

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-GUWAHATI 'e-COURT', KOLKATA
[Virtual Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 43/GAU/2020
Assessment Year: 2016-2017**

**Shri Altaf Hussain Laskar,..... Appellant
Vill. Kanakpur Part-1, Sonai Road, Nagatilla,
Cachar-788006
[PAN:ACKPL7441E]**

-Vs.-

**Deputy Commissioner of Income Tax,.....Respondent
Circle-Silchar,
Aayakar Bhawan, P.W.D. Road,
Silchar, Assam-788001**

Appearances by:

No n e, appeared on behalf of the assessee

*Shri I. Gyaneshori Devi, JCIT, appeared on behalf of the
Revenue*

Date of concluding the hearing : December 19, 2022

Date of pronouncing the order : December 21, 2022

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), Shillong dated 30.10.2019 passed for Assessment Year 2016-17.

2. The solitary grievance of the assessee is that ld. CIT(Appeals) has erred in confirming the penalty of Rs.2,00,000/-, which was imposed by the ld. Assessing Officer under section 271(1)(c) of the Income Tax Act.

3. Brief facts of the case are that the assessee at the relevant time was working as an Executive of ONGC. He has filed his return of income on 03.08.2016 disclosing total income of Rs.21,88,960/-. This return was revised on 21.01.2018 showing total income of Rs.16,60,500/-. The ld. Assessing Officer has passed the assessment order, whereby he determined the taxable income of Rs.21,95,079/-. The ld. Assessing Officer has observed that originally the assessee has returned salary income at Rs.19,99,880/-. However, in the revised return, he has reduced the original salary income. A brief look on the record would suggest that assessee had received a sum of Rs.3,00,056/-. The assessee treated this amount as LIC receipt received on maturity of the policy. On the other hand, ld. Assessing Officer was of the view that it was part of his salary because it is available in Form No. 16A issued by ONGC. Accordingly he made the addition. Similarly the assessee has claimed a sum of Rs.2,28,403/- as value of perquisites. This was not included in the taxable income filed by way of a revised return. The ld. Assessing Officer has made the addition of both the amounts. He initiated the penalty proceeding

against the assessee under section 271(1)(c) of the Income Tax Act for concealment of particulars of income and ultimately imposed a penalty of Rs.2,00,000/-.

4. Appeal to the ld. CIT(Appeals) did not bring any relief to the assessee.

5. In response to the notice of hearing, no one has come present on behalf of the assessee. With the assistance of ld. D.R., we have gone through the record carefully. The case of the assessee is that he has committed certain mistakes in computing the income originally, whereby certain exempt income was included as taxable and certain perquisites were claimed as exempt in the revised return. In other words, earlier assessee has included the value of LIC policy received on maturity in the salary. Later on, it has excluded this in the revised return but simultaneously has erred in excluding the perquisites value also. As far as LIC maturity amount is concerned, i.e. not taxable. Yes, perquisite was taxable, but we are of the view that the assessee might have not filed the return with the assistance of Tax Consultant. He has revised the return on 21.01.2018 and thereafter filed an explanation on 28.11.2018 during the course of assessment proceedings. He has explained his position and corrected the figure before completion of the assessment proceedings. It is

pertinent to note that section 139(5) authorizes the assessee to file a revised return within one year from the end of the relevant assessment year or till the completion of the assessment. The assessee has corrected the figure. There is no dispute about the nature of figures.

6. On due consideration of the above facts and circumstances, we are of the view that this is not a case where the assessee should be visited with penalty. We allow the appeal and delete the penalty.

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

Order pronounced in the open Court on 21.12.2022.

Sd/-
(Manish Borad)
Accountant Member

Sd/-
(Rajpal Yadav)
Vice-President

Kolkata, the 21st day of December, 2022

Copies to :(1) ***Shri Altaf Hussain Laskar,***
Vill. Kanakpur Part-1, Sonai Road,
Nagatilla, Cachar-788006

(2) ***Deputy Commissioner of Income Tax,***
Circle-Silchar,
Aayakar Bhawan, P.W.D. Road,
Silchar, Assam-788001

(3) ***Commissioner of Income Tax (Appeals),***
Shillong,

(4) ***Commissioner of Income Tax-*** ,

- (5) *The Departmental Representative*
(6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.