

**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. 1338/KOL/2017
Assessment Year: 2012-2013**

***Jagabandhu Traders Pvt. Limited,.....Appellant
33/34, Sanatan Mistry Land, Ground Floor,
Salkia, Howrah-711 106
[PAN: AACCJ 4804 E]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-13(2), Kolkata,
110, Shanti Palli, Opposite Ruby Hospital,
Kasba, E.M. Bye-pass, Kolkata-700 107***

Appearances by:

None, for the Appellant

Shri Anand Kumar Kedia, CIT, D.R., for the Respondent

Date of concluding the hearing : November 29, 2018

Date of pronouncing the order : November 29, 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 ld. Commissioner of Income Tax (Appeals)-5, Kolkata dated 25.10.2016 passed ex-parte dismissing the appeal of the assessee.

2. In this case, the appeal of the assessee was fixed for hearing initially on 13.09.2018. None, however, appeared on behalf of the assessee at the time of hearing on the said date. In order to give one more opportunity to the assessee, the hearing was adjourned to 29.11.2018 with a direction to the Registry to send the notice of the said hearing to the assessee by Registered Post with A/D at the address given in the

appeal memo. On 29.11.2018, i.e. day, none, however, has appeared on behalf of the assessee nor any application seeking adjournment has been filed. Even the notice sent to the assessee by Registered Post with A/D at the address given in the appeal memo has come back undelivered from the Postal Authorities with the remark "not known". The assessee thus has not even bothered to furnish its complete/correct address in order to facilitate the service of notice. It is also observed that there was a similar non-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 subvenient". 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 29, 2018.

Sd/-
(S.S. Viswanethra Ravi)
Judicial Member

Sd/-
(P.M. Jagtap)
Vice-President (KZ)

Kolkata, the 29th day of November, 2018

- Copies to :
- (1) **Jagabandhu Traders Pvt. Limited,
33/34, Sanatan Mistry Land, Ground Floor,
Salkia, Howrah-711 106**
 - (2) **Income Tax Officer,
Ward-13(2), Kolkata,
110, Shanti Palli, Opposite Ruby Hospital,
Kasba, E.M. Bye-pass, Kolkata-700 107**
 - (3) **Commissioner of Income Tax (Appeals)-5, 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.