

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH : KOLKATA

[Before Hon’ble Shri J.Sudhakar Reddy, AM]

I.T.A No. 1534/Kol/2018

Assessment Year : 2005-06

Subrata Mukherjee
[PAN: AGXPM 6680 R]
(Appellant)

. -vs- ITO, Ward-2(2), Hooghly
(Respondent)

For the Appellant : None

For the Revenue : Shri Saurabh Kumar, Addl. CIT Sr. DR

Date of Hearing : 30.10.2018

Date of Pronouncement : 16.11.2018

ORDER

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-6, Kolkata, (hereinafter the ‘Id. CIT (A)’), dt. 25.04.2018, passed u/s 143(3) of the Income Tax Act, 1961 (the ‘Act’), relating to the Assessment Year 2005-06.

2. Today when the case was called for hearing none appeared on behalf of the assessee nor was any application for an adjournment was filed by the assessee in spite of issue of notice. 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 I 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.”

2. In the case of Estate of late Tukoji Rao 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. I 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.

4. In the result, the appeal of the assessee is dismissed for non-prosecution.

Order pronounced in the Court on 16.11.2018

Sd/-
[J.Sudhakar Reddy]
Accountant Member

Dated : 16.11.2018

SB, Sr. PS

Copy of the order forwarded to:

1. Subrata Mukherjee, C/O, S.N. Ghosh & Associates, Advocates "Sevem Brothers Lodge", P.O.- Buroshibtala, P.S. Chinsurah, Dist. Hooghly Pin-712105.
2. ITO, Ward-2(2), Hooghly, Aayakar Bhawan, Hooghly, G.T. Road, Khadian More, P.O. Chinsurah, P.S. Chinsurah, Dist. Hooghly, Pin-712101.
- 3..C.I.T.(A)- , Kolkata 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches