

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &  
SHRI PRASHANT MAHARISHI, AM**

आयकरअपीलसं./ I.T.A. No.5302, 5303 & 5304/Mum/2019  
(निर्धारणवर्ष / Assessment Year: 2010-11, 2011-12 & 2012-13)

<b>Income Tax Officer-</b> WARD-2(1)(2), Room No.543, 5 <sup>TH</sup> Floor, Aayakar Bhavan, M.K.Road, Mumbai-400 020.	<b>बनाम/ Vs.</b>	<b>M/S. Creation Publicity Limited.,</b> 4, Parekh Vora Chamber, 66, Nagindas Master Road, Fort, Mumbai- 400 001
स्थायीलेखासं ./जीआइआरसं ./PAN No. AABCC2192B		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri. Hemant Vora(CA)
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri. Praveen Shekhar, Sr.AR
सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	02.08.2022
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	31.10.2022

आदेश / O R D E R

**Per Amit Shukla, Judicial Member:**

The aforesaid appeals have been filed by the revenue against the separate impugned order of even date 20.05.2019, passed by Ld. CIT (A)-4, Mumbai for the quantum of assessment passed u/s 143(3) /147 for the AY 2010-11, 2011-12 & 2012-13.

2. The only ground raised in all the 3 appeals are that Ld. CIT(A) has erred in law and on facts in allowing the claim of Keyman Insurance Premium paid without examining whether the directors were Keyman for the company.

3. The facts in brief qua the ground raised in the appeal for AY 2010-11 are that, the assessee had paid insurance premium for policies taken life of keyman of the company. The assessee had paid Rs. 6,79,007/- which according to AO is not allowable expenses as insurance paid was not purely life insurance policies. The relevant observations of the AO are as under:-

*6. Keyman Insurance Premium of Rs.6,79,007/-:*

*6.1 It is seen from the Profit & Loss Account that the assessee has debited Rs.6,79,007/- being Keyman Insurance Premium paid towards the Directors Shri Paresh T. Vora, Shri Ashok T. Vora, Shri Sukesh T. Vora and Shri Kalpesh T. Vora. On going through the copies of Renewal Premium receipts submitted by the assessee, it is obvious that the insurance premium paid was a pure life insurance policy and not keyman insurance premium since the word 'Keyman Insurance' is no-where specifically mentioned in the said receipts. Hence it is inferred that the assessee has failed to establish that the said premium paid pertains to Keyman Insurance Policy. In view of the same, Rs.6,79,007/- is treated as the income of the assessee for A.Y.2010-11 and added to the total*

*income of the assessee. Penalty proceedings u/s 271(1)(c) of the Act, 1961 are initiated separately for filing concealment of income.*

4. Ld. CIT(A) had allowed the claim after following the decision of Hon'ble Bombay High Court in the case of **CIT vs. M/s B. N. Exports (ITA No. 2714 of 2009)** and decision of the Tribunal in the case of **M/s Shri Nidhi Corporation vs. ACIT (ITA No. 961/Mum/2012)**.

5. After having heard both the parties and on perusal of the material placed on record, we find that assessee company had paid insurance premium for policies taken on life of keyman of the company which were 4 whole time directors of the company who are actively involved in the business of the company and also paid salary of Rs. 1.39 crores during the year. The AO has mainly disallowed the claim stating that the word, 'Keyman' was not written by the insurance company on the receipt issued for payment of premium. We find that LIC of India has given following definition of keyman insurance:-

*"Keyman Insurance is taken by a business firm on the life of key employee(s) to protect the firm against financial losses, which may occur due to the premature demise of the Keyman"*

6. The Hon'ble Bombay High Court in the case of **CIT 20 V/s M/s B.N. Exports** in ITA No. 2714 of 2009 has held as under:-

*"A Keyman Insurance Policy of the Life Insurance Corporation of India, etc., provides for an insurance policy taken by a business organisation or a professional organisation on the life of an employee, in order to protect the business against the financial loss, which may occur from the employee's premature death. The "Keyman" is an employee or a director whose services are perceived to have a significant effect on the profitability of the business. The premium is paid by the employer."*

7. Thus, there can be no doubt that it was a keyman insurance taken by the assessee company.

8. Now before us, Ld. Counsel for the assessee submitted a letter issued by LIC of India. The scan copy of the same is reproduced as under:-

## LIFE INSURANCE CORPORATION OF INDIA

### BRANCH 922/MDO-1

DATE:14/03/2022

TO

CREATION PUBLICITY PVT LTD

This is with reference to your request letter for issuance of certificate confirming that below mentioned Policies are issued under KEYMAN INSURANCE of LIC.

We hereby confirm that below mentioned Policies have been issued under the then prevailing scheme "Keyman's Cover" Insurance Policy of LIC.

1)901410977	Paresh T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)
2)901399219	Paresh T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)
3)901399225	Ashok T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)
4)901410979	Ashok T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)
5)901399231	Sukesh T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)
6)901410978	Sukesh T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)
7)901411009	Kalpesh T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)
8)901410981	Kalpesh T. Vora(LA)	Creation Publicity Pvt Ltd.(PR)

BRANCH MANAGER  
शा. रकेश उपाध्याय  
शाखा प्रबंधक  
LIC BRANCH 922: Rakesh Upadhyay  
Branch Manager  
शाखा-922 / Br.-922

9. From the above letter, there cannot be any doubt that it was a Keyman Insurance of LIC and therefore, the same could not have been disallowed on the reason given by the AO. Accordingly, the order of Ld. CIT(A) is confirmed and the appeal of the revenue is dismissed.

10. Since, we have already decided the similar issue in appeal filed for AY 2010-11, therefore the same will apply mutatis mutandis in appeals filed for AY 2011-12 and 2012-13 also.

5. In the result, all the appeals filed by the assessee are **dismissed.**

*Orders pronounced in the open court on 31<sup>st</sup> October, 2022.*

*Sd/-*  
(Prashant Maharishi)  
Accountant Member

*Sd/-*  
(Amit Shukla)  
Judicial Member

मुंबई Mumbai;दिनांक Dated : 31/10/2022  
Sr.PS. Dhananjay

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई/ **ITAT, Mumbai**