

**आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई**

IN THE INCOME TAX APPELLATE TRIBUNAL 'B' (SMC) BENCH : CHENNAI

**श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष।**

[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No. 1413/Mds/2017

निर्धारण वर्ष /Assessment year : 2011-2012.

Mrs. Valliammai Valliappan,  
19/2, Stringer Street,  
Chennai 600 108.

**Vs.** The Deputy Commissioner of  
Income Tax,  
Non Corporate Circle 12(1)  
Chennai.

[PAN AADPV 9271F]

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by

: Shri. A.S. Sriraman, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. B. Sagadevan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 10-08-2017

घोषणा की तारीख /Date of Pronouncement

: 17-08-2017

**आदेश / ORDER**

Grounds raised by the assessee in this appeal are reproduced hereunder:-

- 1) *To grant deduction u/s.80C and Chapter VI A for Life Insurance Premium paid to the extent of ₹1,00,000/-*

*Due to domestic preoccupation and constraints, the appellant could not produce the LIC premium receipts*

*either before the learned Assessing Officer during the assessment proceedings or before the Honourable Commissioner of Income Tax Appeal. However the appellant did produce the Life Insurance Ledger copy with full narrative explanation of the cheque number through which the same was paid.*

*However, post CIT-A's order, the appellant requested to the insurer for issue of certificate for payment of Life Insurance premium.*

*And the insurer obliged by issuing 3 certificates as proof of payment of Life Insurance premium for a total sum of Rs.1,28,081/-. Appellant encloses the copies of these certificates.*

*The Hon'ble CIT's observation that this premium was not debited to the Partner's Account was absolutely baseless. For, appellant is an individual assessee and not a firm. The appellant had rightly reflected her life insurance payment under the classification Deposits and Advances on the asset side of her Balance Sheet.*

*The appellant pleads that the deduction under Chapter VI A be directed to be granted.*

- 2) *To direct deletion of addition in the sum of Rs.16.387/- being outstanding Service Tax payable;*

*This sum comprises of opening balance ₹.14183.77 and balance ₹.2203.33 collected during the financial year 2010-11. This sum is a liability to be paid.*

*Hon'ble ITAT may be pleased to direct the reversion of this wrongful conversion of a liability to income.*

2. Ld. Counsel for the assessee submitted that assessee could not produce LIC premium paid receipts before the lower authorities

due to reasons beyond her control but she was entitled for deduction u/s. 80C of the Income Tax Act, 1961 (in short "the Act"). According to him such receipts were readily available now.

**3.** Viz-a-viz addition made for Service Tax, Id. Authorised Representative submitted that Service Tax being a statutory due could never be considered as income of the assessee.

**4.** Per contra, Id. Departmental Representative submitted that assessee's claim for LIC premium payments should not be accepted since such payments were paid by a firm in which assessee was a partner and not by the assessee herself.

**5.** I have considered the rival contentions and perused the orders of the authorities below. Assessee was a wholesale paper dealer and she had filed her return of income for the impugned assessment year disclosing income of ₹20,07,220/-. As per the assessee her claim for deduction of ₹1,00,000/- u/s. 80C of the Act was not allowed for non production of LIC premium receipts. Service Tax collected but not remitted to Government was also subjected to an addition by the Id. Assessing Officer. Now, the contention of the assessee before me is that LIC premium paid receipts are available and if given an opportunity assessee will produce such receipts. As

per the Id. Authorised Representative the following premium payments were made:-

<i>13.04.2010</i>	<i>1,11,199.00</i>
<i>23.08.2010</i>	<i>6,882.00</i>
<i>03.01.2011</i>	<i>10,000.00</i>
<i>03.03.2011</i>	<i>6,882.00</i>
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	<i>1,34,963.00</i>
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I am of the opinion that this issue can be looked afresh by the Id. Assessing Officer. If the premiums were paid in the name of the assessee, assessee will be entitled for deduction u/s. 80C of the Act. Hence, this issue is remitted back to the Id. Assessing Officer for consideration afresh.

**6.** Viz-a-viz, addition made for Service Tax, it has been clearly mentioned by the Id. Assessing Officer in the assessment order that the amount was Service Tax collected but not remitted to Government. Service Tax will remain a statutory due, irrespective on the date of payment to Government, and cannot be considered as income of the assessee. Such addition therefore stands deleted.

7. Ground No.1 of the assessee is allowed for statistical purpose whereas her ground No.2 stands allowed.

8. In the result, appeal of the assessee is allowed pro-tanto.

Order pronounced on Thursday, the 17th day of August, 2017, at Chennai.

**Sd/-**  
**(अब्राहम पी. जॉर्ज)**  
**(ABRAHAM P. GEORGE)**  
**लेखा सदस्य/ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated:17th August, 2017

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant   | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT           | 6. गार्ड फाईल/GF        |