

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**Before Sh. N. S. Saini, Accountant Member
And**

Sh. N. K. Choudhry, Judicial Member

ITA No. 714/Asr./2017 : Asstt. Year : 2012-13

The Amritsar District Cooperative Milk Producers Union Ltd., Milk Plant Verka, Batala Road, Amritsar	Vs	Asstt. Commissioner of Income Tax, Circle-IV, Amritsar
(APPELLANT)		(RESPONDENT)
PAN No. AAAAA0503F		

Assessee by : None

Revenue by : Sh. Yashender Garg, DR

Date of Hearing :20.02.2019

Date of Pronouncement : 20.02.2019

ORDER

Per N. S. Saini, AM:

This is an appeal filed by the assessee against the order of CIT(A)-2, Amritsar dated 31.08.2017.

2. The assessee has filed adjournment application for adjournment of hearing which was rejected by the Bench. The Bench was of the view that the appeal of the assessee can be disposed off in the absence of the assessee, considering the submission of the Id. DR. Therefore, the appeal was heard *ex-parte* qua the assessee and disposed off on the basis of materials available on record.

3. It is observed from the order of the CIT(A) that the appeal was fixed for hearing on 16.02.2017, 08.03.2017, 16.03.2018, 21.03.2017, 20.07.2017, 31.07.2017 and 31.08.2017 when the

assessee did not present itself for hearing. Therefore, he dismissed the appeal of the assessee for want of prosecution.

4. When the Bench inquired from the DR that whether he has any objection to restore the matter back to the file of the CIT(A) for adjudicating the appeal of the assessee on merits, the Ld. DR submitted that he had no objection to the same.

5. After hearing the Ld. DR and perusing the materials available on record, we find that in the instant case, the appeal of the assessee was dismissed by the Ld. CIT(A) as the assessee failed to appear before him on the various dates fixed by him. In our considered opinion, even if the assessee fails to appear before the CIT(A), the CIT(A) has to decide the appeal of the assessee on merit on the basis of materials available on record so that the assessee can meet its case in appeal before higher forum. Therefore, we are of the considered view that the matter should be restored back to the file of the CIT(A) for adjudicating the appeal of the assessee on merit to which the DR has no objection. Hence, we set aside the order of the CIT(A) and remand the matter back to file of the CIT(A) to adjudicate the appeal of the assessee on merit after allowing reasonable and proper opportunity of hearing to the assessee.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

(Order Pronounced in the Open Court on 20/02/2019)

Sd/-
(N. K. Choudhry)
Judicial Member
Dated: 20/02/2019

Subodh

Sd/-
(N. S. Saini)
Accountant Member