

आयकर अपीलिय अधीकरण, न्यायपीठ – “D” कोलकाता,
*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH “D” KOLKATA*

Before **Shri S.S.Godara, Judicial Member** and
Dr. A.L. Saini, Accountant Member

ITA No.2098/Kol/2017
Assessment Year :2012-13

M/s Barbrik Tracon Pvt. Ltd. 59, Kali Krishna Tagore Street, Kolkata-07 [PAN NO.AACB 1480 P]	V/s.	Income Tax Officer Ward-5(3), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-69
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Shri G. Mallikarjuna CIT-DR
सुनवाई की तारीख/Date of Hearing	26-09-2018
घोषणा की तारीख/Date of Pronouncement	28-09-2018

आदेश /O R D E R

PER S.S.Godara, Judicial Member:-

This assessee's appeal for assessment year 2012-13 challenges correctness of Commissioner of Income Tax (Appeals)-2 Kolkata's order dated 05.09.2016, passed in case No.146/CIT(A)-2/2015-16, in proceedings u/s. 143(3) of the Income Tax Act, 1961.

2. Today when the case was called for hearing none appeared on behalf of the assessee nor was any application for an adjournment filed by the assessee in spite of issue of notice by RPAD. It appears that the assessee is not serious in prosecuting this 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.Bhattacharjee 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."

3. 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."

4. 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.

5. We observe that if the Assessee is advised to file appropriate application for recalling the order on just cause it will be decided in accordance with law.

6. In the result, the appeal of the Assessee is dismissed for non-prosecution.

Order pronounced in the open court 28/09/2018

Sd/-

(लेखा सदस्य)

(Dr. A.L. Saini)

(Accountant Member)

Kolkata,

*Dkp, Sr.P.S

दिनांक:- 28/09/2018 कोलकाता ।

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-M/s Barbrik Tracon Pvt. Ltd. 59, Kali Krishna Tagore Street, Kolkata-007
2. प्रत्यर्थी/Respondent-ITO, Wd-5(3), Aayakar Bhawan, P-7, Chowringhee Sq. Kolkata-69
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

By order/आदेश से,

/True Copy/

Sr. Private Secretary, Head of Office/DDO

आयकर अपीलीय अधिकरण,

कोलकाता ।