

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER
&
SMT. BEENA PILLAI, JUDICIAL MEMBER**

**I.T.A .No.-6179/Del/2013
(ASSESSMENT YEAR-2007-08)**

Pinkey Rubber Udhyog P. Ltd., C-20-21, Industrial Estate Hathras, U.P. AAACP1518K	vs	ITO, Ward 14(2), New Delhi.
Appellant by	None	
Respondent by	Sh. V.R. Sanbhadra, Sr. DR	

Date of Hearing	16.12.2015
Date of Pronouncement	12.02.2016

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER:

This is an appeal by the assessee against the order dated 08.08.2013 of CIT(A)-XVII, New Delhi.

2. During the course of hearing today, nobody was present on behalf of the assessee neither any adjournment was sought. We find that on earlier occasion, when the case was listed the matter was adjourned at the request of the assessee. It, therefore, appears that the assessee is not interested to prosecute the matter.

3. The law aids those who are vigilant, not those who sleep upon their rights. This principle is embodied in well known dictum, “*VIGILANTIBUS ET NON DORMIENTIBUS JURA SUB VENIUNT*”. Considering the facts and keeping in view the provisions of rule 19(2) of the Income-tax Appellate Tribunal Rules as were considered in the case of CIT vs. Multiplan India Ltd., (38 ITD 320)(Del), we treat this appeal as un-admitted.

4. Similar view has been taken by the Hon’ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT (223 ITR 480) wherein it has been held as under:

“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 paper books so as to enable hearing of the reference, the court is not bound to answer the reference.”

5. Similarly, Hon’ble Punjab & Haryana High Court in the case of New Diwan Oil Mills vs. CIT (2008) 296 ITR 495) returned the reference unanswered since the assessee remained absent and there was not any assistance from the assessee.

6. Their Lordships of Hon’ble Supreme Court in the case of CIT vs. B. Bhattachargee & Another (118 ITR 461 at page 477-478) held that the appeal does not mean, mere filing of the memo of appeal but effectively pursuing the same.

7. So by respectfully following the view taken in the cases cited supra, we dismiss the appeal for non-prosecution.

8. In the result, the appeal filed by the assessee is dismissed.

The order is pronounced in the open court on 12.2.2016

Sd/-
(N.K. SAINI)
ACCOUNTANT MEMBER

Dated: 12.02.2016

**Kavita, P.S.*

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
 ITAT NEW DELHI

		Date
1.	Draft dictated on	21.12.15

2.	Draft placed before author	28.12.15
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	12.2.16
6.	Kept for pronouncement on	12.2.16
7.	File sent to the Bench Clerk	12.2.16
8.	Date on which file goes to the AR	
9.	Date on which file goes to the Head Clerk.	
10.	Date of dispatch of Order.	