

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(HYBRID COURT)**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

**I.T.A. No. 185/Asr/2024**

Assessment Year: 2016-17

Hardial Singh, Vill. Bilaspur Vs.  
P.O. Barian Kalan, Hoshiapur  
146101, Punjab

[PAN: CZQPS4617G]

**(Appellant)**

Income Tax Officer  
Hoshiarpur

**(Respondent)**

Appellant by : Sh.Parveen Jain, Adv.  
Respondent by : Sh. Manpreet Singh Duggal, Sr. D. R.  
Date of Hearing : 19.03.2025  
Date of Pronouncement : 11.04.2025

**ORDER**

**Per Krinwant Sahay, A.M.:**

Appeal in this case has been filed against the order dated 26.10.2023 passed by the Id. CIT(A) NFAC, Delhi for Assessment Year: 2016-17

2. Grounds of appeal taken by the assessee are as under:

- “1. *Erroneous Application of Section 80CCC(2): The learned Commissioner of Income Tax (Appeals) NFAC, Delhi, erred in upholding the addition of Rs. 96,74,690/- under section 80CCC(2) of the Income Tax Act. The appellant contends that this provision pertains to the taxation of surrender value of annuity plans where relief was claimed under section 80CCC(1). However, since no relief was claimed under section 80CCC(1) in the present case, the surrender value of the policy should not be taxed.*
2. *Treatment of Policies as Capital Assets: The appellant asserts that the LIC Endowment Plan Unit Linked-Growth fund option policies should be treated as 'capital assets' within the meaning of section 2(14) of the Act. These policies represent investments and hold inherent value, akin to traditional capital assets, thus warranting a different tax treatment than annuity plans.*
3. *Procedural Irregularity: The appellant was denied due process as the notices under section 148 were served solely through the ITBA portal, without any corresponding postal service notice reaching the appellant's correspondence address. This deprived the appellant of the opportunity to participate in the assessment proceedings, leading to an ex parte assessment and subsequent dismissal of the appeal by the CIT (Appeals).*
4. *Treatment of ULIPs as Capital Assets: It is crucial to highlight that ULIPs are now expressly treated as 'capital assets' according to the Finance Act, 2021. The appellant draws attention to clause(c) of section 2(14) of the Income Tax Act, which defines 'capital asset' and includes any unit-linked insurance policy (ULIP) to which exemption under clause 10D of section 10 does not apply due to the applicability of the fourth and fifth provisos thereof. In the present case, the appellant has paid a premium exceeding the limit specified under the fourth proviso to section 10(10D) of the Act. This interpretation is reinforced by the amendment to section 2(14)(c) of the Act vide Act No. 13 of 2021, which explicitly designates investment in unit-linked insurance policies as 'capital assets'.*
5. *Lack of Opportunity for Hearing: The dismissal of the appeal by the CIT(Appeals) NFAC, Delhi, on 26.10.2023, due to the absence of*

*representation, was unjust. The appellant was represented by new counsel, Mr. Mann Singh Bilaspuria Advocate, who was engaged specifically for filing the appeal. However, due to procedural lapses in notice delivery and communication, the appellant was unable to participate in the proceedings, resulting in an unfair dismissal of the appeal.*

6. *Procedural Deficiency: Additionally, it is pertinent to note that no notice was ever served upon the email address mentioned in the appeal form 35. The appellant was deprived of crucial communication regarding the assessment proceedings due to the failure to serve notices to the provided email address. This constitutes a procedural irregularity that adversely affected the appellant's ability to participate effectively in the proceedings.*
7. *That the assessment order passed/confirmed by the lower authorities are arbitrary, illegal, illogical, unreasonable, and unwarranted with considering the facts and circumstances of the case and law on the point.*
8. *That the appellant craves to leave and or amend grounds of appeal till the appeal is heard and disposed off.”*

3. The registry has marked it as belated appeal by 104 days, the counsel of the assessee has filed an affidavit on this issue which is reproduced as under:

*“1, Hardial Singh, son of S. Dilbag Singh, aged about 58 years, permanent resident of 825, Bustamante Street, Poblacion Candelaria, Quezon, Philippines, and occasionally visiting India where I reside with my relatives at C/o Gurnek Singh S/o Dilbag Singh, village Bilaspur, post office Barian Kalan, Distt. Hoshiarpur-146101, do hereby solemnly affirm and declare as follows:*

- I. *I am the appellant in the above-mentioned appeal before the Income Tax Appellate Tribunal (ITAT).*

2. *I hereby submit this affidavit in support of my application for condonation of delay in filing the said appeal before the ITAT and non-service of notices sent by the lower authorities.*
3. *I state that the delay of 104 days in filing the appeal before the ITAT was due to unforeseen circumstances.*
4. *During the period from 18.01.2020 to 11.12.2023, I was out of the country and, therefore, was unaware of the assessment proceedings, appellate proceedings, and the dismissal of the appeal by the Commissioner of Income Tax (Appeals).*
5. *The Assistant Registrar communicated via email received on 08.04.2024 regarding a delay of 104 days in filing the appeal. However, I respectfully submit that the delay should be considered from 11.12.2023, when I became aware of the order, rather than from the date of service on email or portal. Additionally, I have now provided my own email address for communication.*
6. *I came to know about the ex-parte order passed by the Commissioner of Income Tax (Appeals) NFAC, Delhi, on 11.12.2023, when an inspector visited my address and demanded the tax amount, informing about the dismissal of the appeal due to non-appearance.*
7. *Upon receiving this information, I promptly engaged new counsel and initiated the process of filing an appeal before the ITAT, resulting in the present application for condonation of delay.*
8. *I affirm that I have strong grounds and arguments in support of the appeal, as detailed in the appeal document submitted to the Tribunal.*

9. *I solemnly affirm that the delay in filing the appeal was unintentional and solely due to my lack of knowledge regarding the dismissal of the appeal by the Commissioner of Income Tax (Appeals).*
10. *In view of the above circumstances, I humbly request the Honourable Tribunal to condone the delay of 104 days in filing the appeal and admit the appeal for adjudication on merits.*
11. *I assure the Tribunal of my full cooperation and compliance with any further directions issued in this regard.*

*I, Hardial Singh, the deponent hereinabove named, do hereby solemnly affirm and declare that the contents of this affidavit are true and correct to the best of my knowledge, belief, and information, and nothing material has been concealed therein.”*

4. We have considered the issues brought in the Form of an affidavit and we are inclined to condone the delay.

5. The ld. DR had no objection in the condonation of delay in filing of this appeal.

6. At the very outset, the counsel of the assessee brought before the bench during proceedings before us that the assessment order passed by the A.O. is an ex-parte order and the ld. CIT(A) has also passed his appellate order as an ex-parte order. The counsel,

therefore, argued that the case has not been discussed or assessed on merit before the lower authorities.

7. The ld. DR relied on the order of the ld. CIT(A).

8. We have considered the submissions of the ld. counsel regarding this order being an ex-parte order both before the ld. Assessing Officer in the assessment proceedings as well as before the ld. CIT(A) in the appellate proceedings.

9. Thus, we find that the issues in this case have not been discussed on merit after due consideration of assessee's submission.

10. Therefore, keeping in view, the element of natural justice with the assessee, we are inclined to remand this appeal back to the file of the A.O. for passing an order *de-novo* after giving adequate opportunities to the assessee of being heard as well as to allow him to file written submissions if any. The assessee will have all the legal issues before him. The assessee is also directed to co-operate with the department for completion of proceedings before authorities below.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 11.04.2025

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

**Sd/-**  
**(Krinwant Sahay)**  
**Accountant Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy  
By Order