

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, AMRITSAR
(VIRTUAL COURT)**

**BEFORE: SHRI. N.K. SAINI, VICE PRESIDENT AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

ITA No. 350/Asr/2019
Assessment Year: 2008-09

M/s Umer Latief Kakaw,
Buchpora, Srinagar

Vs.

Income Tax Officer
Ward-3(3), Srinagar

[PAN No: AOOKP 8538H]
(Appellant)

(Respondent)

Appellant by : None

Respondent by: Sh. Charan Dass (Ld. D.R.)

Date of hearing: 17.08.2020

Date of pronouncement: 17.08.2020

ORDER

PER N.K. CHOUDHRY, JM:

This appeal has been preferred by the Assessee against the order dated 26-03-2019, passed by the Ld. CIT(A)-1, Amritsar u/s. 250(6) of the Income Tax Act, 1961 (hereinafter called as the 'Act') for the aforesaid assessment year, whereby the Ld. CIT(A) dismissed the appeal of the Assessee, on non-prosecution.

2. From the impugned order it reflects that though the Ld. CIT(A) fixed the case for hearing on various dates, however on most of the dates, the Assessee neither attended the appellate proceedings nor filed any adjournment application and therefore

the Ld. CIT(A) while observing that the appellant/assessee is not interested in pursuing its appeal, dismissed the same.

3. We have given our thoughtful consideration to the order impugned herein. The Appellant most of the times, did not bother itself 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 facts that **the Ld. CIT(A) did not pass the order under challenge on merit**, hence we feel it appropriate and proper to remand back the instant case to the file of the Ld. CIT(A) for decision afresh on merits, while affording proper and

reasonable opportunity of being heard to the assessee/appellant, in order to follow the principle of natural justice.

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 17.08.2020.

Sd/-
(N. K. Saini)
VICE PRESIDENT

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

Dated: 17.08.2020

GP/Sr.PS.

Copy of the order forwarded to:

- (1) Appellant
- (2) The Respondent
- (3) The CIT (A)
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order