

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA Nos.653 & 654/PUN/2024
Assessment Years : 2016-17 & 2018-19**

DCIT, Pune	Vs.	Bajaj Allianz Life Insurance Company Ltd. Bajaj Allianz House, Airport Road, Yarvada, Pune – 411006
		PAN: AADCA1701E
(Appellant)		(Respondent)

Assessee by : Shri Percy Pardiwalla &
Ms. Vasanti B Patel (through virtual)

Department by : Shri P R Mane

Date of hearing : 18-09-2024

Date of pronouncement : 29-10-2024

ORDER

PER R.K. PANDA, VP :

The above two appeals filed by the Revenue are directed against the separate orders dated 09.02.2024 and 12.02.2024 of the CIT(A) / NFAC, Delhi relating to assessment years 2016-17 and 2018-19, respectively. Since identical grounds have been raised by the Revenue in both these appeals, therefore, for the sake of convenience, these were heard together and are being disposed of by this common order.

2. First, we take up ITA No.653/PUN/2024 for assessment year 2016-17 as the lead case. Facts of the case in brief, are that the assessee is a domestic company in which public are not substantially interested and is engaged in life insurance

business. It filed its return of income on 26.09.2016 declaring total income of Rs.9,36,27,03,460/-. The return was processed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') accepting the returned income. Subsequently, the case was selected for complete scrutiny under CASS. Accordingly, statutory notices u/s 143(2) and 142(1) of the Act were issued and served on the assessee, in response to which the assessee filed the requisite details from time to time.

3. During the course of assessment proceedings the Assessing Officer observed from the Profit and Loss Account and computation of income that the assessee has claimed the following exempt income:

<i>Sr No</i>	<i>Particulars</i>	<i>Amount</i>
1	<i>Dividend claimed as exempt under section 10(34)</i>	<i>16,85,77,424/-</i>
2	<i>Interest claimed as exempt under section 10(15)</i>	<i>21,72,77,052</i>

4. He observed that the assessee in its computation has made *suo motu* disallowance of Rs.23,83,917/- by apportionment of expenses against taxable income and non-taxable income. The Assessing Officer noted that the assessee's similar claim in respect of computation of disallowance u/s 14A of the Act was examined in the preceding assessment years 2012-13, 2013-14, 2014-15 and 2015-16 and the reasons furnished by the assessee were not accepted. He, therefore, asked the assessee to explain as to why the expenditure corresponding to exempt income should not be disallowed under the provisions of section 14A read with rule 8D. Rejecting the various explanations given by the assessee and observing

that the decision of the Tribunal in assessee's own case has not attained finality, the Assessing Officer worked out the disallowance u/s 14A read with rule 8D at Rs.12,53,92,160/-. After deducting the amount of Rs.23,83,917/- already disallowed by the assessee, the Assessing Officer made addition of Rs.12,30,08,243/- to the total income of the assessee.

5. The Assessing Officer similarly observed that the assessee is engaged in life insurance business. According to the Assessing Officer, the taxability of insurance company is covered by the provisions of section 44 read with First Schedule of the Act. Section 44 of the Act is a special non-obstante provision governing the computation of taxable income earned from insurance business having an overriding effect over other computation provisions contained in the Act. In case of a life insurance company, Rule 2 of the First Schedule of the Act is applicable, which prescribes the manner in which taxable profits and gains of any life insurance business is to be computed. Special scheme of assessment as provided in section 44 of the Act and the First Schedule of the Act and more particularly Rule 2 provides that insurance business was governed by the actuarial valuation and not by the general Profit and Loss Account prepared in other company. According to the aforesaid rule, the taxable profits and gains are required to be calculated considering the surplus / deficit arrived at after making the adjustments prescribed in the said rule to the surplus / deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938. He, therefore, asked the assessee to submit Form A-RA and Form A-PL along with working of

provision for tax and actual tax liability. From the details furnished by the assessee, he noted that the assessee has made provision for tax at Rs.150.02 crores against actual tax liability of Rs.135.05 crores which amounts to excess provision of Rs.14.97 crores. He observed that similar claim of the assessee was examined in the preceding assessment years i.e. 2012-13, 2013-14, 2014-15 and 2015-16 and the explanation of the assessee was rejected. He, therefore, asked the assessee as to why similar adjustment should not be made in the current year as well. Rejecting the various explanations given by the assessee, the Assessing Officer made addition of Rs.14,97,00,237/- to the total income of the assessee by observing as under:

“6.8 The contention put forward by the assessee has duly considered and found unacceptable as discusses as under:

- (i) In the case of revenue account, provision for tax has to be made before arriving surplus or deficit in revenue account. However, in the case of shareholders account, there is no such column for provision for tax that has to be made before arriving profit or surplus. In case of tax liability for shareholders account, the same has to be computed after profit. Therefore, making excess provision for tax than actual tax liability does not arise, because quantum of profit has already been determined. Still, assessee has made provision in excess of actual tax liability. By making excess provision, assessee has suppressed its income chargeable to tax by that amount and evaded the tax to this extent. It was also observed and verified that excess provision of tax has not offered for tax in subsequent years and in fact till the date of assessment proceedings of this case.*
- (ii) Assessee has made excess provision by 11%. Estimation of provision for tax is required to be fair and reasonable. It should not be in absurd manner. Books of account of assessee are finalized by 31st March of every year and quantum of surplus chargeable to tax is also fairly determined. The same has been also audited by actuary/IRDA by month of April and also audited by tax auditors. Therefore, quantum of surplus/ profit in revenue account is fully crystallized and also fixed. Therefore, actual tax liability can be actually ascertained. However, as discussed above, assessee has made provision for tax more than the actual tax liability (provision*

at Rs.150.02 crores, whereas actual tax liability is just Rs. 135.05 crores; excess provision by Rs. 14.97 crores). This is neither justifiable nor understandable and there is no as such complexity as claimed by assessee in its argument for making excess provision on conservative basis, because provision for tax can easily be determined based on surplus worked out before tax provision and if tax provision is more than actual tax liability, then the same can easily be adjusted. It is purely statistics and can easily be done. By making excess provision, assessee has suppressed its income chargeable to tax by Rs.14.97 crores and evaded the tax to this extent. It was also observed and verified that excess provision of tax has not offered for tax in subsequent years and in fact till the date of assessment proceedings of this case. This also shows the intention of assessee to not offering it as income at all.

- (iii) *Under these circumstances, this becomes a fit case where doctrine of lifting the corporate veil, may be applied. It is trite of law that if some device has been used by the assessee to conceal the true nature of the transaction, it is the duty at the taxing authorities to unravel the device and determine its true character. However, the legal effect of the transaction cannot be displaced by probing into the "Substance of the transaction". In McDowell case, it has been held clearly that the taxpayer cannot be allowed to get away with any colourable device or artificial sham transaction. Therefore, it becomes an important function of the income tax authorities to look into the devices and natures of transactions used by the assessee, and decide upon the character and nature of such devices and transactions. The assessee has made various submissions countering the findings of the assessing officer in the assessment order for AY 2012-13 and has submitted that it has reversed some amount of provision for tax, however, the complete amount has not been reversed. Hence, the undersigned does not agree with these submissions of the assessee.*

6.9 As stated earlier, by making excess provision for tax without any valid justification is nothing but a tool to evade tax. Accordingly, the claim of excess provision of tax at Rs. 14,97,00,237/- (combined revenue and shareholders account) is disallowed and added back in the income of assessee. Penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961 for furnishing inaccurate particulars of income."

6. The Assessing Officer further noted that the taxable profits and gains are required to be calculated considering the surplus / deficit arrived at after making the adjustments prescribed in the said rule to the surplus / deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938. According

to him, the benefit of provision for tax in case of shareholders account is not available to the assessee because in case of shareholders account profit or surplus is worked out before provision for tax. He, therefore, made disallowance of Rs.85,00,65,992/- to the total income of the assessee by observing as under:

“7.1 As discussed earlier, as per rule 2, the taxable profits and gains are required to be calculated considering the surplus/ deficit arrived at after making the adjustments prescribed in the said rule to the surplus/deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938.

7.2 Prior to the enactment of the Insurance (Amendment) Act, 2002, a life insurance company was required to maintain a consolidated revenue account including surplus from both shareholders' and policy holders' accounts.

7.3 The insurance Act, 1938 was amended vide the Insurance (Amendment) Act,2002; to give full effect to the IRDA Act, 1999. Section 11(18) of the insurance Act, 1938, inserted vide the said amendment provides that every insurer shall keep separate accounts relating to funds of shareholders and policyholders as opposed to the earlier requirement of maintaining a consolidated revenue account. The formats for presentation of insurance accounts have been prescribed by the IRDA (Preparation of Financial Statements and Auditors Report of insurance Companies) Regulations, 2002.Part V deals with the provision of financial statements. Every insurer is required to prepare (1) a revenue account/technical account which is also described as a policyholders' account; and (ii) a profit and loss account, which is also described as a shareholders' account in form A-PL, apart from a balance sheet. The statutory forms are prescribed by the Regulations, Form A-RA is prescribed for the preparation of the revenue account or the policyholders' account. Form A-RA reflects the surplus or, as the case maybe, the deficit generated in the revenue account for the year ending 315 March. In the case of revenue account, provision for tax that has to be made before arriving surplus or deficit in revenue account However, in the case of shareholders account, there is no such column for provision for tax that has to be made before arriving profit or surplus. In case of tax liability for Shareholders' account, the same has to be computed after profit, 'which is quite opposite to the case of policyholder's account, where provision for tax comes before arriving surplus.

7.4 Therefore, benefit of provision for tax in case of shareholder's account is not available to the assessee, because in case of shareholders account profit or surplus is worked out before provision for tax it is apparent that same has been done vide amendment in the insurance (Amendment) Act, 2009, which has make difference between policy holders account and shareholders' account and also treatment of provision for tax separately in case of both account. It is important to note that, in shareholders' account, other income such interest income, income from investment, rental income etc. are shown which is not directly related to insurance business of company. Therefore, provision for income tax should not be

allowed while determining profit in shareholders account. However, there is ambiguity in interpreting the statue due to not making amendment in rule 2 consequent of amendment in the insurance (Amendment) Act, 2000. But, since there is meaningful and apparent difference in treatment for provision for tax in policyholders' account and shareholders' account, therefore, I am of the view that in case of shareholders' account tax has to be worked after profit or surplus in shareholders account and not after reducing provision of tax against profit arrived in shareholders account.

7.5 Accordingly, the entire claim of provision of tax in shareholders' account is disallowed. However, since the portion of provision to tax in excess of actual income-tax liability has already been disallowed in para 7, therefore the portion relating to the actual income-tax liability of Rs.85,00,65,992/- in case of shareholders account is disallowed and added back in the income of assessee. Penalty proceedings u/s 271(1)(c) of the income Tax Act, 1961 for furnishing inaccurate particulars of income.”

7. In appeal, the CIT(A) / NFAC following the order of the Tribunal in assessee's own case for the preceding assessment years deleted all the above three additions.

8. Aggrieved with such order of CIT(A) / NFAC, the Revenue is in appeal before the Tribunal by raising the following grounds:

- 1. On the facts and the circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition made by the AO on account of disallowance of Rs.12,30,08,243/- under section 14A r.w.r. 8D of the IT Act and not appreciating the fact that the section 14A of the Income Tax Act, 1961 is applicable in the Assessee's case.*
- ii. On the facts and the circumstances of the case and in law, the Ld.CIT(A) erred in not considering the section 44 of the Income Tax Act, 1961 nowhere restricts applicability of section 14A of the Income tax Act, 1961.*
- iii. On the facts and the circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition made by the AO on account of disallowance of Rs.14,97,00,237/- in respect of excess provision made for Income Tax.*
- iv. On the facts and the circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition on account of disallowance of Rs.85,00,65,992/- in respect of provision of income tax in case of shareholders account.*

- v. *On the facts and the circumstances of the case and in law, the Ld.CIT(A) erred in not appreciating the fact that making excess provision for tax without any valid justification is nothing but a tool to evade tax.*
- vi. *On the facts and the circumstances and in law, the Ld.CIT(A) erred in relying on the decision of the ITAT in assessee's own case holding that the Assessing Officer has no power to make any kind of adjustments as disclosed in the profits and gains prepared in accordance with provisions the Insurance Act in relation to the of life insurance business?*
- vii. *On the facts and the circumstances and in law, the Ld.CIT(A) erred in allowing the excess provision of tax, in absence of any write back by the assessee company in subsequent years in its return of income.*
- viii. *On the facts and the circumstances and in law, the Ld.CIT(A) erred in allowing the excess provision of tax, in absence of any requirement as per law to make provision for tax in shareholder account before arriving profit or surplus.*
- ix. *The appellant craves leave to add, alter, amend and modify any of the above or all grounds raised at time of proceedings before the Hon'ble Tribunal which may please be granted.*

9. The grounds of appeal No.1 and 2 relate to the disallowance of Rs.12,30,08,243/- u/s 14A read with rule 8D which has been deleted by the CIT(A)/ NFAC.

10. After hearing both the sides, we find an identical issue had come up before the Tribunal in assessee's own case in the preceding years. We find the Tribunal vide ITA Nos.656 & 657/PUN/2021 for assessment years 2012-13 and 2013-14 vide order dated 10.01.2023 has discussed the issue and upheld the action of the CIT(A) in deleting the disallowance u/s 14A by observing as under:

"12. We heard the rival submissions and perused the material on record. The issue that arises for our consideration in the present ground of appeal nos.2 to 4 is with regard to the applicability of the provisions of section 14A in relation to computation of income of an assessee engaged in the life insurance business. The provisions of section 44 provides that the provisions of Income Tax Act, 1961 relating to the computation of income of an assessee engaged in the life insurance business excludes those provisions contained in sections 28 to 43B of the Act. It is

also important to note that section 14A begins the words “for the purposes of computing the total income under this chapter, no deduction shall be allowed in respect of expenditure incurred.”. The chapter in question is chapter IV. This chapter also contains the provisions relating to computation of profits and gains of business or profession. The identical issue was came before the Hon’ble Delhi High Court the case of Oriental Insurance Co. Ltd. (supra), wherein, it was clearly held that the applicability of provisions of section 14A was excluded in relation to the computation of taxable income of an assessee engaged in the life insurance business by holding as under :-

“9. Thus, the exclusion would take within its sweepsection 14A which is an exemption for deductions as allowable under the Act, as provided under section 28 to 43B. Further, section 44 is a special provision applicable in the cases of insurance companies and applies, notwithstanding anything to the contrary contained in the provisions of the Income-tax Act relating to the computation of income chargeable under different heads. For computing the profits and gains of the business of insurance company, the AO had to resort to section 44 and the prescribed rules, and could not have applied section 28 to 43B, since the same were excluded from the purview of section 44. This necessarily includes the exception provision enshrined under section 14A of the Act.”

13. Thus, in view of non-obstante provisions of section 44 r.w. Rule 2 of First Schedule of the Income Tax Act, which clearly excludes the applicability of provisions of sections 28 to 43B in relation to the computation of income of an assessee engaged in the life insurance business, the provisions of section 14A have no application while computing the income under Chapter IV, we are of the considered opinion that resort to provisions of section 14A cannot be made while computing the income of insurance company. We do not find any perversity or illegality in the findings of the ld. CIT(A) on this issue. Accordingly, ground of appeal nos.2 to 4 filed by the Revenue stands dismissed.”

11. Since the facts of the instant appeal are identical to the facts of the case already decided by the Tribunal in assessee’s own case for the preceding two assessment years, therefore, respectfully following the order of the Tribunal in assessee’s own case for assessment years 2012-13 and 2013-14 and in absence of any contrary material brought to our notice by the Ld. DR, the order of the CIT(A)/NFAC deleting the disallowance u/s 14A read with rule 8D is upheld and the grounds of appeal No.1 and 2 raised by the Revenue are accordingly dismissed.

12. The ground of appeal No.3 relates to the order of the CIT(A) / NFAC in deleting the addition made on account of excess provision made for income tax to the tune of Rs.14,97,00,237/-.

13. After hearing both the sides, we find an identical issue had come up before the Tribunal in assessee's own case in the preceding years. We find the Tribunal vide ITA Nos.656 & 657/PUN/2021 order dated 10.01.2023 for assessment years 2012-13 and 2013-14 while dismissing the grounds raised by the Revenue on this issue has upheld the order of the CIT(A) in deleting the excess provision made for income tax by observing as under:

"14. Ground of appeal no.5 challenges the decision of the ld. CIT(A) allowing the excess provisions of income-tax of Rs.58.36 crores debited in the books of account as expenditure. The factual background of the above ground of appeal no.5 is as under :-

During the course of assessment proceedings, the Assessing Officer observed that the respondent-assessee made a provision for income-tax at Rs.224 crores as against actual liability of Rs.165.64 crores. Such excess provisions were made in the revenue account by Rs.38.38 crores and shareholders account by Rs.5.27 crores. Thus, according to the Assessing Officer, the respondent-assessee made excess provisions for income-tax of Rs.58.36 crores. According to the Assessing Officer, such excess provisions cannot be allowed as deduction while computing the profits and gains of business of the respondent-assessee, accordingly, brought such excess provision to tax.

15. However, on appeal before the ld. CIT(A), it was held that the taxable profits of the life insurance company should be computed in the manner laid down u/s 44 r.w. Rule 2 of First Schedule of the Income Tax Act. The provisions of section 44 starts with non-obstante clause, therefore, overrides all other provisions of the Income Tax Act. The provisions of Rule 2 of First Schedule of the Income Tax Act provides that the taxable profits of insurance company shall be computed considering the surplus/deficit arrived at after making the adjustments prescribed under the said Rule to the surplus/deficit as disclosed by actuarial valuation. The Hon'ble Supreme Court in the case of Life Insurance Corpn. of India vs. CIT, 51 ITR 773 (SC) had laid down that in computation of profits and gains of the insurance company, the Assessing Officer has to accept the surplus/deficit as disclosed by actuarial valuation and the Assessing Officer

had no power to correct the errors in accounts of the assessee or an insurance company. The Assessing Officer has no power to tamper with account of the assessee engaged in life insurance business. The ratio of this judgement was reiterated subsequently by the Hon'ble Apex Court in the case of General Insurance Corpn. of India vs. CIT, 156 CTR 425 (SC) by holding as under :-

“19. There is another approach to the same issue. Section 44 of the Income- tax Act read with the rules contained in the First Schedule to the Act lays down an artificial mode of computing the profits and gains of insurance business. For the purpose of income-tax, the figures in the accounts of the assessee drawn up in accordance with the provisions of the First Schedule to the Income-tax Act and satisfying the requirements of the Insurance Act are binding on the assessing officer under the Income-tax Act and he has no general power to correct the errors in the accounts of an insurance business and undo the entries made therein.”

16. Again, the above ratio was laid down by the Hon'ble Apex Court in the case CIT vs. Oriental Fire and General Insurance Co. Ltd., 291 ITR 370 (SC). The ratio that can be culled out from the above referred judgements of the Hon'ble Supreme Court is that notwithstanding anything contained in the provisions of income-tax relating to the computation of chargeable income under head “profits and gains of business”, the profits of life insurance business are to be computed according to Rule 2 of First Schedule of the Income Tax Act. The provisions of section 44 bars the operations of the provisions of the computation of income under different heads specified therein. Further, the Assessing Officer can only make an adjustment to the surplus/deficit disclosed by actuarial valuations which are permissible under the Rule only. The Assessing Officer had no power to tamper with the surplus/deficit disclosed by actuarial valuation. It must be noted that the Rule 2 of First Schedule of the Income Tax Act prescribed the manner in which taxable profits of an assessee engaged in the life insurance business should be computed. The provisions of Rule 5 prescribes the manner of computation of profits and gains of business of insurance other than the life insurance. Subsequent to the decision of the Hon'ble Supreme Court in the case of Oriental Fire and General Insurance Co. Ltd. (supra), the provisions of Rule 5 have been amended in relation to the business of general insurance empowering the Assessing Officer to make adjustment to the profits as disclosed by the assessee engaged in the non-life insurance business. In the circumstances, it is enumerated in clause (a), (b) and (c) of Rule 5, whereas, no such power has been conferred on the Assessing Officer to make any kind of adjustments as disclosed in the profits and gains prepared in accordance with provisions of the Insurance Act in relation to the life insurance business. Therefore, the ratio laid down by the Hon'ble Supreme Court in the case of Life Insurance Corpn. of India vs. CIT, 51 ITR 773 (SC) that the Assessing Officer had no power to do anything not contained in Rule 2 of First Schedule of the Income Tax Act still holds field. In the light of the above discussions, the Assessing Officer was not justified in making the addition on account of excess provisions of income-tax debited in the books of account. In the circumstances, we do not find any illegality or perversity in the order of the Id. CIT(A) deleting the addition on account of excess provisions of income-tax, and

does not warrant interference by us. Accordingly, this ground of appeal no.5 filed by the Revenue stands dismissed.”

14. Since the facts of the instant appeal are identical, therefore, respectfully following the order of the Tribunal in assessee's own case for assessment years 2012-13 and 2013-14 cited (supra) and in absence of any contrary material brought to our notice by the Ld. DR, we do not find any infirmity in the order of the CIT(A) / NFAC on this issue. Accordingly the same is upheld and the ground of appeal No.3 raised by the Revenue is accordingly dismissed.

15. The grounds of appeal No.4 to 8 relate to the order of the CIT(A) / NFAC in deleting the addition made by the Assessing Officer of Rs.85,00,65,992/- in respect of provision of income tax in case of shareholders account.

16. After hearing both the sides, we find identical issue had come up before the Tribunal in assessee's own case for assessment years 2012-13 and 2013-14. We find the Tribunal vide ITA Nos.656 & 657/PUN/2021 order dated 10.01.2023 while dismissing the grounds raised by the Revenue on this issue has upheld the order of the CIT(A) by observing as under:

“17. Ground of appeal no.6 challenges the decision of the ld. CIT(A) taxing the income arising on account of shareholders profits. The brief factual background of the grounds of appeal no.6 is as under :

During the assessment year under consideration, the respondent-assessee company in terms of the provisions of the Insurance Act, 1930, as amended from time to time, had prepared a separate account relating to the funds of the shareholders account and policyholders accounts. The separate record was also prepared as prescribed under the Regulations. The respondent-assessee company also made a Provision for tax on the profits made in the shareholders accounts. The Assessing Officer was of the opinion that the Provision for tax made in respect of profits & loss account of shareholders

account cannot be allowed as deduction in computing the taxable income of the life insurance business of the respondent-assessee company. Accordingly, a sum of Rs.33,10,50,000/- was brought to tax by the Assessing Officer. On appeal before the ld. CIT(A), the same came to be allowed by holding that preparation of separate Profit & Loss Account in respect of both policyholders account and shareholders account is a mere compliance statutory requirement and the shareholders activities is integral part of the business of life insurance carried on by the respondent-assessee and no separate addition is warranted. Accordingly, the ld. CIT(A) directed the Assessing Officer not to make any addition on account of Provision for tax made in respect of shareholders profits disclosed in the shareholders accounts.

18. *Being aggrieved, the Revenue is in appeal before us in the present ground of appeal no.6.*

19. *The ld. CIT-DR submits that the provisions of Insurance Act as amended w.e.f. 2002 requires an assessee to maintain a separate account relating to the funds of the shareholders accounts and policyholder accounts, the profits disclosed in the shareholders account does not form part of the business of life insurance carrying on by the respondent-assessee. The ld. CIT(A) had applied wrongly principle of law and, therefore, it is prayed that the order of the ld. CIT(A) should be reversed.*

20. *On the other hand, ld. AR submits that the provisions of Rule 2 of First Schedule of the Income Tax Act would be attracted even in respect of the profits as disclosed by the shareholders accounts. He submits that the respondent-assessee is engaged in the business of life insurance and the profits as disclosed in the shareholders account is part and parcel of life insurance business and requires to be integrated and has to be taken into consideration into total surplus as arrived at actuarial valuation and the income from the shareholders account was also to be taxed as part of life insurance business placing reliance on the decision of the Hon'ble Bombay High Court in the case CIT vs. ICICI Prudential Insurance Co. Ltd., 242 Taxman 159 (Bombay) followed by the Hon'ble Karnataka High Court in the case of PCIT vs. Exide Life Insurance Co. Ltd., 444 ITR 518 (Karnataka).*

21. *We heard the rival submissions and perused the material on record. The issue that arises for consideration in the present ground of appeal no.6 is whether an assessee engaged in the business of life insurance, whether the surplus available in the shareholders account engaged in the life insurance business can be taxed separately from other sources or it should be treated as part and parcel of income from life insurance business by combining the surplus available with the shareholders accounts and with the policyholders accounts. The issue is no longer res integra as it stands settled by the Hon'ble Bombay High Court in the case of CIT vs. ICICI Prudential Insurance Co. Ltd., 73 taxmann.com 201 (Bombay) by observing as under :-*

“5. So far as Question No. 8 is concerned, the grievance of the revenue is that the income on shareholders' account has to be taxed as income from other sources. This on the ground that the income earned on shareholders'

account is not an income which represents income on account of Life Insurance Business. Therefore it is the revenue's contention that it has to be taxed as income from other sources. The impugned order while allowing the assessee's appeal holds that income earned on shareholders' amount has to be considered as arising out of Life Insurance Business. Moreover in terms of Section 44 of the Act, such income has to be taxed in accordance with First Schedule as provided therein. None of the authorities under the Act nor even before us is it urged that the assessee is carrying on separate business other than life insurance business. Accordingly, the impugned order holding that the income from shareholders' account is also to be taxed as a part of life insurance business cannot be found fault with in view of the clear mandate of Section 44 of the Act. Accordingly Question No. 8 also does not raise any substantial question of law. Thus not entertained.”

22. *Even the Hon'ble Karnataka High Court following the decision relied upon by the Hon'ble Bombay High Court in the case of ICICI Prudential Insurance Co. Ltd. (supra) held that where the assessee company was engaged only in life insurance business and was not carrying on any other business, surplus or deficit as per shareholders account is to be aggregated with surplus or deficit with policyholders account for the purpose of determining the Profit & Loss Account of an assessee engaged in life insurance business u/s 44 of the Act. Then, the findings given by us in relation to the computation of taxable income of the assessee in para 16 of this order would also apply. The ratio of the Hon'ble Jurisdictional High Court in the case of ICICI Prudential Insurance Co. Ltd. (supra) is squarely applicable to the facts of the present case and, therefore, we do not find any perversity or fallacy in the order of the ld. CIT(A). Accordingly, ground of appeal no.6 filed by the Revenue stands dismissed.”*

17. Since the facts of the instant appeal are identical to the facts of the case already decided by the Tribunal in assessee's own case for the preceding two assessment years, therefore, respectfully following the order of the Tribunal in assessee's own case for assessment years 2012-13 and 2013-14 and in absence of any contrary material brought to our notice by the Ld. DR, we uphold the order of the CIT(A) / NFAC on this issue. Accordingly, the grounds of appeal No.4 to 8 raised by the Revenue are dismissed.

18. The ground of appeal No.9 being general in nature is dismissed.

ITA No.654/PUN/2024 for assessment year 2018-19

19. After hearing both the sides, we find the grounds raised in ITA No.654/PUN/2024 are identical to the grounds raised in ITA No.653/PUN/2024. We have already decided the grounds raised by the Revenue and the appeal filed by the Revenue has been dismissed. Following similar reasonings, the grounds raised by the Revenue in the impugned appeal are also dismissed.

20. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on 29th October, 2024.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 29th October, 2024

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	28.10.2024		Sr. PS/PS
2	Draft placed before author	29.10.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			