

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

ITA No.1389/Kol/2018
Assessment Year:2013-14

Gour Mohan Kundu Motiganj, Jessore Road, Bongaon, North 240- Parganas-743235 [PAN No.AGAPK 6623 K]	बनाम/ V/s.	Income Tax Officer, Ward-49(1) Uttara Market Complex, DS- 2, Manicktala Civic Centre, 2 nd Floor, Kolkata-54
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri S.P. Dutta, Advocate & Shri Soumen Sadhukhan, Advocate
प्रत्यर्थी की ओर से/By Respondent	Shri Arindama Bhattacharya, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	01-01-2019
घोषणा की तारीख/Date of Pronouncement	04-01-2019

आदेश /O R D E R

This assessee's appeal for assessment year 2013-14, arises against the Commissioner of Income-tax (Appeals)-15, Kolkata's order dated 08.03.2018 passed in case No.370/CIT(A)-15/155-16/Wd-49(1)/Kol involving proceedings u/s. 145 r.w.s. 143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. Case file suggests at the outset that I need not dig into deeper in facts of the case since the issue between the parties is that of estimation of net profit only. The Assessing Officer treated assessee's cash deposits other than in interest of ₹1,77,73,703/- to be turnover from assessee's edible oil trading business. The taxpayer had declared net profit percentage thereupon @ 2.22%. The Assessing Officer rejected its books to be not indicating true picture to re-estimate the same @ 8% coming to ₹14,23,351/-. The CIT(A) has affirmed the same.

3. I have considered rival contentions. It is made clear firsts of all that the assessee's fair enough in not putting in challenge rejection of its books of account in both the lower proceedings u/s. 145A of the Act. The same has attained finality therefore. The sole issue that survives my consideration is that of estimation of assessee's net profit between 2.2% to 8% (supra). I find that neither the Assessing Officer has discussed comparable cases nor the assessee itself has filed its details indicating the basis of the net profit accepted in preceding or succeeding assessment year. I therefore deem it appropriate in these peculiar facts and circumstances that net profit estimation @ 4% would be just and proper. The Assessing Officer is directed to frame consequential computation. It is made clear that the above stated re-estimation of assessee's net profit shall not be treated as a precedent in any other assessment year.

4. This assessee's appeal is partly allowed in above terms.

Order pronounced in open court on 04/01/2019

Sd/-
(S.S. Godara)
Judicial Member

Kolkata,
*Dkp/Sr.PS

दिनांक:- 04/01/2019 कोलकाता

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. अपीलार्थी/Appellant-Gour Mohan Kundu,Motiganj,Jessore Road, Bongaon
Dist. North 24-Parganas-743235
2. प्रत्यर्थी/Respondent-ITO Ward-49(1), Uttara Market Complex, DS-2, Manicktala
Civic Centre, 2nd Floor, Kolkat-54
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, कोलकाता ।