

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH : KOLKATA

[Before Hon'ble Sri N.V.Vasudevan, JM & Dr.Arjun Lal Saini, AM]

I.T.A No. 690/Kol/2012  
Assessment Year : 2008-09

I.T.O., Ward-1,  
Haldia

-vs.-

Sk.Aminul Islam  
Purba Medinipur  
[PAN : AAPPI 5098 F]

(Appellant)

(Respondent)

C.O.No.62/Kol/2012  
(A/o I.T.A No. 690/Kol/2012 )  
Assessment Year : 2008-09

Sk.Aminul Islam  
Purba Medinipur  
[PAN : AAPPI 5098 F]  
(Appellant)

-vs.-

I.T.O., Ward-1,  
Haldia

(Respondent)

For the Department : None  
For the Assessee : None

Date of Hearing : 26.07.2016.

Date of Pronouncement : 26.07.2016.

**ORDER**

**Per N.V.Vasudevan, JM**

ITA No.690/Kol/2012 is an appeal by the Revenue against the order dated 27.02.2012 of CIT(A)-XXXIII, Kolkata relating to AY 2008-09. The assessee has filed Cross Objection against the very same order of CIT(A).

2. Though the assessee had filed a cross objection on several occasions none appeared on behalf of the assessee. Therefore notice was directed to be served through DR by the Tribunal on 15.01.2014, 07.01.2015, 15.06.2015, 17.09.2015, 13.01.2016, 15.03.2016 and 19.05.2016. The Department has not complied with the directions of the Tribunal. Today when the case was called for hearing none appeared on behalf of the department. None appeared on behalf of the assessee. It appears that both the revenue

and the assessee are not serious in prosecuting this appeal and the cross objection respectively. Hence the appeal filed by the revenue and the cross objection filed by the assessee are 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 revenue and 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 revenue and cross objection of the assessee are dismissed for non-prosecution.

**Order pronounced in the Court on 26.07.2016.**

Sd/-  
[Dr.Arjun Lal Saini]  
Accountant Member

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

Dated : 26.07.2016.  
[RG PS]

Copy of the order forwarded to:

1. Sk.Aminul Islam, Vill,Kotebarh, P.O.Uttar Kotebarh, P.S.Bhagwanpur, Egra, Purba Medinipur, PIN: 721626.
2. I.T.O., Ward-1, Haldia.
3. CIT(A)-XXXIII, Kolkata.      4. CIT-XVIII, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Asstt.Registrar, ITAT, Kolkata Benches