

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: "G", NEW DELHI**

**BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No.5340/Del/2015  
Assessment Year: 2009-10

M/s. Yograj Infrastructure Ltd., B-63, Pachimi Marg, Vasant Vihar, New Delhi	<b>Vs.</b>	ACIT, Circle-18(1), New Delhi
<b>PAN :AAACY1898B</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	None
Respondent by	Shri S.S. Rana, CIT(DR)

Date of hearing	23.01.2019
Date of pronouncement	23.01.2019

**ORDER**

**PER O.P. KANT, A.M.:**

This appeal, by the assessee, is directed against order of CIT(A)-22, New Delhi, dated 05.06.2015 for assessment year 2011-12.

**2.** When the case was called upon, none put in appearance on behalf of the assessee despite issue of notice for hearing through RPAD at the address furnished by the assessee in column 10 of the memo of appeal in form no. 36, nor any application for adjournment of hearing has been filed on behalf of the assessee. It gives an impression that assessee is not interested in pursuing its appeal.

**3.** Considering the facts of the case and keeping in view the provisions of Rule 19(2) of the Income-tax (Appellate Tribunal) Rules, 1963 as were considered in the case of CIT vs. Multiplan India Ltd., (38 ITD 320)(Del), the assessee's appeal is liable to be dismissed for want of prosecution.

**4.** The Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT (223 ITR 480) has 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."*

5. 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.

6. 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.

7. Respectfully following the view taken in the cases cited supra, we dismiss the appeal for non-prosecution. Before parting, we add that in case the assessee is serious in pursuing the appeal filed, then it would be at liberty to pray for a recall of this order by moving an appropriate petition and also by taking appropriate action to correct the defects, if any, pointed out. The Co-ordinate Bench considering the petition, if so satisfied with the explanation and the actions of curing the defects, may recall this order.

8. In the result, the appeal of the assessee is dismissed for non-prosecution.

***Order is pronounced in the open court on 23<sup>rd</sup> January, 2019.***

Sd/-  
**[BHAVNESH SAINI]**  
**JUDICIAL MEMBER**

Sd/-  
**[O.P. KANT]**  
**ACCOUNTANT MEMBER**

Dated: 23<sup>rd</sup> January, 2019.

RK/-[d.t.d.s]

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi