

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

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

**I.T.A. No. 2495/KOL/ 2013
Assessment Year: 2004-2005**

Rajib Saha,.....Appellant
40, Tala Park Avenue,
Kolkata-700 037
[PAN: ABGPS 2756 L]

-Vs.-

Deputy Commissioner of Income Tax,.....Respondent
Circle-40, Kolkata,
18, Rabindra Sarani,
Kolkata-700 001

Appearances by:

N o n e, for the assessee

Shri Rajat Kumar Kureel, JCIT, Sr. D.R., for the Department

Date of concluding the hearing : June 16, 2016

Date of pronouncing the order : June 16, 2016

O R D E R

Per Shri P.M. Jagtap :-

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-XXIV, Kolkata dated 07.08.2013, whereby he dismissed the appeal filed by the assessee before him as barred by limitation.

2. In this case, the appeal filed by the assessee was initially fixed for hearing before the Tribunal on 13.05.2016. However none appeared on behalf of the assessee on the said date and the hearing, therefore, was adjourned to 16.06.2016. On 16.06.2016, i.e. today, none has appeared on behalf of the assessee nor any application seeking adjournment has been filed despite the fact that the notice of the said hearing was sent to the assessee by Registered Post with A/D at the address given in the appeal memo. Keeping in view this non-cooperation and non-compliant attitude

of the assessee, it appears that he 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 June 16, 2016.

Sd/-
(S.S. Viswanethra Ravi)
Judicial Member

Sd/-
(P.M. Jagtap)
Accountant Member

Kolkata, the 16th day of June, 2016

Copies to : (1) ***Shri Rajib Saha,***
40, Tala Park Avenue,
Kolkata-700 037

(2) ***Deputy Commissioner of Income Tax,***
Circle-40, Kolkata,
18, Rabindra Sarani,
Kolkata-700 001s

(3) ***Commissioner of Income-tax, Kolkata;***

(4) ***CIT(Appeals)-XXIV, Kolkata;***

(4) ***The Departmental Representative***

(5) ***Guard File***

By order

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