

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : A : NEW DELHI
BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

ITA No.2998/Del/2019
Assessment Year: 2015-16

Anuj Kumar,
ZP-09, Maurya Enclave,
Pitampura,
New Delhi.

Vs. ACIT,
Circle-61,
New Delhi.

PAN: AAAPP1907F

(Appellant)

(Respondent)

Assessee by	:	Shri P.C. Yadav, Advocate
Revenue by	:	Shri Kanav Bali, Sr. DR
Date of Hearing	:	03.11.2022
Date of Pronouncement	:	04.01.2023

ORDER

PER C.M. GARG, JM:

This appeal filed by the assessee is directed against the order dated 31.01.2019 of the CIT(A)-20, New Delhi, relating to Assessment Year 2015-16.

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

"1. On the facts and circumstances of the case, the Ld. CIT(A) erred in upholding the contention of the Assessing Officer who denied exemption u/s 10(10D)(c) of the Act on amount of Rs. 34,90,000/- received from Life Insurance Corporation on maturity of Policy.

2. Without prejudice to the above Ground of Appeal, both the Authorities erred in taxing the entire amount of Rs. 34,90,000/- received on maturity of Policy which includes Rs. 24,89,040/- paid by the Appellant as premium in the year 2009. The action of the Assessing Officer in taxing the Capital sum of Rs. 24,89,040/- paid to LIC on account of premium was never claimed as deduction under any section of the Act and

therefore the said amount cannot be included in total income of the Appellant.

3. Otherwise also, without prejudice the Ground No. 1 & 2 above, the entire amount of Rs. 34,90,000/- is consideration received on surrender of Insurance Policy being Capital Asset within the meaning of section 2(14) of the Act and therefore the differential amount of Rs. 34,90,000/- and premium paid in the year 2009 of Rs. 24,89,040/- being cost of acquisition of Policy i.e. Rs. 10,00,960/- is Long Term Capital Gain against income from other sources as taxed by the Assessing Officer.

4. That there was no justification for levying of interest u/s- 234B & 234C of the Act on the facts of the case and as per law.

5. That the appellant craves leave to add, amend or alter any of the grounds of the appeal."

3. The Id. Counsel for the assessee submitted that in the present case, a perusal of the policy reveals that there was not agreed premium to be returned, rather, the expression used is guaranteed additions and loyalty additions which the assessee has received only Rs.10,00,960/-. The Id. Counsel also submitted that the perusal of the policy further shows that the assessee has paid a single premium of Rs.24,89,040/- and the maturity sum assured was Rs.24 lakh, which means that the sum assured to the assessee on maturity was even lesser than the premium paid. He further submitted that as a matter of fact the assessee has earned gain of Rs.10,00,960/- only which can be termed as 'guaranteed addition' or 'loyalty addition.' Therefore, the provisions of section 80C(3) are per se not applicable. He further submitted that a perusal of the questionnaire would show that the issue of exemption u/s 10(10D)(c) was never raised by the AO in the questionnaire and there is no mention in the assessment order regarding obtaining of approval of higher authority for converting the limited scrutiny case into complete scrutiny. Therefore, the addition made by the AO and confirmed by the CIT(A) may kindly be dismissed.

4. The Id. Sr. DR supported the orders of the authorities below and reiterated the grounds taken for denial of exemption u/s 10(10D)(c) of the Act.

5. On careful consideration of rival submissions, we find, undisputedly the assessee has paid a single premium of Rs.24,89,040/- and the maturity sum was Rs.24 lakh which is lesser than the premium paid and, in fact, the assessee has received total amount of Rs.34,90,000/- only and had a net gain of Rs.10,00,960/- (Rs.34,90,000 – 24,89,040/-) which can be termed as 'guaranteed addition' or 'loyalty addition.' Therefore, the assessee is entitled to claim exemption u/s 10(10D)(c) of the Act on the amount received from the Life Insurance Corporation of India on maturity of the policy, therefore, the addition made by the AO and confirmed by the Id.CIT(A) cannot be held as sustainable. Therefore, we direct the AO to delete the same.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 04.01.2023.

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-

(C.M. GARG)
JUDICIAL MEMBER

Dated: 04th January, 2023.

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi