

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SURAT BENCH, SURAT**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER  
& SHRI O. P. MEENA, ACCOUNTANT MEMBER)**

**ITA. No: 1434/AHD/2015  
(Assessment Year: 2009-10)**

<b>Raghav Fashions Pvt. Ltd. 406, Shree Ram Market, Ring Road, Surat (Appellant)</b>	<b>V/S</b>	<b>Income Tax Officer, Ward- 4 (1), Surat (Respondent)</b>
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**PAN: AABCR 9671A**

**Appellant by : Shri Sapnesh Sheth, C.A.  
Respondent by : Shri P.S. Choudhary Sr. D.R.**

**(आदेश)/ORDER**

Date of hearing : 19 -06-2019  
Date of Pronouncement : 15 -07-2019

**PER MAHAVIR PRASAD, JUDICIAL MEMBER**

1. This appeal by the Assessee is directed against the order of the Ld. CIT(A)-II, Surat dated 16.03.2015 pertaining to A.Y. 2009-10 and following grounds have been taken:

- 1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of assessing officer in reopening assessment by issuing notice u/s 148 of the I. T. Act, 1961.*
- 2. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of assessing officer in disallowing Rs. 3,66,553/- u/s 40A(3) of the IT. Act, 1961.*
- 3. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of assessing officer in making addition of Rs. 23,30,708/- as alleged suppression of job work income.*
- 4. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of assessing officer in disallowing Rs. 5,68,028/- u/s 40(a)(ia) of the IT. Act, 1961.*
- 5. It is therefore prayed that assessment order may kindly be quashed or in the alternative above disallowances / additions made by assessing officer and confirmed by Commissioner of Income-tax (Appeals) may please be deleted.*

2. Out of four effective ground, assessee has not pressed ground nos. 1 & 4, hence same are dismissed.
3. Ground No.3 relates to disallowance u/s.40A(3) of the Act. During the course of re-assessment proceedings, it is noticed that the assessee has made cash payment of Rs.3,66,553/- to various parties in excess of Rs.20,000/- in cash. In response to reply, assessee stated that it has purchased diesel to run generator for the vehicles of the company to carry grey cloth or finished cloth. As cheques are generally not accepted at petrol pump. Therefore company had to pay in cash. But lower authorities were not convinced with the contention of the assessee.

4. At the outset, ld. A.R. fairly conceded that in order to avoid further litigation between the assessee and the revenue, if 50% addition of Rs.3,66,553/- U/s.40A(3) of the Act is made, in that case, assessee will not have any objection. In our considered opinion, that above proposition appears to be fair and genuine to meet the ends of justice. We confirm 50% of the amount of Rs.3,66,553/-. This ground is partly allowed.
5. Now we come to Ground No. 3 with regard to Rs.23,30,708/- as alleged suppression of job work income. As there was contradiction in the production and Audit Report on the basis of which ld. A.O. made addition of Rs.23,30,708/-. In order to meet the ends of the justice, we set aside this matter to the file of the ld. A.O. who will calculate the net profit and after considering the two assessment years preceding to assessment year 2009-10 and two subsequent assessment years and thereafter will calculate the average of net profit and thereafter will make addition as per law. This ground is set-aside to the Assessing Officer.
6. In the result, appeal filed by the Assessee is set-aside for statistical purpose.
7. The order is pronounced by listing the case on the Notice Board under Rule 34(4) of Income Tax Appellate Tribunal Rules, 1963.

Order pronounced in Open Court on 15- 07- 2019

Sd/-  
**(O. P. MEENA)**  
**ACCOUNTANT MEMBER**  
Ahmedabad: Dated : 15/07/2019

Sd/-  
**(MAHAVIR PRASAD)**  
**JUDICIAL MEMBER**

4 ITA No. 1434/Ahd/2015  
A.Y. 2009-10

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

/ / TRUE COPY / /

Deputy/Asstt.Registrar  
ITAT, Surat