IN THE INCOME TAX APPELLATE TRIBUNAL

NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND

SHRI K.M. ROY, ACCOUNTANT, MEMBER

ITA no.180/Nag./2021
(Assessment Year : 2017–18)

Narendra Seoomal Sabnani
CPL Complex, Kamptee Road ……. Appellant
Nagpur 440 001 pan – akbps6120l

v/s

Dy. Commissioner of Income Tax
Central Processing Centre, Bengaluru ……. Respondent

Assessee by : Shri Kapil Hirani
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 04/06/2024	Date of Order – 04/06/2024

O R D E R

PER K.M. ROY, A.M.

The instant appeal has been preferred by the assessee challenging the impugned order dated 06/12/2021, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2017–18.

2. The assessee has raised following grounds of appeal:–

"1) On the facts and circumstances of the case and in law, the DCIT, CPC, Bangalore grossly erred in making and the CIT(A), NFAC grossly erred in confirming the adjustments made vide intimation under section 143(1) despite the adjustments being illegal, violative of the principles of natural justice and which deserves to be deleted in the interest of justice.

2) On the facts and circumstances of the case and in law, the DCIT, CPC, Bangalore grossly erred in making and the CIT(A), NFAC grossly erred in confirming the adjustments made vide intimation under section 143(1) which

were made by the AO ignoring the objection of the Appellant and without disposing of the objection vide a speaking order which makes the adjustment bad in law and liable to be deleted.

3) On the facts and circumstances of the case and in law, the DCIT, CPC Bangalore grossly erred in making and the CIT(A) NFAC, Nagpur grossly erred in confirming the adjustment relating to amount received on maturity of insurance policy totaling to Rs. 15,01,0750, as appearing in Form 26AS, without granting benefit of cost of availing the insurance policy which deserves to be allowed while calculating the income on maturity of insurance policy in the interest of justice.

The Appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of appeal with the kind permission of the Hon'ble Tribunal."

3. During the course of hearing, the learned Authorised Representative (*"the A.R."*) has placed before the Bench maturity payment letter dated 07/08/2022, which is reproduced below for the sake of convenience:–

"Maturity Payment Letter

07 October 2022

Mr. Nerendra Scoomal Sahmani
C-72 Midc Hingna Road
Nagpur Maharashtra 440028
Contact No. 9822472981

Subject: Regarding your Plan Dhansuraksha 3 Premium Policy No 00428196

Dear Mr. Nerendra Secomal Sabnani,

Thank you for choosing Star Union Dai-ichi as your preferred Insurance provider, your continued patronage is valued.

We refer to your request received for disbursement towards Maturity of the above mentioned policy. The payout of Rs.1486731.60 has been credited to your account number XXXXXXXXXXX1000.

Please find the payment break up details below:

Fund Value Basic Sum Assured	*1501749.60*
Less Tax Deducted at source	*15018.00*
Net Amount Payable	*1486731.60*

We believe your request has been processed to your satisfaction. We thank you for giving us an opportunity to assist you.

For further assistance or clarifications please write to us at customercare@sudlife.in or call us on 1800-266-8833 (Toll Free) from 9:30 am to 6:30 pm (Mon-Sat).

We hope you will consider us for your future insurance investments.

Yours sincerely,
Star Union Dai-ichi Life Insurance Co.Ltd.,

This is a computer generated letter and does not require a signature"

4. On being confronted as to why the same was not part of the paper book submitted earlier, the learned A.R. submitted that the same was not available with him and like to rely upon the same as additional evidence. The provisions of Rule–29 of the ITAT Rules, 1963, do not permit the assessee to place an additional evidence except when the Bench so desires. However, we find that there is no application either oral or documentary from the side of the assessee to consider the same by way of additional evidence. However, in the interest of justice, we consider it as part of the record for appropriate adjudication. When the hearing was taken up on 03/16/2024, the learned A.R. strongly pleaded that the entire addition of ₹ 15 lakh should be quashed. By reiterating upon the same submissions as produced before the authorities below. The Bench specifically questioned as to whether provisions of section 80C of the Act was available by the assessee in any of the earlier assessment year with regard to the payment of ₹ 15 lakh, the learned A.R. specifically sought a short adjournment on 03/06/2024, and requested to post the matter on 04/06/2024. Today, it is very surprising to note that the learned A.R. has taken a diametric opposite stand and submitted that the amount of ₹ 5,01,750, should be considered to be taxable amount. He thus pleaded that

the disallowance of ₹ 15 lakh should be scaled down to ₹ 5 lakh. However, the grounds of appeal specifically harped upon the fact that the entire addition of ₹ 15 lakh should be quashed. The learned A.R. has neither submitted a revised ground nor placed any evidence to show as to why his oral submissions made before us is sustainable. We are unable to arrive conclusively simply on his bold submission.

5. The learned Departmental Representative, on the other hand, vehemently objected to the stand of the learned A.R. and pointed out that the learned A.R. has pathetically failed to discharge his onus. At this juncture, we find that the issue regarding the computation of income as regards a maturity of LIC Policy has been brought into statute by Finance Act, 2023, w.e.f. from 01/04/2024, vide sub–section (xiii) reproduced below:–

> *"(xii), where any sum is received, including the amount allocated by way of bonus, at any time during a previous year, under a life insurance policy, other than the sum,-*
>
> *(a) received under a unit linked insurance policy:*
>
> *(b) being the income referred to in clause (iv),*
>
> *which is not to be excluded from the total income of the previous year in accordance with the provisions of clause (10D) of section 10, the sum so received as exceeds the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction under any other provision of this Act, computed in such manner as may be prescribed."*

6. Further, there is an apparent anomaly in the entire gamut of facts placed before us which is quite nebulous. We, however, deem it fit and proper that in the interest of natural justice and fair play, we set aside the impugned order passed by the learned CIT(A) and restore the entire matter to the file of the Assessing Officer and direct him to consider fresh evidence adduced by

the assessee before us and decide the issues afresh after providing reasonable opportunity of being heard to the assessee. Thus, all the grounds of appeal raised by the assessee are allowed for statistical purposes.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 04/06/2024

Sd/-	**Sd/-**
V. DURGA RAO	**K.M. ROY**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

NAGPUR, DATED: 04/06/2024

Copy of the order forwarded to:

(1) The Assessee;
(2) The Revenue;
(3) The PCIT / CIT (Judicial);
(4) The DR, ITAT, Nagpur; and
(5) Guard file.

True Copy
By Order

Pradeep J. Chowdhury
Sr. Private Secretary

Sr. Private Secretary
ITAT, Nagpur