

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "A" HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMEBR**

**ITA No. 2009/Hyd/2017  
Assessment Year: 2014-15**

Excell Media Pvt Ltd,  
Hyderabad

vs. ITO  
Ward – 17(2),  
Hyderabad.

PAN – AAACE6553D

(Applicant)

(Respondent)

Assessee by : None  
Revenue by : Shri Dinesh Paruchuri

Date of hearing : 01-05-2019  
Date of pronouncement : 12-06-2019

**ORDER**

**PER P. MADHAVI DEVI, J.M.:**

This is assessee's appeal for the A.Y 2014-15 against the order of the Ld. CIT(A)-5, Hyderabad dated 22.09.2017.

2. In this appeal, the assessee is aggrieved by the disallowance of the employee's contribution to PF and ESI collected by the assessee but not remitted to the Government account. The disallowance was made u/s 36(1)(va) of the Act. This appeal is filed with a delay of six days and an application for condonation of delay is filed along with the affidavit. The case was fixed for hearing on 17.05.2018 but none appeared on behalf of the assessee even though the vakalat was already filed on behalf of the assessee by Mr. P. Murali Krishna on 01.12.2017.

Thereafter, the appeal was again fixed for hearing on 01.01.2019 and none appeared on behalf of the assessee. One of the counsels Mr. A.V. Raghu Ram who was present in the court undertook to inform the counsel and at his request the case was adjourned to 01.05.2019. However, on 01.05.2019 none appeared on behalf of the assessee. Therefore, presuming that the assessee is not interested to pursue the appeal and respectfully following the decisions Hon'ble Supreme Court in the case of B.N. Bhattachargee & Anr., 118 ITR 461 that appeal does not mean only filing of memo of appeal but also pursuing it effectively and also respectfully following the decision of the Hon'ble High court of Mumbai in the case of M/s Chemipol Vs. Union of India in Excise appeal No. 62 of 2009, wherein it was held that where the assessee does not want to pursue the appeal, Courts/Tribunals have inherent power to dismiss the appeal for non-prosecution, the appeal of the assessee is dismissed for default. Even on merits, no decision to rebut the findings of the CIT(A) has been brought to our notice. Therefore, the assessee's appeal is dismissed.

3. In the result, the appeal filed by the assessee is dismissed.

Pronounced in the open court on 12<sup>th</sup> June, 2019

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 12<sup>th</sup> June, 2019

*KRK*

- 1) *Excell Media Pvt Ltd, 8-2-268/N/28/A, Quinn House, Road No. 2, Banjara Hills, Hyderabad.*
- 2) *ITO, Ward – 17(2) Hyderabad.*
- 3) *CIT(A)-5, Hyderabad.*
- 4) *Pr.CIT-5, Hyderabad.*
- 5) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) *Guard File.*