

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "D", KOLKATA
BEFORE SH. S.S.VISWANETHRA RAVI, JUDICIAL MEMBER &
SH. A.L.SAINI, ACCOUNTANT MEMBER**

ITA No.2265/KOL/2017
(ASSESSMENT YEAR-2007-08)

Jitendra Nath Bag, Ratan Kumar Guha, Advocate, At.-Kshudiram Nagar, Midnapore, Dist.- Paschim Medinipur, Pin-721101. PAN-AHCPB0582H	vs	ITO, Ward-1(1), Midnapore, Keranitola, Paschim Midnapore, PIN-721101.
(Appellant)		(Respondent)
Appellant by		None
Respondent by		Sh.S. Halder, Sr. DR
Date of Hearing		05.12.2018
Date of Pronouncement		19.12.2018

ORDER

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

This appeal filed by the assessee against the order dated 30.10.2013 passed by CIT(A)-XXXVI, Kolkata for AY 2007-08.

2. At the time of hearing, we find no representation on behalf of the assessee nor any application filed seeking adjournment. It is noted that the assessee filed the appeal before CIT(A), challenging the action of the AO imposing penalty u/s 271(1)(c) of the Income Tax Act, 1961 (in short "Act"). Before CIT(A), there was no representation on behalf of the assessee and the CIT(A) decided the issue against the assessee by confirming the penalty imposed by the AO. Before us, it is noted that the Registry, ITAT, Kolkata issued notice dated 01.10.2018 intimating the fixation of date of hearing on 24.10.2018 by RPAD. However, no one representing the assessee appeared on 24.10.2018 and this Tribunal for non-appearance of the assessee, adjourned the appeal to 05.12.2018 i.e. today. Accordingly, Registry, ITAT again issued a notice dated

13.10.2018 intimating the assessee the date of fixation of hearing on 05.12.2018. But, however, we find no representation on behalf of the assessee. Therefore, it appears that the assessee is not interested in prosecuting the appeal 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 Halkar 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 for non prosecution.

Order pronounced in the open court on 19.12.2018.

Sd/-

(A.L.SAINI)
ACCOUNTANT MEMBER

Date:- 19.12.2018

Amit Kumar

Copy forwarded to:

1. Appellant- Jitendra Nath Bag, Ratan Kumar Guha, Advocate, At.- Kshudiram Nagar, Midnapore, Dist.-Paschim Medinipur, Pin-721101.
2. Respondent- ITO, Ward-1(1), Midnapore, Keranitola, Paschim Midnapore, PIN-721101.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata
5. DR: ITAT -Kolkata Benches

Sd/-

(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

By order

AR/H.O.O
ITAT, KOLKATA