

**IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH KOLKATA
BEFORE SHRI A. T.VARKEY, JM & DR. A.L.SAINI, AM**

ITA No.10/Kol/2015
(Assessment Year: 2009-10)

Golam Quddus Mondal D-201, T. G. Road, Ramdashti, Kolkata – 700 024.	Vs.	JCIT, Range- 53, Kolkata Aayakar Bhawan, 2, Gariahat Road, Kolkata-700031.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AEYPM 3536 P		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Appellant by : None
Revenue by : Shri S. Dasgupta, Addl. CIT(DR)

सुनवाई की तारीख / **Date of Hearing** : **15/03/2018**

घोषणा की तारीख/**Date of Pronouncement**: **23/03/2018**

आदेश / O R D E R

Per Dr. Arjun Lal Saini, AM:

The captioned appeal filed by the assessee, pertaining to assessment year 2009-2010, is directed against the order passed by Id. Commissioner of Income Tax (Appeals)- XXXIII, Kolkata dated 31.07.2014.

2. This case was listed for hearing before the Tribunal on 15.03.2018 and for this assessee was informed. Today i.e. on 15.03.2018 when the case was called on board, none appeared on behalf of the assessee nor any request for adjournment has been filed before the Tribunal despite the service of notice upon the assessee. It seems that the assessee is not interested in prosecuting his appeal; hence, the appeal filed by the assessee is liable to be dismissed, for non-prosecution. In our above view, we find support from the following decisions:

1. In the case of CIT vs. B.N. Bhattachargee 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 Tukojirao Holkar vs. 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.”

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 un-admitted in view of the provisions of Rule 19 of the Appellate Tribunal Rules, 1963.

4. 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.

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

Order pronounced in the open court on this 23/03/2018.

Sd/-
(A. T. Varkey)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(A. L. Saini)

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata;

Dated: 23/03/2018

RS, SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Golam Quddus Mondal
2. प्रत्यर्थी / The Respondent.- JCIT, Range- 53, Kolkata
3. आयकर आयुक्त(अपील) / The CIT(A), Kolkata.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

//True Copy//

By Order

Senior Private Secretary,
Head of Office/D.D.O,
I.T.A.T, Kolkata Benches,
Kolkata.