

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'B' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.9324/Del./2019
(ASSESSMENT YEAR : 2017-18)**

Ganesh Chand Gupta,
C/o Raj Kumar & Associates, CA
L-7A (LGF), South Extension Part II,
New Delhi – 110 049.

vs. DCIT, Central Circle 14,
New Delhi.

(PAN : AAOPG9820E)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Suraj Gupta, Advocate
REVENUE BY : Md. Gaysuddin Ansari, Senior DR

Date of Hearing : 20.07.2022
Date of Order : 03.08.2022

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the Id. CIT

(A)-2, New Delhi dated 11.11.2019 pertaining to assessment year 2017-18.

2. The grounds of appeal raised by the assessee read as under :-

“1. That under the fact & circumstance, Ld. A.O. at CPC grossly erred in law as well as on merits in making addition I adjustment of Rs.70,97,270/- on the ground of difference between the returned income and income as per 26AS, on which ground no adjustment could had been made u/s.143(1) as there existed a reasonable cause for such difference being Rs.70,97,270/-, claimed by assessee as exempted income u/s. 10(10D) being receipt on maturity of insurance policy with LIC of India.

1.1 That the addition made by the CPC is outside the scope of asstt. u/s.143(1) as the same is claimed as exempted u/s.10(10D) and the Ld. A.O. CPC erred in law in making the said addition without considering and adjudicating the objection raised by the assessee against the said adjustment at the stage when the said adjustment was proposed by CPC.

2. That, without prejudice, under the facts and circumstances the claim of exemption u/s.10(10D) for Rs.70,97,270/- is fully eligible even on merits, hence the Ld. CIT(A) erred in law and on merits in giving relief only for Rs.12,53,352/- being the amount of the premium of the policy paid by the assessee himself, thus erred in sustaining the addition to the extent of Rs.58,43,918/- (70,97,270-12,53,352).”

3. In this case, intimation under section 143(1) of the Income-tax Act, 1961 (for short ‘the Act’) was done by CPC processing. In the order, CPC made addition/adjustment of Rs.70,97,271/- by calculating the said amount as the difference in income returned under the head ‘income from other sources’ and such income as per Form 26AS.

4. Assessee appealed before the Id. CIT (A) narrating the facts and further took following grounds :-

“2. That under the/acts and circumstance. the AO at CPC grossly erred in law as well as on merits in making addition/adjustment of Rs. 70,97,271/- on the ground of difference between the returned income and income as per 26AS, on which ground no adjustment could had been made as there existed a reasonable cause jar such difference being Rs.71,25,271/-, claimed by assessee as exempted income u/s. 10(10D), on account of which the said difference arose, which issue and the reason has not been touched upon and adjudicated by CPC before making the said addition/adjustment. Also the correct amt, is RS.71,25,000/- against wrongly taken by AO as Rs.70,97,271/-.

3. That Under the facts and circumstances, the addition for income of Rs.71,25,000/- claimed as exempted u/s. 10(10D) is outside the scope of provisions of Sec. 143(1).

4. That without prejudice, under the facts and circumstance the claim of exemption u/s. 10(10D) for Rs.71,25,000/- is fully eligible even on merits.

5. That under the facts and circumstances no interest u/s 234B and C should have been charge, otherwise also the calculation of interest are grossly excessive.”

5. Ld. CIT (A) improved upon the order of CPC and held as under :-

“All the grounds are directed against addition of Rs.70,97,271/- made by CPCP, Bengaluru in the intimation order u/s 143(1). The appellant has submitted that it had claimed exemption from application of Sec.10(10D) on the amount of Rs.71,25,000/- received from LIC under Keyman insurance policy. It is submitted that the policy was taken by Murliwala Agro Tech in the name of the appellant Director and the payment was paid by the company up to 2006. Thereafter, the policy was assigned in 2007 to the appellant and all balance payment were made by the appellant. On this basis, the appellant submitted the explanation to the CPC that this amount was exempt from taxation. But the CPC did not consider the explanation and made the addition (incorrectly mentioning the amount at Rs.70,97,271-).

7.2 It is observed that the amount received from LIC under Keyman insurance policy is clearly taxable as mentioned in Sec.10(10D)(b). This provision and the explanation is on the statute w.e.f. 1-4-2004. The argument of the appellant that this amount is exempt from tax is devoid of merit.

7.3 However, it is also observed that the appellant has claimed to have made payment of premium during the year which needs to be reduced from the gross receipt to write at the net figure of income. The AO is directed to verify the amount of payment of premium and reduce the same from gross receipt. The grounds are partly allowed.”

6. Against the above order, assessee is in appeal before us. Both the parties are heard.
7. When the processing by CPC needs improvement by Id. CIT (A) by referring to sub-section of the main section, by no stretch of imagination, it can be said that it was prima facie adjustment and that there could not have been any debate on the issue raised and adjustment done. The CPC processing is a bland one and without assigning any reason leave alone legal reasoning.
8. Hence, in our considered opinion, the adjustment could not have been done by CPC processing u/s 143(1). Therefore, we set aside the order of authorities below and decide the issue in favour of the assessee.
9. In the result, assessee's appeal stands allowed.

Order pronounced in the open court on this 3rd day of August, 2022.

**Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated : 3.8.2022
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-2, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**
