आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'बी' मुंबई

IN THE INCOME TAX APPELLATE TRIBUNAL

"B" BENCH, MUMBAI

श्री बी.आर. मित्तल, न्यायिक सदस्य एवं श्री राजेन्द्र, लेखा सदस्य के समक्ष

BEFORE SHRI B.R. MITTAL, JUDICIAL MEMBER, AND

SHRI RAJENDRA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA no. 3652/Mum./2011
(निर्धारण वर्ष / Assessment Year : 2006–07)

Maxcool Technologies (I) Pvt. Ltd.
C–6, TIC Industrial Area, Pawane
Village, Navi Mumbai 400 709

………………… अपीलार्थी /
Appellant

बनाम v/s

Income Tax Officer
Ward–3(2), Vardan, Ground Floor
MIDC Industrial Estate
Thane – 400 604

……………… प्रत्यर्थी /
Respondent

स्थायी लेखा सं./जीआइआर सं./PAN/GIR no.AADCM5969Q

निर्धारिती की ओर से / Assessee by : None
राजस्व की ओर से / Revenue by : Mr. Pravin Verma

सुनवाई की तारीख / Date of Hearing – 25.06.2012	आदेश घोषणा की तारीख / Date of Order – 04.07.2012

आदेश / ORDER

PER B.R. MITTAL, J.M.

The present appeal preferred by the Assessee, is directed against the impugned order 28th February 2012, passed by the learned Commissioner–II, Thane, for assessment year 2006–07, on the following grounds:–

> *"On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in passing the order under section 263 of the Act giving the finding that the assessment order passed by the Assessing Officer was erroneous in as much as it was prejudicial to the interest of revenue and in directing him to pass a fresh order denovo."*

2. Notice was sent to the assessee by registered post with acknowledgement fixing the date of hearing for 25th June 2012. As per the acknowledgement card placed on record, it appears that the notice was served on the assessee but on the date fixed for hearing on 25th June 2012, no one is present on behalf of the assessee. There is no application for adjournment either. It seems that the assessee is not interested in prosecuting its appeal. Hence, this appeal of the assessee is liable to be dismissed for non–prosecution. In this regard, we are supported by the decision in the case of CIT v/s B.N. Bhattachargee and another, reported in 118 ITR 460 (relevant pages–477 & 478) wherein Their Lordships have held that:

> *"The appeal does not mean merely filing of the appeal but effectively pursing it."*

3. In this regard, we are also supported by the decision in the case of CIT v/s Multiplan India (P) Ltd., 38 ITD 320 (Del.)

4. In view of he above and also considering the provisions of Rule 19 of the Appellate Tribunal Rules, 1963, the appeal of the assessee is dismissed.

5. परिणामतः निर्धारिती की अपील खारिज की जाती है ।

10. In the result, assessee's appeal is dismissed.

आदेश की धोषणा खुले न्यायालय में दिनांकः 4th July 2012 को की गई ।
Order pronounced in the open Court on 4th July 2012

Sd/-	**Sd/-**
राजेन्द्र	बी.आर. मित्तल
लेखा सदस्य	न्यायिक सदस्य
RAJENDRA	**B.R. MITTAL**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

MUMBAI, DATED: 4th July 2012

Copy to:

(1) The Assessee;

(2) The Respondent;

(3) The CIT(A), Mumbai, concerned;

(4) The CIT, Mumbai City concerned;

(5) The DR, "B" Bench, ITAT, Mumbai.

TRUE COPY
BY ORDER

Pradeep J. Chowdhury
Sr. Private Secretary

ASSISTANT REGISTRAR
ITAT, MUMBAI BENCHES, MUMBAI