

**THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B", HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No. 1311/Hyd/2016
Assessment Year: 2010-11**

Narasimha Reddy Koduru, vs. Income-tax Officer,
Hyderabad. Ward – 2(1), Hyderabad.

PAN – ADFPK 0909A

(Appellant)

(Respondent)

Assessee by : None
Revenue by : Shri K. Srinivas Reddy

Date of hearing : 05-03-2018
Date of pronouncement : 16-03-2018

ORDER

PER S. RIFAUR RAHMAN, A.M.:

This appeal of the assessee is directed against the order dated 05/01/ 2016 of CIT(A) - 10, Hyderabad, for AY 2010-11.

2. On perusal of record, we find that this case was adjourned on number of occasions from 12/01/2017 to 12/01/2018 due to some or the other reasons as mentioned in the order sheet. When the appeal is posted for hearing today i.e. on 05/03/2018, which was informed to both the parties in the open court, none appeared on behalf of the assessee nor there is a request for adjournment of the case. In these circumstances, we are of the view that the assessee is not interested in prosecuting its appeal. It has been held by the Hon'ble Supreme Court in the case of B.N. Bhattachargee & Anr., 118 ITR 461 that appeal does not mean only filing of memo of appeal but also pursuing it effectively. In cases where the assessee does not want to pursue the appeal, Court/Tribunal have inherent power to dismiss the appeal for non-prosecution as held by Hon'ble High court of Mumbai in the case of M/s Chemipol Vs. Union of India in Excise

appeal No. 62 of 2009. Therefore, respectfully following the decision of the Tribunal in the case of Multiplan (India) Ltd., (38 ITD 320) and Madhya Pradesh High Court in Late Tukoji Rao Holkar (223 ITR 480), we dismiss this appeal of the assessee for want of prosecution.

3. Even on merits, it is observed that the assessee, Director of M/s KNR Contractors Pvt. Ltd., filed his return of income on 15/10/2010 for the AY 2010-11 declaring total income of Rs. 1,61,47,110/-. A survey u/s 133A was conducted in the premises of the company M/s KNR Contractors Pvt. Ltd. on 02/11/2010. During the survey proceedings, the assessee admitted additional income of Rs. 1,40,00,000/- in his individual capacity. Since the assessee had admitted Rs. 1.4 crore as additional income for AY 2010-11, which had escaped assessment, AO issued notice u/s 148 on 15/07/2013 and subsequently, notice u/s 143(2) dated 30/12/2013 was issued and served on the assessee. In response to the said notice, the assessee filed the information as called for.

3.1 During the scrutiny proceedings, assessee retracted from his admission of additional income vide his disposition dated 20/03/2014 stated that he was under pressure and was not physically and mentally sound while admitting additional income. He stated that the real profits from contracts vary from 5.5% to 7.39% as reflected in the return of income. According to AO, assessee failed to produce any material evidences, books of account, invoice/vouchers etc. for verification of the claims of expenditure. The AO therefore opined that the assessee had shown business profits @ 3.64% of gross receipts which is very low compared to the assessee's own admission of profits from 5.5% to 7.39%. Accordingly, the additional income admitted by the assessee during the survey proceedings, was taken by the AO for arriving at reasonable figures of profit. Thus, the AO determined the total income of the assessee at Rs. 3,01,47,110/- (Rs. 1,61,47,110 + 1,40,00,000). On appeal, the CIT(A) confirmed the action of the AO.

4. Since, there is no Representation from the assessee and the findings of the CIT(A) are uncontroverted, we uphold the order of CIT(A) and dismiss the appeal of the assessee.

5. In the result, the appeal filed by the assessee is dismissed.

Pronounced in the open court on 16th March, 2018.

**Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER**

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Hyderabad, Dated: 16th March, 2018.

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Copy to:-

- 1) *Narasimha Reddy Koduru, C/o Shri AV Raghuram, Advocate,
610 Babukhan Estate, Basheerbagh, Hyderabad – 500 001.*
- 2) *ITO, Ward – 2(1), IT Towers, AC Guards, Hyd.*
- 3) *CIT(A) – 10, Hyd.*
- 4) *CIT (IT & TP) Hyd.*
- 5) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) *Guard File*