

IN THE INCOME TAX APPELATE TRIBUNAL

DELHI BENCH "G": NEW DELHI

BEFORE SHRI I.P. BANSAL, JUDICIAL MEMBER &
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

ITA No. 73/Del/2012

A.Y. : 2007-08

Ms. Sangeeta Singh,
C/o Matta Garg & Co.,
Chartered Accountants,
15, Astley Hall,
Dehradun

**[PAN : AGIPS9724R]
(Appellant)**

vs. Income tax Officer,
Ward 2(3),
Income Tax Office,
13, Subhash Road, Dehradun

(Respondent)

Assessee by : None

Department by : Smt. S. Mohanty, Sr. D.R.

ORDER

PER SHAMIM YAHYA: AM

The assessee has filed this appeal against the order dated 11.10.2011 passed by the Ld. Commissioner of Income Tax(Appeals)-II, Dehradun.

2. This case was listed for hearing before the Tribunal on 23-4-2012 and for this assessee was informed. Today i.e. on 23-4-2012 when the case was called on board, none appeared on behalf of the assessee nor any request for adjournment has been filed before the Tribunal despite the service of notice upon the assessee. It seems that the assessee is not interested in prosecuting her appeal; hence, the appeal filed by the assessee is liable to be dismissed, for

non-prosecution. In our above view, we find support from the following decisions:

1. In the case of CIT vs. B.N. Bhattachargee 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 (M.P.) 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 un-admitted 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 filed by the assessee, is dismissed, for non-prosecution.

Order pronounced in the open court on 23/4/2012, upon conclusion of hearing.

SD/-
[I.P. BANSAL]
JUDICIAL MEMBER
Date: 23/4/2012

SD/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

SRBhatnagar

Copy forwarded to: -

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches