

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH : KOLKATA

[Before Hon’ble Shri A.T. Varkey, JM & Sri M. Balaganesh, AM,]

I.T.A No.880/Kol/2017  
Assessment Year: 2012-13

M/s. Chirag Vyappar Pvt. Ltd.  
[PAN :AADCC 4060 G]  
(Appellant)

-vs.-

ITO, Ward-3(2), Kolkata  
  
(Respondent)

For the Appellant : None  
For the Respondent : Shri Sankar Halder, JCIT, Sr.DR  
  
Date of Hearing : 03.04.2019  
Date of Pronouncement : 03.04.2019

**ORDER**

**Per A.T. Varkey, JM**

This appeal of the assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-12, Kolkata [in short the ld CITA] in Appeal No.10170/CIT(A)-12/Ward-3(2)/2015-16 dated 28.02.2017 passed against the order passed by the ITO, Ward-3(2), Kolkata [in short the ld. AO] under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the ‘Act’) dated 23.03.2015 for the Assessment Year 2012-13.

2. This appeal was fixed for hearing on several dates i.e. 31.12.18, 19.02.2019 & 03.04.2019. On 03.04.2019, i.e. today, when the case was called up for hearing, none appeared on behalf of the assessee and no adjournment petition was preferred by the assessee. It means that assessee is not interested to prosecute the appeal. Hence the appeal filed by the assessee is liable to be dismissed for non prosecution. For this view we find support from the following decisions :-

“1. In the case of CIT vs B.N.Bhattacharjee and another, reported in 118 ITR 461 [relevant pages 477 & 478] wherein their Lordships have held that :

*“The appeal does not mean merely filing of the appeal but effectively pursuing it.”*

2. In the case of Estate of late Tukoji Rao Holkar vs CWT; 223 ITR 480 (MP) while dismissing the reference made at the instance of the assessee in default made following observation in their order :

*“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.”*

3. In the case of Commissioner of Income-tax vs Multiplan India (P) Ltd.: 38 ITD 320(Del), the appeal filed by the revenue before the Tribunal, which was fixed for hearing. But on the date of hearing nobody represented the revenue/appellant nor any communication for adjournment was received. There was no communication or information as to why the revenue chose to remain absent on that date. The Tribunal on the basis of inherent powers, treated the appeal filed by the revenue as unadmitted in view of the provisions of Rule 19 of the Appellate Tribunal Rules, 1963.

3. The assessee, if so desires, shall be free to move this Tribunal praying for recalling this order by explaining with proper reasons for non-compliance, then this order may be recalled.

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

**Order pronounced in the Court on 03.04.2019.**

Sd/-  
[M.Balaganesh]  
Accountant Member

Sd/-  
[A.T. Varkey]  
Judicial Member

Dated: 03.04.2019  
RS, Sr.PS

*M/s. Chirag Vyappar Pvt. Ltd*  
*I.T.A No.880/Kol/2017*  
*Assessment Year: 2012-13*

Copy of the order forwarded to:

- 1.M/s. Chirag Vyappar Pvt. Ltd., 14, Roop Chand Roy Street, 1<sup>st</sup> Floor, Kol-7..
2. ITO, Ward-3(2), Kolkata.
- 3.CIT(A)-
4. CIT- Kolkata
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Assistant Registrar  
ITAT Kolkata Benches