

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 767/CHD/2018

निर्धारण वर्ष / Assessment Year : 2014-15

Sh. Rajesh Aggarwal, 30-A, Aggar Nagar, Ferozepur Road, Ludhiana	बनाम	The DCIT, Circle 7, Ludhiana
स्थायी लेखा सं./PAN No: AAYPA5297P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

राजस्व की ओर से/ Revenue by : Shri N.D. Gupta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 20.12.2018

उदघोषणा की तारीख/Date of Pronouncement : 20.12.2018

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 26.03.2018 of the Commissioner of Income Tax (Appeals)-3, Ludhiana [hereinafter referred to as CIT(A)].

2. None appeared on behalf of the assessee despite service of notice. It is further noted that even before the CIT(A) the assessee had failed to appear and the impugned order of the CIT(A) is an ex-parte order. It appears that the assessee is no more interested in perusing its appeal. The law aids those who are vigilant, not those who sleep upon their rights. This principle is embodied in well-known dictum, "VIGILANTIBUS ET NON DORMIENTIBUS JURA SUB VENIUNT". Considering the facts and keeping in view the provisions of rule

19(2) of the Income-tax Appellate Tribunal Rules as were considered in the case of CIT vs. Multiplan India Ltd., (38 ITD 320)(Del), we treat this appeal as unadmitted.

3. Similar view has been taken by the Hon'ble Madhya Pradesh High Court in the case of Estate of Late 'Tukojirao Holkar vs. CWT' (223 ITR 480) wherein it has been held as under:

“if the party, at whose instance the reference is made, fails to appear at the hearing, or fails in taking steps for preparation of the paper books so as to enable hearing of the reference, the court is not bound to answer the reference.”

4. Similarly, Hon'ble Punjab & Haryana High Court in the case of 'New Diwan Oil Mills vs. CIT' (2008) 296 ITR 495 returned the reference unanswered since the assessee remained absent and there was not any assistance from the assessee.

5. Their Lordships of Hon'ble Supreme Court in the case of 'CIT vs. B. Bhattachargee & Another' (118 ITR 461 at page 477-478) held that the appeal does not mean, mere filing of the memo of appeal but effectively pursuing the same.

6. So, by respectfully following the view taken in the cases cited supra, we dismiss this appeal for non-prosecution.

7. In the result, appeal of the assessee is dismissed in limine.

Order dictated and pronounced in the Open Court immediately on completion of hearing.

Sd/-
(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)
लेखा सदस्य/ Accountant Member

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य/ Judicial Member

Dated : 20.12.2018

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar