

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.428(Asr)/2019
Assessment Year:2014-15

M/s Apex Fibre India Ltd.
#1854, Arya Samaj Chowk,
Bathinda.

Vs.

Income Tax Officer
Ward-1(5), Vijaypur, Samba

[PAN:AABCL 0479Q]
(Appellant)

(Respondent)

Appellant by: Sh. P.N. Arora (Ld. Adv.)
Respondent by: Sh. Charan Dass (Ld. DR)

Date of hearing: 14.06.2019
Date of pronouncement: 14.06.2019

ORDER

PER BENCH:

This is an appeal has been preferred by the Assessee/Appellant against the order dated 11.04.2019 passed by the Ld. CIT(A), Jammu u/s. 250(6) of Income Tax Act, 1961 (hereinafter called as the 'Act') , whereby the Ld. CIT(A) dismissed the appeal of the assessee on non-prosecution.

2. From the order it reflects that though the Ld. CIT(A) fixed the cases for hearing on various dates, however the Assessee neither attended the appellate proceedings nor filed any adjournment application and in that eventuality it was observed by the Ld. CIT(A) that the appellant is not interested in pursuing its appeals, therefore, he was pleased to dismiss the appeals.

3. We have given our thoughtful consideration to the order impugned herein. The Appellant did not bother himself to appear and co-ordinate with appellate proceedings even after affording various opportunities. Although the instant appeal

of the assessee is liable to be dismissed in order to give effect to the principle that law does not assist the person who is inactive and sleeps over his rights by allowing them when challenged or disputed to remain dormant, without asserting them in a court of law. The, principle which forms the basis of this rule is expressed in the maxim *vigilantibus, non dormientibus, jura subveniunt* (Law assists those who are vigilant and not those who sleep over their rights), but even a vigilant litigant is prone to commit mistakes. As the aphorism to err is human and is more a practical notion of human behavior than an abstract philosophy, the unintentional lapse on the part of a litigant should not normally cause the doors of the judicature permanently closed before him. The effort of the court should not be one of finding means to pull down the shutters of adjudicatory jurisdiction before a party who seeks justice, on account of any mistake committed by him, but to see whether it is possible to entertain his grievance if it is genuine, therefore, considering the peculiar facts and circumstances that the Ld. CIT(A) decided the appeal on non-furnishing of relevant and essential material required for proper adjudication of the appeal which was supposed to be provided by the assessee who remained un-heard due to his own fault, therefore in order to follow the principle of natural justice, we feel it appropriate and proper to remand back the instant case to the file of the Ld. CIT(A) to decide afresh on merits, suffice to say, while affording proper and reasonable opportunity of being heard to the assessee/appellant.

We also feel it appropriate to direct the Assessee/Appellant to extend its full co-operation and participation in the appellate proceedings before the Ld. CIT(A) as and when required and in case of further default, the assessee shall not be subjected to any leniency.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 14.06.2019.

Sd/-
(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated:14.06.2019
/PK/ Ps.

Copy of the order forwarded to:

- (1) M/s Apex Fibre India Ltd.
#1854, Arya Samaj Chowk, Bathinda.
- (2) The ITO, Ward-1(5), Vijaypur Samba.
- (3) The CIT(A), Jammu
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order