

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

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No.6182/Del/2015  
Assessment Year: 2009-10**

**Baru Singh,  
C/o O.P. Sapra & Associates,  
C-763, New Friends Colony,  
New Delhi.  
PAN: EXFPS8672L**

vs **Income-tax Officer,  
Ward-2(1), Muzaffarnagar.**

Appellant

Respondent

**Assessee by           None  
Revenue by           Shri Surender Pal, Sr. DR**

**Date of Hearing           04.12.2018  
Date of Pronouncement   04.12.2018**

**ORDER**

**PER K. NARASIMHA CHARY, JM**

This is an appeal by the Assessee against the orders dated 2.03.2015 in Appeal No.165/2014-15/MZR passed by the Ld. Commissioner of Income- tax (Appeals), Muzaffarnagar (for short hereinafter called "Ld. CIT(A)").

2. When the matter is called today for hearing, there is no representation on behalf of the assessee. On 17.4.2018 also when the matter was called for hearing,

no one was present on behalf of the assessee. The bench directed to issue the notice by registered post. The notice sent to the assessee by registered post to the address furnished in Form No.36. When the notice is sent to proper address of the assessee as provided by them in Form No.36 through Registered mail with postage prepaid, if the assessee was to be found therein, the notice would have been served. If for any reason the assessee is absent temporarily, it is for the assessee to make arrange with The Postal Department either to deliver it to some other person, or to re-direct it to an address where the assessee could be found or to detain the mail till the assessee comes back and claims the same. Even if the assessee shifts from that place, it is for the assessee to notify the new address either to the Revenue or to the Tribunal or to the Postal Department. Obviously the assessee had not taken any of these steps and the non-service of notice in this matter is solely attributable to the conduct of the assessee. Since there has been no representation for the assessee either in person or through his AR, it means that assessee is not interested in prosecuting the appeal. We are left with no option but to hold that the appeal of the assessee is liable to be dismissed for non prosecution.

3. We find support from the decision in Commissioner of Income-tax vs Multiplan India (P) Ltd.: 38 ITD 320(Del) wherein there was no representation for the appellant in the appeal filed by the revenue before the Tribunal, on the date of hearing, nor any communication for adjournment was received as to why the appellant had chosen 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. Respectfully following the said decision, the appeal filed by the assessee is dismissed for non-prosecution.

4. The assessee, if so desire, shall be free to move this Tribunal praying for recalling this order and explaining reasons then this order may be recalled.
5. In the result, the appeal of the assessee is dismissed for non-prosecution.

**Order pronounced in the Open Court on 4<sup>th</sup> November, 2018.**

Sd/-

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

sd/-

**(K. NARASIMHA CHARY)  
JUDICIAL MEMBER**

Dated: 4<sup>th</sup> November, 2018  
VJ

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Draft dictated on	4.12.2018
Draft placed before author	4.12.2018
Draft proposed & placed before the second member	
Draft discussed/approved by Second Member.	
Approved Draft comes to the Sr.PS/PS	
Kept for pronouncement on	
Date of uploading order on the website	
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	