

ito Vs. Deep Baruah

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Court : Guwahati

Decided On : Jun-06-2001

Appeal No. : ITA Nos. 42 & 43/Gau/1995 6 June 2001 A.Y. 1991-92 & 1992-93

Appellant : ito

Respondent : Deep Baruah

Judgement :

By The Bench

The present appeals are filed by the revenue against the order of the Commissioner (Appeals), dated 17-11-1994, directing the assessing officer to allow deduction of 40 per cent of the incentive bonus received by the assessee, a Development Officer of LIC. The cross-objections are filed by the assessee supporting the order of the Commissioner (Appeals) for the aforesaid assessment years.

2. While processing the return under section 143(1)(a) of the Act the assessing officer disallowed the deduction of 40 per cent of incentive bonus. The Commissioner (Appeals) observed that the Tribunal, Gauhati Bench, had been consistently allowing 40 per cent deduction as incentive bonus. Therefore, following the order of the Tribunal in the case of ITO v. Shri Anil Kumar Hazarika passed in ITA No. 887 (Gau) of 1990, dated 25-10-1994, the Commissioner (Appeals) allowed the assessee's claim. Moreover in respect of the earlier year

also the Tribunal has already decided in favour of the assessee on the same ground. Further, we find that the issue is settled in favour of the assessee by the judgment of the Honble Gauhati High Court in the case of CIT v. Shri Ram Kishan Banik, in Civil Rule No. (M) 9 of 1993, dated 2-2-1995, (published at (1996) 130 CTR (Gau) 335). Respectfully following the judgment of the Honble Gauhati High Court cited above and also the consistent view taken by the Tribunal, Gauhati Bench, we uphold the order of the Commissioner (Appeals) and dismiss the appeal filed by the revenue. Consequently the cross-objections by the assessee are also dismissed.

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