

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
Before Shri Kul Bharat, Hon'ble Judicial Member and
Shri Manish Borad, Hon'ble Accountant Member

ITA No. 1056/Ind/2016
A.Y. 2009-10

M/s Madhya Pradesh Kshetra
Vidyut Vitaran Company Ltd.
Bhopal
PAN – AADCM 6799G

::: Appellants

Vs

Dy. Commr. of Income tax 2(1)
Bhopal

::: Respondent

Appellant by	None
Respondent by	Shri Lalchand CIT
Date of hearing	4.12.2017
Date of pronouncement	4.12.2017

O R D E R

PER SHRI MANISH BORAD, AM

This appeal filed by the assessee emanates from the order of the learned CIT(A)-2, Bhopal, dated 22.7.2016.

2. At the time of hearing, none is present for the assessee whereas Shri Lalchand, learned Sr. CIT DR is present for the revenue.

3. This appeal was filed by the assessee. This appeal was earlier fixed for hearing on 26.9.2017 but on that date the assessee did not appear. However, taking a lenient view, this appeal was adjourned by the Bench and was directed to be fixed on 4.12.2017. On this date also, the assessee did not present. However, Shri Lalchand, learned Senior CIT DR was present for the revenue.

3. From the above conduct of the assessee, it seems that the assessee is not interested in pursuing the appeal. It was the duty of the assessee to make necessary arrangements for effective representation on the appointed date. Mere filing of appeal is not enough rather it requires effective prosecution also. In view of these facts, we are of the view that the appeal of the assessee is liable for

dismissal. Our view is supported by the following judicial pronouncements:

- i) In the case of CIT v. B.N. Bhattachargee and another, reported in 118 ITR 461 (relevant pages 477 and 478) wherein their Lordships have held that:

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

- ii) In the case of Estate of late Tukoji Rao Holkar v. CWT, 223 ITR 480 (M.P.) 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.”

- iii) In the case of CIT v. Multiplan India 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 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. In the result, the appeal filed by the assessee is dismissed for non-prosecution.

Pronounced in open Court on 4th December, 2017.

Sd/-

sd/-

(KUL BHARAT)
JUDICIAL MEMBER

(MANISH BORAD)
ACCOUNTANT MEMBER

4th December, 2017

M/s M.P. Vidyut Vitaran Company
ITA No. 1056/Ind/2016