

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

BEFORE SHRI A.T.VARKEY, JM & DR. A.L.SAINI, AM

ITA No.268/Kol/2014

Assessment Year 2008-09

M/s A. P. Engineering Corporation, AF-321, Rabindrapally, Rabagan, Kestopur, Kolkata-700101	Vs.	ITO, Kolkata	Ward-51(4),
PAN/GIR No.: AAFFA 1859 E			
(Appellant)	..	(Respondent)	

Assessee by : None
Revenue by : None

Date of Hearing : 03/01/2017
Date of Pronouncement : 03/01/2017

ORDER

Per Dr. Arjun Lal Saini, AM

This is an appeal by the assessee against the order dated 29.11.2013 of CIT(A)-XXXII, Kolkata, relating to AY 2008-09.

2. This appeal came for hearing today i.e. on 03.01.2017. The notice was sent to the assessee for hearing by registered post with AD on 09.11.2016 to the address given by the assessee in column no.10 of Form No.36. However no one was present on behalf of the assessee as well as on behalf of the revenue on the date of hearing. Neither any adjournment petition was filed in respect of the above assessee. 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.Bhattachrgee 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 Tukojirao 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 03/01/2017

Sd/-
[A.T. Varkey]
Judicial Member

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

Dated : 03/01/2017
Prakash Mishra,/ PS

Copy of the Order forwarded to :

1. The Appellant- M/s A.P.Engineering Corp.
2. The Respondent.-ITO Ward-51(4), Kolkata
3. The CIT(A), Kolkata.
4. CIT
5. DR, ITAT, Kolkata
6. Guard file.

True Copy

BY ORDER,

(Asstt. Registrar)
ITAT,