

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.359/Kol/2017
Assessment Year:2012-13

Sanmath Height Consultancy Pvt. Ltd., 9/12 Lal Bazar Street, 2 nd Floor, Kolkata-700001 [PAN No.AAQCS 1530 A]	बनाम / V/s.	Income Tax Officer, Ward-5(2), Ayakar Bhawan, P-7, Chowringhee Square, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri G. Haangshing, CIT-DR
सुनवाई की तारीख/Date of Hearing	19-03-2018
घोषणा की तारीख/Date of Pronouncement	19-03-2018

आदेश /O R D E R

PER Waseem Ahmed, Accountant Member:-

This appeal by the assessee for the assessment year 2012-13 is directed against the order of Commissioner of Income Tax (Appeals)-2, Kolkata dated 15.11.2016.

2. Today when the matter was called on for hearing, there was no response from the side of the assessee nor any adjournment application was filed by the assessee though notice of hearing was sent to assessee through RPAD. Further, we also find that assessee had also not appeared before the First Appellate Authority and Ld. CIT(A) passed ex parte order. 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 Tukojiroo 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 unanswered 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, appeal of assessee stands dismissed in *limine*.**

Order pronounced in the court at the close of the hearing i.e. 19th March, 2018.

Sd/-

(न्यायिक सदस्य)

(S.S.Viswanethra Ravi)

Judicial Member

*Dkp, Sr.P.S

दिनांक:- 19/03/2018

कोलकाता / Kolkata

Sd/-

(लेखा सदस्य)

(Waseem Ahmed)

Accountant Member

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

1. अपीलार्थी/Appellant-Sanmath Height Consultancy Pvt. Ltd. 9/12 Lal Bazar St. 2nd Floor, Kolkata-700 001
2. प्रत्यर्थी/Respondent-ITO Ward-5(2), Ayakar Bhawan, P-7, Chowrighee Square, Kolkata-69
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