

IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH : KOLKATA

[Before Hon’ble Sri N.V.Vasudevan, JM & Shri Waseem Ahmed, AM]

I.T.A No. 2834/Kol/2013

Assessment Year : 2009-10

M/s. Mascot Impex Pvt. Ltd.
Kolkata
[PAN : AACCM 5684 M]
(Appellant)

-vs.-

D.C.I.T., Circle-7,
Kolkata

(Respondent)

For the Appellant : None

For the Respondent : Shri Dinabandhu Naskar, JCIT, Sr.DR

Date of Hearing : 12.07.2016.

Date of Pronouncement : 12.07.2016.

ORDER

Per N.V.Vasudevan, JM

This is an appeal by the assessee against the order dated 19.02.2013 of CIT(A)-VIII, Kolkata relating to AY 2009-10.

2. The case was fixed for hearing on 12.07.2016. The notice was sent to the assessee for hearing by registered post with AD on 03.06.2016 to the address given by the assessee in column no.10 of Form No.36. But the notice returned unserved with the remark by the postal authorities as “Left”.The assessee has not cared to inform the new address to the Tribunal. Besides the above there is a delay of 224 days in filing the appeal. It means that assessee is not interested to prosecute the appeal. Hence the appeal filed by the assessee is liable to be dismissed for non prosecution. For this view we find support from the following decisions :-

“1. In the case of CIT vs B.N.Bhattacharjee and another, reported in 118 ITR 461 [relevant pages 477 & 478] wherein their Lordships have held that :

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

2. In the case of Estate of late Tukoji Rao Holkar vs CWT; 223 ITR 480 (MP) while dismissing the reference made at the instance of the assessee in default made following observation in their order :

“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. In the case of Commissioner of Income-tax vs Multiplan India (P) Ltd.: 38 ITD 320(Del), the appeal filed by the revenue before the Tribunal, which 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 provisions of Rule 19 of the Appellate Tribunal Rules, 1963.

3. The assessee, if so desired, shall be free to move this Tribunal praying for recalling this order and explaining reasons for non-compliance etc. then this order may be recalled.

4. In the result, the appeal of the assessee is dismissed for non-prosecution.

Order pronounced in the Court on 12.07.2016.

Sd/-
[Waseem Ahmed]
Accountant Member

Sd/-
[N.V.Vasudevan]
Judicial Member

Dated : 12.07.2016.

[RG PS]

Copy of the order forwarded to:

1. M/s. Mascot Impex Private Ltd., 112/1/2, Jessore Road, Kalindi, Kolkata-700089.
2. D.C.I.T., Circle-7, Kolkata.
3. CIT(A)-VIII, Kolkata. 4. CIT-III, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

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By Order

Asstt.Registrar, ITAT, Kolkata Benches

