

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

Before Sh. N. K. Saini, AM And Sh. A. T. Varkey, JM

ITA No. 2831/Del/2014 : Asstt. Year : 2004-05

ITA No. 4131/Del/2010 : Asstt. Year : 2004-05

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| M/s Surya Kiran Build Trade (P) Ltd., 161, Vasant Enclave, New Delhi | Vs | ITO, Ward-9(4), New Delhi |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AADCS0982M | | |

Assessee by : None

Revenue by : Smt. Anima Barnwal, Sr. DR

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| Date of Hearing : 05.01.2016 | Date of Pronouncement : 06.01.2016 |
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ORDER

Per N. K. Saini, AM:

These appeals by the assessee are directed against the separate orders dated 31.01.2014 & 16.06.2010 of Id. CIT(A)-XII, New Delhi for the assessment year 2004-05.

2. During the course of hearing nobody was present on behalf of the assessee neither any adjournment was sought in spite of the fact that date of hearing was announced in the open court on 26.11.2015 at the time of hearing on the request of the Id. Counsel for 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 unadmitted.

4. Similar view has been taken by the Honøble 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, Honøble 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 Honøble 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 appeals for non-prosecution.

8. In the result, appeals of the assessee are dismissed.

(Order Pronounced in the Court on 06/01/2016)

Sd/-

(A. T. Varkey)

JUDICIAL MEMBER

Dated: 06/01/2016

Subodh

Copy forwarded to:

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

Sd/-

(N. K. Saini)

ACCOUNTANT MEMBER

ASSISTANT REGISTRAR