

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC-2" NEW DELHI  
BEFORE SHRI S.V. MEHROTRA : ACCOUNTANT MEMBER

ITA no. 2512/Del/2015

A.Y. 2010-11

Laksons Footwear Pvt. Ltd., Vs. ACIT Circle –II,  
Plot no. 265, Sector-24, Faridabad.  
Faridabad.

PAN: AAaCL 3114 G

( Appellant )

( Respondent )

Appellant by : None  
Respondent by : Shri N.K. Bansal Sr. DR  
  
Date of hearing : 21-07-2016  
Date of order : 28/07-2016.

**ORDER**

This is assessee's appeal against the order dated 13.02.2015, passed by the Id. CIT(A), Faridabad relating to A.Y. 2010-11.

2. None put in appearance on behalf of the assessee at the hearing fixed for 21-07-2016. The envelope containing the notice of hearing, sent through registered A.D. post, at the address furnished by assessee in column no. 10 of the memo of appeal, has been returned unserved with the postal remarks "left". No new address, if any, has been furnished by the assessee. It gives an impression that assessee is not interested in pursuing the appeal filed.

3. Rule 19 of the ITAT Rules, 1963 prescribes the conditions about admissibility of appeal for hearing in following terms:

*"19(1) The Tribunal shall notify to the parties specifying the date and place of hearing of the appeal and send a copy of the memorandum of appeal to the respondent either before or with such notice.*

*(2)The issue of the notice referred to in sub-rule (1) shall not by itself be deemed to mean that the appeal has been admitted."*

4. The ITAT in the case of CIT Vs. Multiplan (India) Pvt. Ltd. 38 ITD 320 (Del.) had occasion to consider the aspect of admissibility of appeal for hearing by observing as under:

*“4. A judicial body has certain inherent powers. Decisions are taken for the purpose of proper and expeditious disposal of the appeals in present climate of mounting arrears partly due to appeals being filed without proper application of mind to facts and law and also at times for altogether extraneous considerations. Therefore, on the basis of inherent powers the Tribunal treated the appeal as unadmitted. The provisions of Rule 19 of the Appellate Tribunal Rules support such action by stating that mere issue of notice could not by itself mean that appeal had been admitted. This rule only clarified the position. There is justification for rule 19(2). When the appeal is presented the same is accepted. Thereafter the concerned Clerk in registry verifies whether accompanying documents are received or not and if not a memo is issued calling for the papers which are also required to be attached to appeal memo. But at no stage usually the scrutiny is made on points whether the appeal memo and contents really conform to various Appellate Tribunal Rules or is it a legally valid appeal under section 253 of the Act. Those points if arising can be considered only at a time of hearing. And that is why the rule prescribes that mere issue of notice does not mean appeal is admitted. This according to us, is the Significance of rule 19(2).*

.....

*5. It was submitted at the time of hearing of the Reference Application that the language of Rule 24 of the Appellate Tribunal Rules required the Tribunal to dispose of the appeal on merits after hearing the respondent. It may be stated here that the Tribunal has not passed any order on the basis of Rule 24 of the Tribunal Rules which presupposes admission of appeal under section 253 of the Act besides there was no question of hearing the respondent since none could be notified because of incorrect address given by the appellant and proper particulars not furnished so far.”*

5. Thus, the ITAT in the case Multiplan (India) Pvt. Ltd. (supra) has held that issuance of notice under Rule 19 of the ITAT Rules, 1961, itself does not make the appeal admissible. Non-attendance makes the appeal defective and the assessee has

to correct the same by giving proper explanation. Respectfully following the order of ITAT in the case of Multiplan (India) Pvt. Ltd. (supra), I hold the appeal to be unadmitted with a liberty to assessee to move application explaining its non appearance before the ITAT on the appointed date.

6. In these terms, the appeal is technically dismissed as unadmitted.

Order pronounced in open court on 28-07-2016.

Sd/-  
( S.V. MEHROTRA )  
ACCOUNTANT MEMBER

Dated: 28-07-2016.

**MP:** Copy to :

1. Assessee
2. AO
3. CIT
4. CIT(A)
5. DR