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% 26.10.2009

Present: Ms. Suruchi Aggarwal for the appellant.

+ ITA No. 1082/2009

The Assessing Officer had disallowed the entire fabrication charges of Rs.54,86,500/- on the ground that identity of the fabricators was not established. The Commissioner of Income Tax (Appeals), however, restricted the disallowance to Rs.31,36,530/- and allowed the fabrication charges to the extent of Rs.23,49,970/-. While coming to this conclusion, the CIT (A) observed that since garments were in fact exported, the fabrication of these garments had taken place and, therefore, the AO could not have disallowed the entire fabrication charges. Under these circumstances, while allowing the fabrication charges of Rs.23,49,970/- out of Rs.54,86,500/-, as claimed by the assessee, the CIT (A) adopted the following formula :-

"The aggregate of fabrication charges for different items of ready made garments as per the table drawn by the A.O. charges are taken at 50% of cost of fabric, the average fabrication charges comes to Rs.242/- and so out of the total fabrication charges of Rs.54,86,500/- the admissible expenses is restricted to $(242/565 \times 54,86,500/-)$ i.e. Rs.23,49,970/- and the balance disallowance of $(Rs.54,86,500/- - Rs.23,49,970/-)$, i.e. Rs.31,36,530/- is hereby confirmed. As a result, the appellant will get a relief of Rs.23,49,970/- on this score."



The Income Tax Appellate Tribunal has affirmed this

We are of the opinion that it is a finding of fact based on relevant consideration and as no substantial question of law arises we dismiss this appeal.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

October 26, 2009
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