

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI G.D. AGRAWAL, HON'BLE PRESIDENT
&
SHRI K.N. CHARY, JUDICIAL MEMBER**

**ITA No-5636/Del/2015
(Assessment Year: 2010-11)**

Sh. Rahul Bahuchar, 2449 Pocket-2, Sector-C, Vasant Kunj, Delhi PAN AAIPB7709H	vs	Deputy CIT Circle -3 (1), New Delhi
Assessee by	None	
Revenue by	Sh. Kumar Pranav, Sr DR	

Date of Hearing	18.09.2018
Date of Pronouncement	18.09.2018

ORDER

PER K. NARSIMHA CHARY, J.M.

This is an appeal filed by the assessee against the order dated 18.06.2015 passed by the Commissioner of Income Tax (Appeals)-2, New Delhi for A.Y. 2010-11.

2. When this matter is called today, nobody is present on behalf of the assessee. Record reveals that on 03.07.2018 the Ld. AR of the assessee sought time on the ground of personal inconvenience and the matter was adjourned for today. However, today neither assessee nor his Ld AR is present. We understand absence of the assessee, either in person or through authorized

representative, only shows that the assessee is not interested in prosecuting appeal to be disposed of on merits.

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 SUBVENIUNT". 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), we 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, we dismiss the appeal for non-prosecution.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 18.09.2018

Sd/-
(G.D. AGRAWAL)
PRESIDENT

Sd/-
(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Dated: 18.09.2018

Neha

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	19.09.2018
Date on which the typed draft is placed before the dictating Member	19.09.2018
Date on which the typed draft is placed before the Other Member	19.09.2018
Date on which the approved draft comes to the Sr. PS/PS	19.09.2018
Date on which the fair order is placed before the Dictating Member for pronouncement	19.09.2018
Date on which the fair order comes back to the Sr. PS/PS	19.09.2018
Date on which the final order is uploaded on the website of ITAT	19.09.2018
Date on which the file goes to the Bench Clerk	19.09.2018
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	