

**आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक**  
**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK**  
**BEFORE SHRI N.S.SAINI, AM & SHRI PAVAN KUMAR GADALE, JM**

आयकर अपील सं./ITA No.182/CTK/2016  
(निर्धारण वर्ष / Assessment Year :2011-2012)

Bikash Infra and Marketing (P) Ltd., N-3-256, IRC Village, Nayapalli, Bhubaneswar-751015	Vs.	JCIT Range-2, Bhubaneswar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AADCB 8224 H</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : None  
राजस्व की ओर से /Revenue by : Shri Kunal Singh, CITDR  
सुनवाई की तारीख / Date of Hearing : 24/08/2017  
घोषणा की तारीख/Date of Pronouncement 28/08/2017

**आदेश / O R D E R**

**Per Shri Pavan Kumar Gadale, JM:**

The assessee has filed an appeal against the order of CIT(A)-1, Bhubaneswar, passed in ITAppeal No.0394/2015-16, dated 18.2.2016, u/s.143(3) of the Income Tax Act.

2. This appeal came for hearing today i.e. on 24.08.2017. The notice was sent to the assessee for hearing by registered post with AD on 21.07.2017 to the address given by the assessee in column no.10 of Form No.36. However no one was present on behalf of the assessee on the date of hearing. It means that assessee is not interested to prosecute the appeal. Hence, the appeal filed by the assessee is liable to be dismissed for non prosecution. For this view, we find support from the following decisions :-

*"1. In the case of CIT vs B.N.Bhattachrgee 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 (MP) 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 unadmitted in view of the provisions of Rule 19 of the Appellate Tribunal Rules, 1963.

3. Considering the above judicial pronouncements, we dismiss the appeal of the assessee for non-prosecution.

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, appeal filed by the assessee is dismissed for non-prosecution.

Order pronounced in the open court on this 28/08/2017.

**Sd/-**

**(N. S. SAINI)**

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated

**Sd/-**

**(PAVAN KUMAR GADALE)**

न्यायिक सदस्य / JUDICIAL MEMBER

28/08/2017

प्र. कु. मि / PKM, Senior Private Secretary

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

1. अपीलार्थी / The Appellant-  
Bikash Infra and Marketing (P) Ltd.,  
N-3-256, IRC Village,  
Nayapalli, Bhubaneswar-751015
2. प्रत्यर्थी / The Respondent-  
JCIT, Range-2, Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT, Cuttack
6. गार्ड फाईल / Guard file.

आदेशानुसार / BY ORDER,

सत्यापित प्रति //True Copy//

**(Senior Private Secretary)**

आयकर अपीलीय अधिकरण, कटक / ITAT, Cuttack