

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

**Before Shri P.M. Jagtap, Vice-President (KZ)
and Shri A.T. Varkey, Judicial Member**

**I.T.A. No. 1259/KOL/2017
Assessment Year: 2012-2013**

***Ganeshvani Commotrade Pvt. Limited,.....Appellant
16, Brindaban Dutta Lane, Salkia,
Howrah-711 106
[PAN: AAECG 6273 C]
-Vs.-***

***Income Tax Officer,.....Respondent
Ward-13(2), Kolkata,
110, Shanti Pally, Opp. Ruby Hospital,
Kasba, E.M. By-Pass,
Kolkata-700 107***

Appearances by:

N o n e, for the Appellant

Shri Radhey Shyam, CIT, D.R, for the Respondent

Date of concluding the hearing : January 14, 2019

Date of pronouncing the order : January 14, 2019

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 22.11.2016.

2. In this case, the appeal filed by the assessee was initially fixed for hearing on 10.12.2018. None, however, appeared on the said date on behalf of the assessee. In order to give one more opportunity to the assessee, the hearing was adjourned to 14.01.2019 with the direction to the Registry to send the notice of the said hearing to the assessee at the address given in the appeal memo by Registered Post with A/D. On 14.01.2019, i.e. today, 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 has come back undelivered from the Postal Authority with the remark "not known".

It is also observed that there was a similar non-compliance on the part of the assessee even during the course of assessment proceedings before the Assessing Officer as well as during the course of appellate proceedings before the Id. CIT(Appeals) resulting into passing of ex-parte orders. Keeping in view this casual, negligent and non-compliant attitude of the assessee, it appears that the assessee 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 January 14, 2019.

**Sd/-
(A.T. Varkey)
Judicial Member**

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

Kolkata, the 14th day of January, 2019

- Copies to :*
- (1) ***Ganeshvani Commotrade Pvt. Limited,
16, Brindaban Dutta Lane, Salkia,
Howrah-711 106***
 - (2) ***Income Tax Officer,
Ward-13(2), Kolkata,
110, Shanti Pally, Opp. Ruby Hospital,
Kasba, E.M. By-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.