

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Vice-President (KZ)
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 1631/KOL/2017
Assessment Year: 2012-2013**

***M/s. Class Commercial Pvt. Limited,.....Appellant
23/1, Principal Khudiram Bose Road,
Kolkata-700 006
[PAN: AAICS 6023 N]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-7(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700 069***

Appearances by:

None, for the Appellant

Shri Sankar Halder, Addl. CIT, Sr. D.R., for the Respondent

Date of concluding the hearing : November 28, 2018

Date of pronouncing the order : November 28, 2018

O R D E R

Per Shri P.M. Jagtap, Vice-President (KZ):-

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-16, Kolkata dated 30.03.2017 passed ex-parte, whereby he dismissed the appeal of the assessee.

2. In this case, the appeal of the assessee was fixed for hearing initially on 17.10.2018. The Bench, however, did not function on 17.10.2018 and accordingly the hearing was adjourned to 28.11.2018. On 28.11.2018, i.e. today, none, however, has appeared on behalf of the assessee nor any application seeking adjournment has been filed despite the fact that the notice of the said hearing was given to the assessee through Notice Board. It was also noted that there was a similar

compliance on the part of the assessee before the Assessing Officer during the course of assessment proceedings as well as before the Id. CIT(Appeals) during the course of appellate proceedings resulting into ex-parte orders. It appears from the non-compliant and non-cooperative attitude of the assessee that it is not seriously interested in prosecuting this appeal filed before the Tribunal.

3. The law assists those who are vigilant and not those who sleep over their rights. This principle is embodied in the well known dictum - "vigilantibus, non dormientibus, jura subveniunt". Considering the facts and keeping in mind the provisions of Rule 19(2) of the ITAT Rules as was considered in the case of CIT -vs.- Multiplan India Pvt. Ltd. 38 ITD 320 (Del.) and the judgment of the Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar -vs.- C.W.T. reported in 223 ITR 480, we treat this appeal as unadmitted and dismiss the same for non-prosecution.

4. **In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open Court on November 28, 2018.

Sd/- (S.S. Viswanethra Ravi) Judicial Member	Sd/- (P.M. Jagtap) Vice-President (KZ)
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Kolkata, the 28th day of November, 2018

Copies to :

- (1) **M/s. Class Commercial Pvt. Limited,**
23/1, Principal Khudiram Bose Road,
Kolkata-700 006
- (2) **Income Tax Officer,**
Ward-7(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700 069
- (3) **Commissioner of Income Tax (Appeals)-16, Kolkata,**
- (4) **Commissioner of Income Tax-** ,

- (5) *The Departmental Representative*
(6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.