

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

**BEFORE SH. SAKTIJIT DEY, JUDICIAL MEMBER
AND
SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.9309/Del/2019
Assessment Year: 2017-18

Rajesh Kumar Gupta L-7A (LGF), South Extension, Part-2, New Delhi PAN No.ABHPG7950P (APPELLANT)	Vs	DCIT CC-14 New Delhi (RESPONDENT)
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Appellant by	Sh. Raj Kumar, CA Sh. J.P. Sharma, CA
Respondent by	Sh. Vivek Vardhan, Sr. DR

Date of hearing:	15/06/2023
Date of Pronouncement:	19/06/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-26, New Delhi dated 28.10.2019 pertaining to A.Y. 2017-18.

2. The grievance of 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 / adjustment of Rs.59,27,580/- 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.59,37,500/-, 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.59,37,500/- is fully eligible even on merits, hence the Ld. CIT(A) erred in law and on merits in giving relief only for Rs. 15,08,490/- 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.44,19,090/- (59,27,580-15,08,490).*

3. At the very outset the Counsel for the assessee stated that the impugned issue has been decided in favour of the assessee and against the revenue by the coordinate Bench in the case of the brothers of the assessee. The Counsel supplied the copies of the judgment.

4. Per contra the DR could not bring any distinguishing decision in favour of the revenue.

5. We have carefully considered the orders of the authorities below. The main quarrel is whether the impugned adjustment can be made while processing return u/s. 143 (1) of the Act. We find that the coordinate Bench in ITA No.9308/Del/2019 order dated 13.10.2022 at the occasion a similar grievance in the case of the brother of the assessee wherein it was held as under :-

6. *Against this order, assessee is in appeal before us. We have heard both the parties and perused the record.*

7. *Ld. Counsel of the assessee submitted that CPC has been wrong in making the addition in processing u/s 143(1) of the Act. Ld. Counsel of the assessee further submitted that in identical circumstances in the case of brother of the assessee i.e. Ganesh Chand Gupta, ITAT in ITA No.9324/Del/2019 vide order dated 03.08.2022 has directed for the deletion of the addition.*

8. *Per contra ld. DR for the Revenue did not dispute the proposition that in the identical circumstances, ITAT deleted the addition.*

9. *Upon carefully consideration, we note that ITAT in the aforesaid order has deleted the addition by holding as under :-*

“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."*

10. *We find that the aforesaid order is fully applicable in the facts and circumstances of the case as they are identical. It is also not the case that Hon'ble jurisdictional High Court has reversed the order of ITAT. Accordingly, respectfully following the aforesaid decision, we hold that the adjustment could not have been done under CPC proceedings u/s 143(1). Therefore, following the aforesaid precedent, we set aside the orders of the authorities below and decide the issue in favour of the assessee.*

11. *In the result, the appeal of the assessee stands allowed.*

6. Similar view was taken by the coordinate Bench in the case of brother of the assessee in ITA No.9307/Del/2019. Respectfully following the decision of the coordinate Bench we direct the AO to delete the impugned disallowance. The appeal of the assessee is allowed.

Order pronounced in the open court on 19.06.2023.

Sd/-

[SAKTIJIT DEY]
JUDICIAL MEMBER

Dated: .06.2023

Neha

Copy forwarded to:

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

Sd/-

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Asst. Registrar
ITAT, New Delhi