

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

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

**ITA No.1657/Kol/2018**  
Assessment Year:2009-10

Sk. Md. Harun Prop. Harun Jori Centre, Khanakul, Arambagh, Hooghly-712406 [PAN No.AUPPS 2751 P]	बनाम/ V/s.	Income Tax Officer, Ward-23(4), Aayakar Bhawna, G.T. Road, Khadina More, P.O. Chinisurah, Hooghly- 712101
अपीलार्थी /Appellant	..	प्रत्यर्थी /Respondent

अपीलार्थी की ओर से/By Appellant	Shri Debayan Patra, FCA
प्रत्यर्थी की ओर से/By Respondent	Shri C.J. Singh, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	26-02-2019
घोषणा की तारीख/Date of Pronouncement	28-02-2019

**आदेश /O R D E R**

This assessee's appeal for assessment year 2009-10, arises against the Commissioner of Income-tax (Appeals)-6, Kolkata's order dated 07.05.2018 passed in case No.111/CIT(A)-6/Kol/28(4)/HG/15-16, involving proceedings u/s. 263 r.w.s.143(3) of the Income Tax Act, 1961; in short 'the Act'.

Heard both the parties. Case file perused.

2. I notice at the outset that assessee's instant appeal suffers of 27 days delay in filing stated to be attributable health related issues. The Revenue is fair enough in not disputing all these averments. I therefore condone the impugned delay of 27 days in filing of the instant appeal. The case is now taken up for adjudication on merits.

3. The assessee's former substantive ground seeks to reverse both the lower authorities action adding the entire alleged sales of ₹4,20,600/- in sarees job work business. Both the parties failed to dispute that the entire alleged sales also includes

cost component of the raw materials and other heads of labour etc., I take into account all these clinching facts and circumstances to direct the Assessing Officer to restrict the impugned addition to the extent of net profit component therein @ 10% only with a rider that same shall not be treated as precedent in any other assessment year. The assessee gets part relief in above terms.

4. Next comes labour charges disallowance of 5% of ₹57,20,435/- coming to ₹2,86,021/- on *ad hoc* basis. It transpires during the course of hearing that neither the lower authorities have drawn any comparative charge of labour expenditure nor the assessee could produce all the relevant details of the impugned expenditure. I therefore deem it appropriate in view of these facts and circumstances to restrict the impugned disallowance @ 5% to that @ 2% only with a rider that same shall not be treated as a precedent in any other assessment year. The Assessing Officer shall finalize consequential computation as per law.

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

Order pronounced in open court on 28/02/2019

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

Kolkata,  
\*Dkp/Sr.PS

दिनांक:- 28/02/2019 कोलकाता

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

1. अपीलार्थी/Appellant-Sk. Md. Harun Prop. Harun Jori Centre, Khanakul, Arambagh, Hooghly-712406
2. प्रत्यर्थी/Respondent-ITO, Ward-23(4), Aaykar Bhawan, G.T. Road, Khadina More, P.O. Chinsurah, Hooghly-712101
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.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, कोलकाता ।