

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC": DELHI**

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

**ITA. No. 160/Del/2018
Assessment Year 2011-12**

Sh. Lilu Ram C/o: GAA & Co., C.As 1354 P, Basement, Jarsha Road Sector 31-32, Gurgaon 122 001 Haryana PAN: AJYPR0147G	vs.	ITO, Ward 2(5) Gurgaon
(Appellant)		(Respondent)

For Assessee :	None.
For Department :	Shri B.R.Mishra, Sr. D.R.

Date of Hearing :	13.06.2018
Date of Pronouncement :	13.06.2018

ORDER

This appeal by assessee has been directed against the order of Ld. CIT(A), Gurgaon dated 04.10.2017 for the A.Y. 2011-12.

2. None appeared on behalf of the assessee despite notifying the date of hearing through Regd. Post. It therefore appears that assessee is no more interested in prosecuting the appeal, and the appeal of assessee is liable to be dismissed as 'unadmitted'.

3. The law aids those who are vigilant, not those who sleep upon their rights. This principle is embodied in well known dictum, "VIGILANTIBUS ET NON DORMIENTIBUS JURA SUB VENIUNT". Considering the facts 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), I treat this appeal as unadmitted.

4. Similar view has been taken by the Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT (223 ITR 480) wherein it has been 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, I dismiss the appeal for non-prosecution.

Order pronounced in the open Court on 13.06.2018.

**Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER**

Dated : the 13th June, 2018

**gmu*

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

- TRUE COPY -

By Order,

**ASSISTANT REGISTRAR
ITAT, Delhi Benches**