

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'SMC' BENCH, KOLKATA
[Before Shri J. Sudhakar Reddy, Accountant Member]**

**I.T.A. No. 1832/Kol/2019
Assessment Year: 2017-18**

**Subhajit Saraswati.....Appellant
[PAN: AKKPS 2773 A]**

Vs.

ACIT, Circle-24(1), Kolkata.....Respondent

Appearances by:

Sh. Manoj Kataruka, Adv., appeared on behalf of the Assessee.

Sh. Jayanta Khanra, JCIT, Sr. DR, appeared on behalf of the Revenue.

Date of concluding the hearing : December 11th, 2019
Date of pronouncing the order : December 31st, 2019

ORDER

Per J. Sudhakar Reddy, AM:

This is an appeal filed by the assessee directed against the order of the Commissioner of Income Tax (Appeals)-6, Kolkata ['CIT(A)' for short] dated 24.06.2019 u/s 250 of the Income Tax Act, 1961 ('the Act' for short) for AY 2017-18.

2. After hearing rival contentions I find that in the intimation processed u/s 143(1) of the Act, certain portion of the income declared under the head 'income from business or profession', has been assessed under the head 'income from salary', for the reason that, the remuneration was part of tax deduction at source certificate issued in Form-16. The assessee in his return of income had declared income from profession separately after claiming expenditure and this figure was ₹9,21,978.15/- While part of this income from profession was added to the income from salary declared by the assessee, the figure under the head 'income from profession' was not reduced. This resulted in double addition.

3. Be as it may, the AO in his order u/s 143(3) of the Act dated 22.11.2016 for the AY 2013-14 assessed the income received from Jadavpur University on account of consultancy charges, under the head 'income from business or profession'. Simply

because the income from part of Form-16 issued by Jadavpur University, it cannot be concluded that this income received on account of testing and consultancy is assessable under the head 'salary'.

4. In any way, as the intimation u/s 143(1) was processed by the Centralised Processing Centre of the Income Tax Department, the AO did not have the opportunity to examine these issues.

5. Thus on I restore the matter to the file of the AO with the direction to pass an order u/s 143(3) of the Act after giving the assessee adequate opportunity of being heard.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Kolkata, the 31st December, 2019.

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Dated: 31.12.2019
Bidhan

Copy of the order forwarded to:

1. ***Subhajit Saraswati, GT Road, Chinsurah R S, Chinsurah, West Bengal-712 102.***
2. ***ACIT, Circle-24(1), Kolkata.***
3. CIT(A)-6, Kolkata. (sent through e-mail)
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata. (sent through e-mail)

True copy

By order

Assistant Registrar
ITAT, Kolkata Benches