

**IN THE INCOME TAX APPELLATE TRIBUNAL  
GAUHATI BENCH "E" COURT AT KOLKATA**

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

<b>ITA No.247/Gau/2018</b> Assessment Year :2014-15
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Deben Thaosen Sengya Sombudhan Raji Sarkari Bagan, Halflong, N.C. Hills, Assam <b>[PAN No.AEDPT 9417 R]</b>	<b>V/s.</b>	Income Tax Officer Ward-1, Silchar Room No.21 Aayakar Bhawan, PWD Road, Silchar-788001
अपीलार्थी /Appellant	..	प्रत्यर्थी/Respondent

अपीलार्थी की ओर स/By Appellant	None
प्रत्यर्थी की ओर स/By Respondent	Shri M.C Omi Ningshen, JCIT SR-DR
सुनवाई की तारीख/Date of Hearing	09-12-2019
घोषणा की तारीख/Date of Pronouncement	13-12-2019

**आदेश /ORDER**

**PER BENCH:-**

This assessee's appeal for assessment year 2014-15 arises against the Commissioner of Income Tax (Appeals)-Shillong's order dated 25.06.2018 passed in case No.CIT(A)/Shillong/10040/2017-18 involving penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961; in short 'the Act'.

Case called twice. None appears at the assessee's behest. Heard learned departmental representative.

2. For the reasons stated in assessee's condonation petition / affidavit dated 15.04.2019 coupled with his medical history and on account of the Revenue's no objection, we condone the impugned seventeen days delay in filing of the taxpayer's appeal. The same is now taken up for adjudication on merits.

3. It transpires during the course of hearing and with the able assistance of learned departmental representative that both the lower authorities have levied the impugned penalty u/s 271(1)(c) on account of taxable income of ₹8,63,569/- held assessable after denying sec. 10(26) exemption. The assessee's only case is that he has raised a *bona fide* claim of exemption which was eventually declined during the course of assessment which attained finality since no appeal was preferred against the same. We find no reason to sustain the impugned penalty imposed on account of the mere fact of the assessee having raised sec.10(26) exemption claim which was ultimately disallowed. The same can neither be treated concealment nor that of furnishing inaccurate particulars of income u/s 271(1)(c) of the Act. Be that as it may, hon'ble apex court's landmark judgment in *CIT vs. Reliance Petroproducts Pvt. Ltd.* (2010) 322 ITR 158 (SC) settled the law long back that each and every disallowance(s) / addition(s) made during the course of former proceedings does not necessarily attract section 271(1)(c) penalty. We therefore accept the assessee's sole substantive grievance in same terms.

4. This assessee's appeal is allowed.

Order pronounced in the open court 13/12/2019

Sd/-  
(A.L.Saini)  
(Accountant Member)  
Kolkata,  
\*Dkp

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

दिनांक:- 13/12/2019 कोलकाता/।

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

1. अपीलार्थी/Appellant-Deben Thaosen, Sengya Sombudhan Raji Sarkari Bagan, Halflong N.C. Hills, Assam-788820
2. प्रत्यर्थी /Respondent-ITO Ward-1, R.No.21, Aayakar Bhawan, PWD Road, Silghar-788001
3. संबंधित आयकर आयुक्त / Concerned CIT Guahati
4. आयकर आयुक्त- अपील / CIT (A) Guahati
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Guahati
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

Sr. Private Secretary, Head of Office/DDO  
आयकर अपीलीय अधिकरण, गूवाहाठी ।