

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER

ITA No.444/Del/2016
Assessment Year : 2010-11

Raghubir Singh (Prop),
R.S. Constructions Co.,
207, Vikas Nagar,
NFL Township,
Panipat.

Vs.

ITO,
Ward-3,
Panipat.

PAN : AVDPS3936R

(Appellant)

(Respondent)

Appellant by : None

Respondent by: Shri V.K. Prasanth, Sr.DR

Date of Hearing : 19.01.2017

Date of Pronouncement: 19.01.2017

ORDER

This appeal by the assessee is directed against the order passed by the
CIT(A) on 15.12.2015 in relation to Assessment Year 2010-11.

2. When the matter was called up for hearing today, no one has appeared on behalf of the assessee. The assessee has not filed any adjournment application also. The notice of hearing sent to the assessee has not been returned unserved. Earlier, the matter got adjourned a couple of times at the written request of the assessee and due to non-appearance of the assessee. In these circumstances, it appears that the assessee is not interested in prosecuting his appeal. The appeal filed by the assessee is, therefore, liable to be dismissed, for non-prosecution. Our above view finds support from the following decisions:-

1. CIT vs. B.N. Bhattachargee & anr., 118 ITR 461, wherein their Lordships have held:

“The appeal does not mean merely filing of the appeal but effectively pursuing it.”

2. Estate of late Tukojirao Holkar vs. CWT, 223 ITR 480 (M.P.), wherein, while dismissing the reference made at the instance of the assessee in default, their Lordships made the following observation:-

“If the party, at whose instance the reference is made, fails to appear at the hearing, or fails in taking steps for preparation of the reference, the court is not bound to answer the reference.”

3. Commissioner of Income-tax vs. Multiplan India (P.) Ltd, 38 ITD 320 (Del.), wherein the appeal filed by the revenue before the

Tribunal, was fixed for hearing. But on the date of hearing nobody represented the revenue/appellant nor any communication for adjournment was received. There was no communication or information as to why the revenue chose to remain absent on that date. The Tribunal on the basis of inherent powers, treated the appeal filed by the revenue as unadmitted in view of the provision of Rule 19 of the Income-tax (Appellate Tribunal) Rules, 1963.

3. In the result, the appeal filed by the assessee is dismissed for non-prosecution.

The decision was pronounced in the open court on 19th January, 2017.

Sd/-
(R.S. SYAL)
ACCOUNTANT MEMBER

Dated: 19th January, 2017.

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Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Dy. Registrar, ITAT, New Delhi