

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.224(Asr)/2017
Assessment Year:2010-11

Gurlabh Rai Batra
S/o Sham Lal Batra
Kotkapura Road, Muktsar

Vs. Income Tax Officer
Ward-II(2), Muktsar

PAN:ABLPB1793P
(Appellant)

(Respondent)

Appellant by: None
Respondent by: Sh. Charan Dass (DR)

Date of hearing: 03.04.2018
Date of pronouncement: 12.04.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Assessee/Appellant, on feeling aggrieved against the order dated 22.02.2017 passed by the Ld. CIT(A), Bathinda, in appeal No.289/CIT(A)/BTI/15-16, by which the Ld. CIT(A) on non-prosecution dismissed the appeal of the assessee in limine.

2. In the instant case, the assessee has paid Appeal fee to the tune of Rs. 500/- only whereas the requisite Appeal fee is 10000/- and there is deficiency of 9500/- and communication of the defect was sent to the Assessee and notices have been issued to address given in Form no. 36 of the appeal, for fixing the appeal for hearing through speed post on 30.08.2017, 01.01.2018 & 03.04.2018. However, none of the notices have been served through speed post as the same have been returned by the postal department with remarks "refused" {*returned to sender*}.

Till date neither the defects has been cured by the Assessee nor services of notices have been effected and in the aforesaid eventuality, we do not have option except to dismiss the appeal of the assessee in limine. It is trite to say that *pristine maxim* **Vigilantibus Non Dormientibus Jura Subveniunt**, which defines that Law assists those who are vigilant and not those who sleep over their rights, has appropriate application in the instant case, because it seems that the assessee is not interested to pursue his appeal reason best known to him

On the aforesaid observation and circumstances, the appeal of the assessee is liable to be dismissed in limine.

3. However, the assessee shall be at liberty to pray for recall of order by curing the defect and explaining the reason for non-prosecution of the appeal.

4. In the result, the appeal filed by the assessee is dismissed in limine.

Order pronounced in the open Court on 12.04.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated: 12.04.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) Gurlabh Rai Batra, Muktsar
- (2) The ITO, Ward-II(2), Muktsar
- (3) The CIT(A), Bathinda
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order