

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : I-1 : NEW DELHI

BEFORE SHRI R.S. SYAL, AM & SHRI KULDIP SINGH, JM

ITA No.4994/Del/2011  
Assessment Year : 2007-08

Transwitch India Pvt. Ltd.,  
A-27, Mohan Co-operative Indl. Estate,  
Mathura Road,  
New Delhi.

Vs. DCIT,  
Circle-16(1),  
New Delhi.

PAN : AA ACT4902H

(Appellant)

(Respondent)

Appellant by : None

Respondent by: Shri Amrendra Kumar, CIT, DR

Date of Hearing : 02.11.2016

Date of Pronouncement: 02.11.2016

ORDER

PER R.S. SYAL, AM:

This appeal by the assessee is directed against the final assessment order passed by the AO on 25.8.2011 u/s 143(3) read with section 144C of the Income-tax Act, 1961, in relation to Assessment Year 2007-08.

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 to the address given in Column No.10 of Form No.36 has not been returned unserved. Earlier also, the matter got adjourned many a times for one reason or the other. In these circumstances, it appears that the assessee is not interested in prosecuting its 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 02<sup>nd</sup> November, 2016.

Sd/-  
[KULDIP SINGH]  
JUDICIAL MEMBER

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

Dated: 02<sup>nd</sup> November, 2016.

dk

Copy forwarded to

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

Dy. Registrar, ITAT, New Delhi