

आयकर अपीलीय अधीकरण, न्यायपीठ – “D” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “D” KOLKATA*

Before **Shri Waseem Ahmed, Accountant Member** and
Shri S.S.Viswanethra Ravi, Judicial Member

ITA No.564-565/Kol/2016
Assessment Years:2009-10 & 2011-12

M/s H.L. Shaw & Others (HUF), 66,BB.K. Pal Avenue, Kolkata-700005 [PAN No.AACHH 4719 M]	बनाम / V/s.	ACIT, Circle-42/43, Kolkata
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

आवेदक की ओर से/By Assessee	None
राजस्व की ओर से/By Revenue	Shri Arindam Bhattacharjee, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	01-01-2018
घोषणा की तारीख/Date of Pronouncement	05-01-2018

आदेश /O R D E R

PER Waseem Ahmed, Accountant Member:-

Both appeal by the assessee are directed against the order of Commissioner of Income Tax (Appeals)-13, Kolkata by separate order on even dated 30.12.2015 pertain to assessment years 2009-10 and 2011-12 respectively.

2. Both appeals last fixed for hearing on 11.11.2017 and when the matter was called on for hearing, there was filed an adjournment petition from the side of the assessee. Hence, the hearing was adjourned to next Bench on today i.e. 01.01.2018. When the matter was called on for hearing, no one appeared on behalf of the assessee nor any application for adjournments filed. From the above, it is inferred that the assessee is not interested in pursuing its case.

3. Considering the facts of the case and keeping in view the provisions of rule 19(2) of the Income-tax Appellate Tribunal Rules as were considered in the case of

CIT vs. Multiplan India Ltd., (38 ITD 320)(Del), the assessee's appeal is liable to be dismissed for want of prosecution.

4. The Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT (223 ITR 480) has held as under:

"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."

5. Similarly, Hon'ble Punjab & Haryana High Court in the case of New Diwan Oil Mills vs. CIT (2008) 296 ITR 495) returned the reference an answered since the assessee remained absent and there was not any assistance from the assessee.

6. Their Lordships of Hon'ble Supreme Court in the case of *CIT vs. B. Bhattachargee & Another* (118 ITR 461 at page 477-478) held that the appeal does not mean, mere filing of the memo of appeal but effectively pursuing the same.

7. Respectfully following the view taken in the cases cited (supra), we dismiss the appeal of the assessee for non-prosecution. Before parting, we add that in case the assessee is serious in pursuing the appeal filed, then it would be at liberty to pray for a recall of this order by moving an appropriate petition, as per law.

8. **In the result, both appeal of assessee stand dismissed in *limine*.**

Order pronounced in open court on 05/01/2018

Sd/-

(न्यायिक सदस्य)

(S.S.Viswanethra Ravi)

Judicial Member

*Dkp, Sr.P.S

दिनांक:- 05/01/2018 कोलकाता / Kolkata

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. आवेदक/Assessee-M/s H.L. Shaw & Others (HUF), 66, B.K. al Avenue, Kolkata-05

2. राजस्व/Revenue-ACIT, Circle-42/43,Kolkata 3. संबंधित आयकर आयुक्त / Concerned CIT

4. आयकर आयुक्त- अपील / CIT (A) 5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata

6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary

Head of Office/DDO

आयकर अपीलीय अधिकरण, कोलकाता