

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member  
and Shri S.S. Viswanethra Ravi, Judicial Member**

**I.T.A. No. 1331 /KOL/ 2013  
Assessment Year: 2008-2009**

***Pallabi Vinimay Pvt. Limited,.....Appellant  
(Now Merged with Arnold Holdings Limited),  
255, Rabindra Sarani, 4<sup>th</sup> Floor, Room No. 3,  
Kolkata-700 007  
[PAN : AAACP 3537 A]***

**-Vs.-**

***Commissioner of Income Tax-II, Kolkata,.....Respondent  
Aayakar Bhawan, 3<sup>rd</sup> Floor,  
P-7, Chowringhee Square,  
Kolkata-700 069***

**Appearances by:**

*N o n e, for the assessee*

*Shri Rajat Subhra Biswas, CIT, D.R., for the Department*

Date of concluding the hearing : March 03, 2016

Date of pronouncing the order : March 03, 2016

**O R D E R**

**Per Shri P.M. Jagtap :-**

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax, Kolkata-II, Kolkata dated 28.03.2013 passed under section 263 of the Income Tax Act, 1961 for the assessment year 2008-09.

2. In this case, none has appeared on behalf of the assessee at the time of hearing fixed today, i.e. on 03.03.2016 nor any application seeking adjournment has been filed. Even the notice sent to the assessee by Registered Post with A/D to the address given in the appeal memo has been returned back by the postal authorities undelivered with the remark "addressee moved/not available". It appears that the assessee has not bothered to furnish the correct address in order to enable the Registry to serve the notice of hearing and this conduct of the assessee shows that it

is not seriously interested in prosecuting this appeal filed before the Tribunal.

3. The law assists those who are vigilant and not those who sleep over their rights. This principle is embodied in the well known dictum - "vigilantibus, non dormientibus, jura subveniunt". Considering the facts and keeping in mind the provisions of Rule 19(2) of the ITAT Rules as was considered in the case of CIT -vs.- Multiplan India Pvt. Ltd. 38 ITD 320 (Del.) and the judgment of the Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar -vs.- C.W.T. reported in 223 ITR 480, we treat this appeal as unadmitted and dismiss the same for non-prosecution.

4. **In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open Court on March 03, 2016.

Sd/-

Sd/-

**(S.S. Viswanethra Ravi)**  
**Judicial Member**

**(P.M. Jagtap)**  
**Accountant Member**

*Kolkata, the 3<sup>rd</sup> day of March, 2016*

Copies to : (1) *Pallabi Vinimay Pvt. Limited,*  
*(Now Merged with Arnold Holdings Limited),*  
*255, Rabindra Sarani, 4<sup>th</sup> Floor, Room No. 3,*  
*Kolkata-700 007*

(2) *Commissioner of Income Tax-II, Kolkata,*  
*Aayakar Bhawan, 3<sup>rd</sup> Floor,*  
*P-7, Chowringhee Square,*  
*Kolkata-700 069*

(3) *Commissioner of Income Tax, Kolkata-II, Kolkata*

(4) *The Departmental Representative*

(5) *Guard File*

*By order*

*Assistant Registrar,*  
*Income Tax Appellate Tribunal,*  
*Kolkata Benches, Kolkata*

**Laha/Sr. P.S.**