

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री इंटूरी रामा राव, लेखा सदस्य एवं

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2795/Chny/2019
निर्धारण वर्ष /Assessment Year: 2016-17

Shri. Ramasami Suresh
No.1701-A, Bridgewood Hiranandani
Upscale Rajiv Gandhi Salai, OMR,
Egattur, Chengalpattu,
Kancheepuram – 603 103

Income Tax Officer,
Non Corporate Ward – 22(4),
Vs. 1st & 2nd Floor,
Ramakrishna Street,
West Tambaram,
Chennai – 600 045.

[PAN: BBHPS 3747R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr. G. Sivasubramanian, C.A.
: Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.02.2020

घोषणा की तारीख /Date of Pronouncement

: 24.02.2020

आदेश / ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER:

This is an appeal filed by the Assessee against the order of the learned Commissioner of Income Tax (Appeals)-10, Chennai in ITA No.084/CIT(A)-10/18-19 dated 05.08.2019 for the Assessment Year 2016-17.

2. Mr. G. Sivasubramanian, Chartered Accountant represented on behalf of the Assessee and Ms. R. Anitha, JCIT represented on behalf of the Revenue.

3. It was submitted by the learned Authorized Representative that the assessee is an individual who as a non-resident had during the Assessment Year 2009-10 invested an amount of Rs.20.00 lakhs and for the Assessment Year 2010-11 invested an amount of Rs.10.00 lakhs and for the Assessment Year 2011-12 invested an amount of Rs.5.00 lakhs totaling to an amount of Rs.35.00 lakhs in the Unit Linked Pension Plus Plan Policy with HDFC Life vide Policy No.12229365. During the Assessment Year 2016-17, the assessee had returned to India and had consequently on account of the cancellation of the said scheme by Insurance Regulatory and Development Authority of India [IRDA] surrendered the said policy to HDFC and had consequently received back an amount of Rs.67,88,760/-. It was a submission that the assessee had claimed the said amount as exempt u/s.10(10D) of the Income Tax Act, 1961. It was a submission that the Assessing Officer on the ground that the said policy was a Pension Policy held that the provisions of Section 10(10D) did not give benefit to the assessee and

consequently treated the entire surrender value of Rs.67,88,760/- as income from other sources and brought the same to tax. It was a submission that the amount of Rs.67,88,760/- admittedly included the amount of Rs.35.00 lakhs which has been initially deposited by the assessee. It was a submission that consequently the amount of Rs.35.00 lakhs was not liable to be taxed. It was a further submission that the learned CIT(A) had held that in view of the provisions of Section 80CCC also the same was not available to the assessee. It was a submission that the surrendered value had come into the hands of the assessee only on account of the cancellation of the scheme introduced by HDFC by the IRDA. It was a submission that the assessee may be granted the benefit of the initial contribution made by the assessee.

4. In reply, the learned Departmental Representative vehemently supported the order of the learned Assessing Officer and the learned Commissioner of Income Tax (Appeals).

5. We have considered the rival submissions and perused the materials available on record.

6. A perusal of the fact in the present case clearly shows that the surrender of the Unit Linked Pension Plan Policy taken by the assessee from HDFC was only on account of the cancellation of the said scheme by IRDA. In fact, the assessee had for all practical purposes complied with all the conditions required under the scheme. Admittedly, an exempt income of the assessee has become taxable only on account of the cancellation of the scheme by IRDA. On cancellation of the scheme and on the surrender of the said Policy, admittedly, the income arising out of the said scheme is to be taxed. It is also an admitted fact that the assessee had not claimed deduction in respect of the amount of Rs.35.00 lakhs which has been paid by the assessee for the purpose of entering into the scheme. Consequently, it is only the profits that has been generated on the surrender of the scheme which would be taxable.

In the circumstances, the assessment order is set aside and the Assessing Officer is directed to verify the actual quantum of investment and to grant the assessee the benefit of the deduction of the actual quantum of investment representing the amount initially deposited by the assessee in the said scheme which has been

surrendered by the assessee and only the balance is to be brought to tax.

7. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open Court on 24th February, 2020 in Chennai.

Sd/-
(इंटूरी रामा राव)
(INTURI RAMA RAO)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(जॉर्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 24th February, 2020

IA, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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