

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, JUDICIAL MEMBER
AND SHRI JASON P. BOAZ, ACCOUNTANT MEMBER

ITA No. 635/Bang/2014
Assessment year : 2009-10

M/s. R.S.S. Enterprises, No.22, Ist Floor, 3 rd Cross, 3 rd Stage, BEML Layout, Panchasheela Park, K.R. Nagar, Bangalore – 560 098. PAN: BCCPS 7955R	Vs.	The Income Tax Officer, Ward 2(4), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Dr. P.K. Srihari, Addl. CIT(DR)

Date of hearing	:	05.03.2015
Date of Pronouncement	:	20.03.2015

ORDER

Per N.V. Vasudevan, Judicial Member

When the appeal was filed by the assessee, Acknowledge-cum-Notice was given to the assessee in which hearing of the appeal fixed on 5.3.2015 was duly acknowledged to the assessee. However, none appeared for the Assessee at the time of hearing nor any adjournment petition seeking adjournment of the case was filed either. The above

conduct on the part of the assessee shows that it is not interested in prosecuting the appeal filed by it.

2. 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 unadmitted. 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.”

3. The 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.

4. Following the ratio of the aforesaid decisions, the appeal filed by the assessee is dismissed *in limine* for non-prosecution. However, if the assessee through proper application can satisfy the Tribunal the reasons for such non-appearance on the appointed date, the Tribunal, at its discretion, may consider recall of this order.

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

Pronounced in the open court on this 20th day of March, 2015.

Sd/-

(JASON P. BOAZ)
Accountant Member

Sd/-

(N.V. VASUDEVAN)
Judicial Member

Bangalore,
Dated, the 20th March, 2015.

/D S/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar /
Senior Private Secretary
ITAT, Bangalore.