

आयकर अपीलिय अधीकरण, न्यायपीठ – “वि” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH “B” KOLKATA**

Before **Shri S.S.Godara, Judicial Member** and  
**Dr. A.L. Saini, Accountant Member**

**ITA No.1802/Kol/2018**  
Assessment Year :2013-14

Aman Tannery 93/1D, Tiljala Road, Park Circus, Kolkata-46 [ <b>PAN No.AAKFA 7826</b> <b>J</b> ]	<b>V/s.</b>	Income Tax Officer Ward-29(1), 54/1 Rafi Aahmed Kidwai Road, [Wellesly Road], 5 <sup>th</sup> Floor, Kolkata-700 016
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर से/By Appellant	None
प्रत्यर्थी की ओर से/By Respondent	Smt. Ranu Biswas, Addl. CIT-DR
सुनवाई की तारीख/Date of Hearing	17-12-2019
घोषणा की तारीख/Date of Pronouncement	23-12-2019

**आदेश /O R D E R**

**PER S.S.Godara, Judicial Member:-**

This assessee's appeal for assessment year 2013-14 arises against the Commissioner of Income Tax (Appeals)-8 Kolkata's order dated 28.06.2018 passed in case No. CIT(A),Kolkata-8/10190/2016-17, confirming the Assessing Officer's action imposing penalty of ₹30,15,402/- in order dated 19.09.2016 in proceedings u/s 271(1)(c) of the Income Tax Act, 1961; 'the Act'.

Case called twice. None appears at assessee's behest. It is accordingly proceeded *ex parte*.

2. We have heard the learned departmental representative strongly supporting the impugned penalty of ₹9,31,759/- imposed in both the lower proceedings on the ground that the assessee's depreciation claim of

₹30,15,402/- qua its pollution control unit had been disallowed during the course of regular assessment for the reason that the vendor concerned M/s Toronto Enterprise denied to have supplied any such equipment to this taxpayer. It is in view of the said findings; which have attained finality, that the Assessing Officer as well as CIT(A) hold the assessee to have furnished inaccurate particulars of income.

3. Ms Biswas vehemently contended during the course of hearing that the lower authorities have rightly penalised the assessee on account of its action having raised bogus depreciation claim of ₹30,15,402/-. She also took us to CIT(A)'s detailed discussion placing reliance on his identical findings in case of yet another party M/s Kasa Dwelling Pvt. Ltd. in assessment year 2014-15. Case file indicates that the assessee had filed its quantum appeal **ITA No.1057/Kol/2018** in the said succeeding assessment on the very issue. A co-ordinate bench's order dated 21.08.2018 has restored the same back to the Assessing Officer for afresh factual verification. Learned departmental representative fails to dispute that the CIT(A) has mainly relied upon his findings in assessment year 2014-15 only for confirming the impugned penalty. We therefore deem it appropriate to follow the very course of action herein as well. The Assessing Officer is directed to re-adjudicate the instant sole issue of correctness of penalty proceedings in the light of his final conclusion in the other assessment year's quantum issue.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court 23/12/2019

Sd/-  
(लेखा सदस्य)  
( A.L.Saini)  
(Accountant Member)  
Kolkata,

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

\*Dkp

दिनांक:- 23/12/2019 कोलकाता ।

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

1. अपीलार्थी/Appellant-Aman Tannery, 93/1D, Tiljala Road, Park Circus, Kolkata-46
2. प्रत्यर्थी/Respondent-ITO Ward-29(1) 54/1, Rafi Ahmed Kidwai Road, [Wellesly Road], 5<sup>th</sup> Floor, Kolkata-16
3. संबंधित आयकर आयुक्त / Concerned CIT Kolkata
4. आयकर आयुक्त- अपील / CIT (A) Kolkata
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
कोलकाता ।