

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

120/Jodh/2021
(ASSESSMENT YEAR- 2017-18)

Shri Anil Mehta F-177A, Mandia Road Ind. Area Pali, Marward (Raj)	Vs	DCIT CPC, Bangalore
(Appellant)		(Respondent)
PAN NO. AAYPM 7445 B		

Assessee By	Shri Amit Kothari, CA
Revenue By	Shri S.M. Joshi, JCIT- DR
Date of hearing	21/03/2023
Date of Pronouncement	23/03/2023

ORDER

PER: SHRI MANISH BORAD, AM

This is an appeal filed by the assessee against the order of the Id.
CIT(A), National Face Appeal Centre (for short NFAC), New Delhi

dated 24-11-2021 for the assessment year 2017-18 raising therein

following grounds of appeal.

‘1. The ld. CIT(A) erred in sustaining the addition made for maturity receipts of Life Insurance from ICICI Pru Life of Rs.8,77,204/- without considering provision of Section 10 of the I.T. Act, the exemption was allowable and further erred in not allowing set off of loss of Rs.20,947/- claimed in the income from other sources as per return.

2. Addition on both these issues could not have been made in an order u/s 154 and are highly debatable as apparent mistake of fact or law. The ld. CIT(A) erred in holding on both these issues without considering various case laws by various Tribunals, Courts holding the same is allowable.

3. The ld. CIT(A) erred in sustaining charging of interest u/s 234B and 234C which is bad in law and bad on facts and the various additions made are absolutely unjustified.

2.1 Apropos Ground No. 1 to 3 of the assessee, the facts as emerges from the order of the ld. CIT(A) are as under:-

‘5.1.1. It is pertinent to mention here that the appeal is not against the intimation order u/s 143(1). The appellant had file an application u/s 154 before CPC on 01-06-2019. Thereafter the CPC had passed order u/s 154 dated 6-08-2019 rejecting the request of the appellant for rectification of the mistake. It is against this order, the appellant has filed he present appeal. The original cause of action arise at the stage

of 143(1) itself when the CPC had processed the return of income. Thereafter, the appellant has filed rectification application which has been rejected and against this the appellant had filed the preset appeal.

5.1.2 On perusal of these facts, it appears that the appellant is trying to take backdoor entry by filing an appeal against the order u/s 154 for which the original cause of action had arisen at the stage of 143(1) itself. As per the provisions of Act, the appellant could have filed an appeal against the intimation u/s 143(1). Thereafter, the appellant has filed a rectification application u/s 154 before the CPC on 01-12-2018. As per rectification order u/s 154 dated 8-04-2019, the CPC has rejected the request of the appellant for rectification of mistake. I am in agreement with the CPC that there is no mistake apparent from record at the stage of 154 application. If at all, there is any grievance to the appellant, the same had arisen only at the stage of intimation u/s 143(1). Therefore, I am of the considered opinion that the CPC had rightly rejected the request of the assessee for rectification of mistake 154 of the Act. Therefore, the grounds of appeal are dismissed.

5.2.1 As per the ground of appeal, the appellant has challenged the levy of interest u/s 234B and 234C. As the levy of interest u/s 234B and 234C is consequential and statutory, the action of the CPC is upheld. According, this ground of appeal is dismissed.”

2.2 During the course of hearing, the ld. AR of the assessee is aggrieved that the ld. CIT(A) has wrongly upheld the order of the CPC, Bangalore and confirmed the addition.

2.3 On the other hand, the ld DR supported the orders of the authorities below.

2.4 We have heard both the parties and perused the materials available on record. Brief facts of the case are the assessee filed the return of income for the A.Y. 2017-18 on 31-08-2017 declaring total income of Rs.13,55,670/-. The return was processed u/s 143(1) by CPC Bengaluru. The AO noted that the assessee has not filed any appeal against the intimation u/s 143(1). Thereafter, the assessee had filed a rectification petition u/s 154 of the Act on 01-12-2018 which was rejected by the CPC by an order dated 08-04-2019 and thus the assessee against the order u/s 154 of the Act had file the present appeal before the ld. CIT(A) who dismissed the appeal of the assessee with the observation that if the assessee had any grievance to the assessee, the same should have been arisen only at the stage of intimation u/s 143(1) and thus the AO had rightly rejected the request

of the assessee for rectification of mistake u/s 154 of the Act. The ld. CIT(A) also confirmed the action of the AO regarding charging of interest u/s 234B and 234C of the Act holding it as consequential in nature. We note that the adjustment made by the CPC is regarding exempt income claimed by the assessee but assessed as taxable income . There was no occasion with the CPC to examine this claim of exempt income on the basis of details and documents before making any prima facie adjustment. We, therefore, restore the issue raised on merit by the assessee to the file of the AO to examine the veracity of the claim of the alleged exempt income i.e. claim received on Maturity from LIC and provide adequate opportunity of being heard to the assessee and decide the issue in accordance with law. Ground No. 1 of this appeal of the assessee is allowed for statistical purposes.

3. As regards Ground No.2, the same is mere academic in nature because we have restored the issue on merit to the AO for necessary adjustments.

4. Ground No. 3 is general and consequential in nature and thus needs no adjudication

5.0 In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 23/03/2023.

Sd/-

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

(MANISH BORAD)
ACCOUNTANT MEMBER

Dated : 23 /03/2023

**Mishra*

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The DR
5. Guard File

Assistant Registrar

Jodhpur Bench