini, AM]

I.T.A No.270/Kol/2016
Assessment Year : 2008-09

M/s. Dalha Exports Pvt.Ltd.
Kolkata
[PAN : AABCD 1164 G]
(Appellant)

-vs.-

I.T.O., Ward-7(3)
Kolkata
(Respondent)

For the Appellant : None
For the Respondent : Shri Arindam Bhattacharjee, Addl.CIT

Date of Hearing : 27.11.2017.

Date of Pronouncement : 27.11.2017.

ORDER

Per N.V.Vasudevan, JM

This is an appeal by the Assessee against the order dated 21.01.2016 of C.I.T.(A)-16, Kolkata relating to A.Y.2008-09.

2. Notice of hearing of this appeal was sent to the assessee by registered post with AD at the address given in Form No.36 by the assessee. The same has however been returned unserved with the endorsement as “Gone away” by the postal authorities.. When the case was called for hearing none appeared on behalf of the assessee. It appears that assessee is not interested in prosecuting this 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.Bhattacharjee 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 desired, 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 appeal of the assessee is dismissed for non-prosecution.

Order pronounced in the Court on 27.11.2017.

Sd/-
[Dr.A.L.Saini]
Accountant Member

Sd/-
[N.V.Vasudevan]
Judicial Member

Dated : 27.11.2017.
[RG Sr.PS]

Copy of the order forwarded to:

1. M/s. Dalha Export Pvt. Ltd., 44B, Samsul Huda Road, Kolkata-700017.
2. I.T.O., Ward-7(3), Kolkata.
3. C.I.T.(A)-16, Kolkata 4. C.I.T.-3, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

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

