

**THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B", HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No. 921/Hyd/2018 and ITA No. 591/H/15  
Assessment Year: 2007-08**

Florence Estates & Constructions Ltd., Hyderabad. vs. Income-tax Officer,  
Ward – 17(2)/1(2), Hyderabad.

PAN – AAACF 8549E

(Appellant)

(Respondent)

Assessee by : None  
Revenue by : Shri YVST Sai

Date of hearing : 11-01-2019  
Date of pronouncement : 18 -01-2019

**ORDER**

**PER S. RIFAUR RAHMAN, A.M.:**

ITA No. 921/Hyd/2018.

This appeal of the assessee is directed against the order of dated 14/02/2017 of CIT(A) – 5, Hyderabad, passed u/s 155 of the Income-tax Act, 1961 (in short 'the Act') for AY 2007-08.

2. When the appeal was posted earlier on four occasions from 28/09/2018 to 04/01/19, none appeared on behalf of the assessee. When the appeal came for hearing on 11/01/2019, none appeared on behalf of the assessee nor there is a request for adjournment of the case.

3. As regards ITA No. 591/Hyd/2015 (passed u/s 143(3) of the Act), on perusal of record we find that this appeal was adjourned on umpteen number of times from 29/07/2015 09/01/2019 due to some or other reasons, particularly, non-compliance by the assessee with the

hearing dates. Even when the appeal came for hearing on the last occasion i.e. on 11/01/2019, none appeared on behalf of the assessee nor there is a request for adjournment of the case.

4. In these circumstances, we are of the view that the assessee is not interested in prosecuting its appeals. It has been held by the Hon'ble Supreme Court in the case of B.N. Bhattacharjee & Anr., 118 ITR 461 that appeal does not mean only filing of memo of appeal but also pursuing it effectively. In cases where the assessee does not want to pursue the appeal, Court/Tribunal have inherent power to dismiss the appeal for non-prosecution as held by Hon'ble High court of Mumbai in the case of M/s Chemipol Vs. Union of India in Excise appeal No. 62 of 2009. Therefore, respectfully following the decision of the Tribunal in the case of Multiplan (India) Ltd., (38 ITD 320) and Madhya Pradesh High Court in Late Tukoji Rao Holkar (223 ITR 480), we dismiss these appeals of the assessee for want of prosecution.

5. Even on merits, a survey operation was conducted at the business premises of the assessee on 22/02/2007. The assessee filed its return of income on 09/04/2008 for the AY 2007-08 on 09/04/08 showing Nil income. Subsequently, the return was taken up for scrutiny and in the scrutiny assessment the AO made additions towards estimation of income on work in progress of Rs.1,12,13,935/-, unexplained creditors of Rs. 2,39,62,500/- and disallowance u/s 40(a)(ia) at Rs. 4,01,60,343/-, assessing the income at Rs. 7,53,36,778/- vide order u/s 143(3) dated 31/12/2009.

5.1 On appeal before the CIT(A), the CIT(A) vide his order dated 28/03/2014, deleted the additions towards estimation of income on work in progress of Rs. 1,12,13,935/- and Rs. 4,01,60,343/- addition u/s 40(a)(ia). With reference to the addition of Rs. 2,39,62,500/-, the CIT(A) directed the AO to examine the contention of the assessee with reference to unexplained income from three creditors and after

ensuring that the confirmation letters from the creditors were filed and allow accordingly. The AO gave consequential effect to CIT(A)'s order on 18/02/2015 and recomputed the income at Rs. 2,39,62,500/- when the assessee failed to substantiate his claim by way submitting the confirmation letters from creditors.

5.2 When the assessee preferred appeal before the CIT(A), the CIT(A) confirmed the consequential order of AO vide order dated 09/03/2018, on the ground that the assessee has not discharged its onus by submitting the confirmation letters from the creditors.

6. Since, there is no Representation from the assessee and the findings of the CIT(A) are uncontroverted, we uphold the orders of CIT(A) and dismiss both the appeals of the assessee.

7. In the result, the appeals filed by the assessee are dismissed.

**Pronounced in the open court on 18<sup>th</sup> January, 2019.**

**Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER**

**Sd/-  
(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Hyderabad, Dated: 18<sup>th</sup> January, 2019.

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Copy to:-

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Left Wing, NBK Estate, Golkonda X Road, Hyderabad.*
- 2) *ITO, Ward – 17(2)/1(2), Hyd..*
- 3) *CIT(A) – 5, Hyderabad.*
- 4) *Pr. CIT – 5, Hyd.*
- 5) *The Departmental Representative, I.T.A.T., Hyderabad.*
- 6) *Guard File*