

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'D' BENCH, KOLKATA**

[Before Sri J. Sudhakar Reddy, Accountant Member & Sri S. S. Viswanethra Ravi, Judicial Member]

**I.T.A. No. 20/Kol/2016
Assessment Year: 2011-12**

Hira Lal Agarwal.....Appellant
C/o. Kishore Kumar Lohia
2nd Floor
Smritidham Building
Opposite Hotel Gate Way
Sevoke Road
Siliguri - 734001
[PAN : ACMPA 4071B]

A.C.I.T., Circle-1(TDS), Kolkata..... Respondent
Aayakar Bhawan
Paribahan Nagar
Matigara
Siliguri

Appearances by:

Shri Subhash Agarwal, Advocate, appeared on behalf of the assessee.

Shri Arindam Bhattacharjee, Addl. CIT, DR appearing on behalf of the Revenue.

Date of concluding the hearing : December 19th, 2017

Date of pronouncing the order : January 05th, 2018

O R D E R

Per J. Sudhakar Reddy :-

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-Siliguri, (hereinafter the 'Id. CIT (A)'), passed u/s 250 of the Income Tax Act, 1961 (the 'Act'), dt. 20/11/2015, for the Assessment Year 2011-12.

2. In this case, the Assessing Officer found that there is a variation in the quantum of salary income earned by the assessee as disclosed in Form 26AS, uploaded by the company and Form No. 16, issued to the assessee. The difference was Rs.2,87,989/-. The amount disclosed in Form No. 26AS, was taken as the gross salary of the assessee. The Id. CIT(A), reverse calculated the total income of the assessee based on the TDS made, and determined that the Assessing Officer was correct.

2.1. Aggrieved the assessee is in appeal before us.

3. After hearing rival contentions, we are of the opinion that the figure mentioned in Form No. 16, issued by the employer of the assessee has to prevail over any figure shown by the employer in Form No. 26AS. In any event, the Assessing Officer should have enquired with the employer about this variation as both Form No. 16 and Form No. 26AS, have been issued by the employer. The employee cannot be held responsible for such differences. Thus, we delete the addition made by the Assessing Officer and direct him to accept the contents of the certificate issued in Form 16 issued by the employer to the employee.

4. In the result, the appeal of the assessee is allowed.

Kolkata, the 5th day of January, 2018.

Sd/-

[S.S. Viswanethra Ravi]
 Judicial Member

Sd/-

[J. Sudhakar Reddy]
 Accountant Member

Dated : 05.01.2018
 {SC SPS}

Copy of the order forwarded to:

- 1. Hira Lal Agarwal**
C/o. Kishore Kumar Lohia
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Smritidham Building
Opposite Hotel Gate Way
Sevoke Road
Siliguri - 734001
- 2. A.C.I.T., Circle-1(TDS), Kolkata**
Aayakar Bhawan
Paribahan Nagar
Matigara
Siliguri
- 3. CIT(A)-**
- 4. CIT- ,**
- 5. CIT(DR), Kolkata Benches, Kolkata.**

True copy

By order

Senior Private Secretary
 Head of Office/ D.D.O. ITAT, Kolkata Benches

