

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"G" BENCH, MUMBAI  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER  
ITA No. 3363/MUM/2025 (AY: 2020-21)  
ITA No. 3364/MUM/2025 (AY: 2019-20)  
(Physical hearing)**

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| SBI Life Insurance Company Limited<br>Natraj 5 <sup>th</sup> Floor, M.V. Road and<br>Western Exp. Highway J., Andheri<br>East, S.O. Mumbai-400069.<br>[PAN: AAFCS2530P] | Vs | Pr. CIT -1, Mumbai<br>330, 3 <sup>rd</sup> Floor, AayakarBhavan,<br>M.K. Road, Mumbai – 400020. |
| Appellant / Revenue   |    | Respondent / Assessee   |

|                       |  |
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| Assessee by           | Shri Farooq Irani Senior Advocate<br>with Ms AmrutaLele Advocate |
| Revenue by            | Shri Arun Kanti Datta, CIT-DR                                    |
| Date of hearing       | 22.09.2025   |
| Date of pronouncement | 31.10.2025   |

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. These two appeals by assessee are directed against the separate orders of Pr. CIT -1, Mumbai dated 25.03.2025 and 29.03.2025 for A.Y. 2019-20 and 2020-21 respectively. In both the appeals, the assessee has raised similar grounds of appeal, facts in both the years are similar. The Id. Pr. CIT directed assessing officer in his revision order to revise assessment order on common grounds. Thus, with the consent of both the party, both the appeals were clubbed, heard together and are decided by common order to avoid the conflicting decision. For appreciation of fact, appeal in A.Y. 2019-20 in ITA No. 3364/Mum/2025 is treated as lead case. The revenue has raised following grounds of appeal:

**"1. Ground No. 1: Erred in initiating proceedings under section 263 of the Act**

1.1 The Learned PCIT has erred in holding that order passed by Assessing Officer ('Learned AO') under section 143(3) read with 1448 of the Act dated 28 September, 2022 ('herein after referred as Assessment Order') is erroneous and prejudicial to the interest of the Revenue

1.2 The Learned PCIT has erred in holding that the AO failed to carry out necessary enquiries as warranted by the facts and circumstances of the case during the course of assessment proceedings under section 143(3) of the Act and therefore, the Assessment Order is erroneous in so far as it is prejudicial to the interest of the revenue;

1.3 The Learned PCIT has erred in setting aside the Assessment Order with directions to the Learned AO to make fresh assessment and examine the allowability of deduction claimed on account of provision of tax in the financial statements prepared as per Insurance Regulatory and Development Authority of India ('IRDAI');

**2. Ground No. 2: Failure to satisfy twin conditions referred under Revisionary Proceedings under Section 263 of the Act**

2.1. The Learned PCIT has erred in not appreciating the fact that during the course of assessment proceedings, the appellant duly submitted and placed on record all relevant documents pertaining to the computation of income and financial statements and these records were examined by the Learned AD before finalizing the assessment;

2.2. The Learned PCIT has erred in not considering the fact that the purpose of scrutiny assessment was the claim of refund made in the Return of Income ('ROI') by the appellant and the Learned AO had duly examined all the details related thereto such as advance tax, provision of tax, self-assessment of tax paid by the appellant for the year under consideration and therefore, the Assessment Order ought not to be considered as erroneous as per the provisions of section 263 of the Act;

2.3. The Learned PCIT has erred in not considering the fact that amount of taxes paid (advance tax, TDS and self-assessment tax) for the year under consideration are nearly close to the amount of the provision of tax made in the books of account and thus, it ought not to be considered as prejudicial to the interest of revenue;

2.4. The Learned PCIT has erred in not acknowledging the fact that, none of the conditions mentioned under Explanation-2 to Section 263 of the Act are met to conclude that the order passed by the Learned AD under Section 143

*read with Section 1448 of the Act for the captioned AY is erroneous and prejudicial to the interest of revenue.*

**3. Ground No. 3: Basis of initiating Revisionary Proceedings under Section 263 of the Act is factually incorrect and without independent verification of facts and records**

*3.1. The Learned PCIT has erred in not considering the fact that the notice issued under section 263 of the Act is factually incorrect as it refers to the excess provisioning of tax made by the appellant as compared to actual tax liability whereas from the perusal of the details of advance tax, TDS and Self-assessment of tax in the books of accounts, it is evident that payment of taxes is close to the amount provision of tax made in the books of accounts and accordingly, there is no revenue loss for the tax department;*

*3.2. The Learned PCIT has erred in issuing a notice under section 263 of the Act without any independent verification of facts or records to substantiate that provision of tax is higher than the actual tax liability;*

*3.3. The Learned PCIT has erred in not appreciating the fact that the appellant is required to prepare financial statements of each financial year in accordance with the regulations made by the IRDAI Regulations 2002 and accordingly, the deduction claimed on account of 'provision of tax' is bonafide and depicts the true financial position of the appellant for the year under consideration;*

*3.4. Further, the Learned PCIT has erred in not appreciating the fact that tax provisions at the year-end, are based on historical estimates, reasonable judgment and taking into consideration the litigation history (if any) and thus, no inflated provisions are made in the books of accounts for the year under consideration;*

**4. Ground No. 4: Erroneously disregarding the non-obstante provisions prescribed under section 44 read with rule 2 of First Schedule of the Act.**

*4.1 The Learned PCIT has erred in not acknowledging the fact that section 44 of the Act, read with Rule 2 of the First Schedule thereto, lays down the manner in which the taxable income from life insurance business and it provides for a specific exception in the case of the business of insurance whereby not only do the provisions of sections 28 to 438 not apply, but even the computation provisions under other heads of income do not apply.*

*4.2 The Learned PCIT has erred in ignoring the decision of Hon'ble Supreme Court in case of LIC vs CIT [51 ITR 773] and Hon'ble High Court of Bombay in*

*the case of LIC V. CIT [1978] 115 ITR 45 (Bom) wherein it is held that assessment of the profits of an insurance companies is completely governed by the rules under the schedules and that the AO has no power to make adjustment once the provisions of section 44 are invoked.*

*4.3 The Learned PCIT has erred in not citing any specific section of the Act under which the proposed disallowance on account of excess provision is being contemplated;*

**5. Ground No. 5: Erroneously disregarding the IRDAI Regulations prescribed for the insurers to maintain financial statements**

*5.1 The Learned PCIT has erred in not appreciating the fact that appellant is regulated entity and governed by the Rules and Regulations issued by IRDAI and accordingly, required to maintain the books of account in the format as prescribed by IRDAI Regulations 2002 and the said accounts are regularly audited by IRDAI;*

*5.2 The Learned PCIT has erred in not acknowledging the fact that the format of Balance Sheet as prescribed vide IRDAI Regulations takes into consideration all the liabilities including provision of tax while combining the effect of Policyholder Account and Shareholder Account and thus, the claim of deduction thereto is in accordance with the IRDAI Regulations read with provisions of the Income-tax Act, 1961;*

**6. Ground No. 6: Order passed under section 263 of the Act contains procedural defects and legal support**

*6.1 The Learned PCIT has erred in passing the order under section 263 of the Act merely on the basis of rebuttal of examples that were discussed in the personal hearing and not on the actual facts or provisions contained under the Act;*

*6.2 The Learned PCIT has erred in relying upon erstwhile IRDA Regulations 2000 and not considering the IRDAI Regulations 2002 while dealing with the issue of provision of tax in the books of account maintained by the appellant and not considered the arguments made by appellant in this regard mentioned in the submission made dated 25 March 2025 during the course of revisionary proceedings under section 263 of the Act;*

*6.3 The Learned PCIT has erred in not considering the arguments (legal, procedural and factual) made in the submissions dated 25 March, 2025 and relied on the incorrect references of IRDAI Regulations that are factually incorrect and lack legal support or substance;*

*6.4 The Learned PCIT has erred in directing reopening/revision of the assessment for subsequent years as it is based solely on the PCIT's assumption regarding provision of tax made in the books of accounts and without any new tangible material or evidence to suggest that the issue was not adequately addressed in the original assessments for those years.*

*6.5 In view of the above, order passed under section 263 of the Act which contains procedural defects and lacks legal backing stands invalid before the law, thus, it shall be quashed.*

*The appellant craves to leave to submit such further facts at any time before or at the time of hearing of the appeal, so as to enable the Learned Income Tax Appellant Tribunal (ITAT) to decide this appeal according to law."*

2. Brief facts of the case are that assessee is a company carrying business of almost all types of insurance as recorded by assessing officer (Id. AO) in para 3.2.3 of assessment order. The assessee filed its return of income for A.Y. 2019-20 declaring income of Rs. 1033.67 crores. The case was selected for scrutiny. The assessment was completed under section 143(3) r.w.s. 144B on 28.09.2022 by making various additions and assessed total income at Rs. 1512.40 crores. The assessment order was revised by Pr. CIT in its order dated 25.03.2025 passed under section 263. Before revising the assessment order, the assessing officer recorded that Additional Commissioner Range 1(3) in its letter dated 31.03.2025 raised objection on allowing provision for expenses as deductible expenses, on the basis of which the Id. PCIT independently verified the record and recorded gist of his observation on page 1 & 2 of his order. The Id. PCIT issued show cause notice under section 263 dated 20.03.2025. The Id. PCIT has not recorded the contents of his show cause notice under section 263 in his order. However, copy of such show cause notice is filed on record by assessee. In the show cause notice, the Id. PCIT recorded that segregation of financial reporting by assessee is

done into two distinct accounts: (i) Policyholders Account (Technical Account) and (ii) Shareholders Account (non-technical Account). The policyholders account records all income and expenses relating to shareholders account such as premium receipts and claim settlements, whereas in shareholders account, it records income from investment and other non-insurance activities reflecting the interests of shareholders. In A.Y. 2019-20, the provision made for tax across these two accounts is significantly higher than the actual tax liability computed. The Id. PCIT recorded such provision in his show cause notice in the following manner:

1. Policyholders Account (Technical Account) – Provision for tax: Rs. 2,68,68,83,542/-
2. Shareholders' Account (Non-technical Account) – Provision for tax: Rs. 46,06,83,408/-/-
3. Total Tax Provision – Rs. 3,14,75,66,950/-
4. Actual Tax Liability – Rs. 1,50,50,25,313/-
5. Excess Provisioning – Rs. 1,64,25,41,637/-"

3. On the basis of aforesaid observation, the Id. PCIT was of the view that primary issue arising from such discrepancy is that an excessive tax provision results in an underestimation of the actual taxable surplus, which has direct implications on revenue collection and against the fundamental principle of taxation and that deductions should correspond the genuine expenses. The Id. PCIT in para 6 of his show cause notice also noted that section 44 of Income Tax Act r.w. Rules of First Schedule governs the taxation of insurance company. This provision ensures that only legitimate expenses are deducted and any over statement of expenses are distorts the taxable surplus calculation. Further, IRDAI regulation also provide guidelines of financial reporting and provisioning which also requires that provision be made

reasonable estimate of liability rather than arbitrary or excessive amount. On the basis of which Id. PCIT was of the view that assessing officer did not conduct independent verification of the reasonableness and correctness of provision before finalising assessment. The assessee was asked to file reply on or before 25.03.2025.

4. The assessee filed its reply on 24.03.2025. The main contentions of reply furnished by assessee is recorded in para 2 of impugned order. The assessee in sum and substance submitted that assessee is maintaining books of account with the direction issued by IRDAI which mandates preparation of 'policyholders' and 'shareholders' account separately and balance sheet as a whole. The case of assessee was selected for scrutiny and assessment order was passed by making various additions which was subject-matter of appeal wherein the assessee was allowed relief on various grounds except deduction under section 80JJAA of the Act and further, appeal of department is pending before Tribunal. In the show cause notice, it is specified that excessive tax provision of Rs. 164.25 crores led to an understatement of income resulting loss of revenue. The assessee objected against issuance of notice under section 263 being bad in law and that twin conditions of section 263 are not satisfied. It was also stated that during assessment, the assessee company furnished all relevant evidence and record pertaining to computation of income and financial statement, which were examined by Id. AO during scrutiny assessment and passed the assessment order after considering Rule 2 of First Schedule and section 44 of Income Tax Act. The provision of tax appears explicitly in the financial statement were made available to the

assessing officer. The assessing officer thoroughly examined the computation of income including provision before determining taxable income. The provision for expenses form part of actuarial surplus/deficit. The case was selected for scrutiny for refund made in the return of income, the basis of scrutiny was also mentioned in the reply. The assessee further stated that assessing officer applied his mind, examined all the details related to claim of refund and passed the assessment order and it cannot be said that assessment order is erroneous. During assessment, the claim of various expenses under various heads was explained by assessee company in the computation mechanism of Life Insurance Company. The assessment which was passed after thorough verification cannot be construed as erroneous. The case cannot be reopened once accepted on the basis of different reasoning. The assessee also relied on various case laws. While explaining the financial statement which is in compliance with IRDAI regulation. The assessee company determines its tax provision at the year end, upon finalising of accounts, based on historical estimates and reasonable judgment. The provisioning process follows a structured methodology which ensures prudence principle and considering various factors including current year tax liability based on financial results as per return of income filed by assessee, expected adjustments based on historical trends where tax authorities made consistent adjustments in past assessments indicating a likelihood of additional tax liability. Further potential liabilities due to anticipated interpretations or disallowances like prior years. By adopting said approach, the assessee ensures compliance with the principle of a true and

fair view providing stakeholders with the accurate representation of their tax liability of financial position. The assessee also explained that they have consistently made advance tax payment accordingly equal to the provision for tax recognised in its financial statement and that there is no loss to the revenue. The assessee in their without prejudiced submission submitted that as per IRDAI regulations, the actuary disclosed the surplus/deficit of the life insurance business as the difference of total assets over total policy liabilities of the Company. In other words, the actuarial surplus for the current year is determined by aggregating the results of the Policyholders' and Shareholders' Accounts, capturing the net effect of all income, expenses, provisions, and adjustments recorded within both accounts. This surplus/deficit, calculated through the actuarial valuation process, is directly taken as the basis for the computation of income under life insurance in accordance with section 44 read with Rule 2 in the First Schedule to the Act.

5. The assessee also relied on various case laws. The reply of assessee was not accepted by Id. PCIT. The Id. PCIT held that even if provisions for taxes are to be allowed as deductions, these have to be done in harmony with the basic accounting and the norms of disclosure. If it goes by the stand taken by the assessee, then assessee can wilfully create provision for taxes such that the liability side is say 99, then pay 12.5% on Rs. 1.00 and claim the entire amount of prepaid taxes/advance taxes etc. as the refund. Claim that this was the way authorized by IRDA, without any supporting evidence does not cut any ice. The AR of the assessee is seen to be sincere in their misguided belief that this was the accounting policy mandated by IRDA. The relevant

IRDA regulation pointed out is enclosed for ready guidance of the AO. As per this guideline, amount in excess of the reasonable and necessary expense will be treated as reserve and not a provision. This clearly puts the whole arguments of authorized representative on a weak wicket. As a result assessment is to be revised on the limited issue of over calculation of provision for tax as indicative of attempts at tax avoidance, which if found to be deliberate would call for penal consequences but for which only the assessing officer may form an opinion on the facts after due opportunity to the assessee. As this is an accounting policy issue the AO may consider whether any other year would need to be revised/reopened/rectified so as to protect the interests of the revenue. The assessment is hence set-aside do be done again with the limited issue of revenue recognition and of allowability of provision for expenses as per the IRDA. The Id. PCIT set aside the assessment order with the direction to assessing officer to pass the assessment order afresh.

6. Aggrieved by the order of Id. PCIT, the assessee has filed present appeal before Tribunal.
7. We have heard the submissions of Sh. Farooq Irani Senior Advocate with Ms Amruta Lele Advocate / authorised representative (Id. AR) of the assessee and the learned commissioner of income tax – departmental representative (Id. CIT-DR) for the revenue. The Id. AR of the assessee submits that computation of income of assessee, which is Insurance Company, is governed by section 44 read with rules contending of First Schedule of Income Tax Act. The assessee accordingly prepared its books of account in

accordance with section 44 and First Schedule of Income Tax Act. Further, section 44 of the Income Tax Act overrides only computation provision and insurance company is eligible for the benefits available under provisions other than computational provision covered by the said section as has been held in various decisions of different High Courts and Hon'ble Supreme Court. If the deductions which are claimed by the assessee do not fall within the provisions which are referred to in section 44, then the applicability of those provisions is governed by section 44 r.w.r. 2 in the First-Schedule, as has been held by Bombay High Court in Life Insurance Corporation vs CIT 115 ITR 45 (Bombay) and other. The assessee has duly complied with the manner laid down in section 44 r.w.r. 2 and the alleged disallowance indentified by Id PCIT about excess provision for taxation is untenable and bad in law. To support such view, the Id. AR of the assessee relied upon the decision of Pune Tribunal in DCIT vs Bajaj Allianz Life Insurance Company Ltd. in ITA No. 653 & 654/Pun 2024 wherein in the said decision, the bench considering the issue of excess tax provisioning of policyholders account and shareholders account on the basis of decision of Hon'ble Apex Court in Life Insurance Corporation of India 51 ITR 773. The assessing officer has no power to make any adjustment to the actuarial surplus computed as per the provisions of section 44 r.w.r. 2 of First Schedule. The assessing officers while completing the assessment consider all such factors and accepted the claim of assessee. Once the assessing officer has accepted the claim of assessee which is reasonable, plausible and legally sustainable view, it cannot be revised by exercising jurisdiction under section 263.

8. The Id. AR of the assessee further submits that assessee company being a life insurance provider also prepared its financial statement in compliance with IRDAI regulation 2002. The assessee company in line with the IRDAI regulation determines its tax provision at the yearend upon finalisation accounts based on historical estimates and reasonable judgement. Such approach of the assessee has been consistently accepted by assessing officer in past as well as in current assessment year. The assessment order is in accordance with law and cannot be branded to be erroneous. Moreover, the Id. PCIT in his order has not specified as to how the assessment order is erroneous. The Id. PCIT has not given any specific finding on the detail written submission filed in response to show cause notice before him. The Id. AR submits that the issue is highly debatable and if the assessing officer has adopted one of the reasonable views it cannot be substituted by the view of Id. PCIT. The Id. AR of the assessee submits that order passed by Id. PCIT is not sustainable order and is liable to be set aside. To support his various submission, the Id. AR of the assessee relied upon the following decision:

- DCIT vs Bajaj Allianz Insurance Co. Ltd. ITA No. 656 & 657/Pun/2021
- Life Insurance Corpn. Of India vs CIT (1964) 51 ITR 773 (SC)
- DCIT vs Bajaj Allianz Insurance Co. Ltd. (supra)
- CIT vs Howrah Four Mills Ltd. (1999) 236 ITR 156 (Calcutta)
- CIT vs Jagadhri Electric Supply & Industrial Co. (1981) 7 Taxman 56 (Punjab & Haryana)
- CIT vs Chandrika Educational Trust (1994) 207 ITR 108 (Kerala)
- CIT vs Max India Ltd. (2008) 166 Taxman 188 (SC)
- CIT vs Paville Projects (P) Ltd. (2023) 149 taxmann.com 115 (SC)

9. On the other hand, the Id. CIT-DR for the revenue submits that order of Pune Tribunal is not applicable on PCIT -1, Mumbai, who is not under the territorial jurisdiction of Pune Tribunal. And in case, the issue is debatable, the view taken by Id. PCIT has to be prevailed. The assessing officer has not examined the issue and not applied his mind on the issue identified by Id. PCIT while revising the assessment order. The Id. PCIT in para 5 of his order clearly held that claim of assessee about books of account in accordance with IRDAI is without any supporting evidence. The business carried out by assessee cannot be basis for making such huge provisions. The assessing officer has not applied his mind. To support his submission the Id. DR relied upon the decision of Paville Projects (P) Ltd. vs CIT (2024) 160 taxmann.com 759 (SC).
10. In the rejoinder submission, the Id. AR of the assessee submits that in the show cause notice there is no averment to the effect that assessing officer has not applied his mind or that deduction given by Id. AO is wrong. The revision is not based on the fact that assessing officer has not made any enquiry. In fact, the Id. PCIT has not given any specific finding on the reply furnished before him.
11. We have considered the rival submissions of both the parties and have gone through the order of Id. PCIT as well as the assessment order framed by assessing officer. We have also deliberated on various case laws. We find that during the assessment, the assessing officer issued show cause notice dated 23.03.2022. Though, show cause notice is not placed on record by either of the party. However, from the contents of assessment order, we find that the

assessing officer in para 3.4.1 of his order has mentioned about raising question about actuarial surplus in Form-I. The assessee filed its reply dated 28.03.2022. The assessing officer after considering the reply of assessee noted that pursuant to the IRDAI Act, Insurance Act was amended with retrospective effect. The assessing officer referred section 13(1) of IRDAI Act and recorded that as per second proviso in section 13(1), the abstract is prepared by actuary in accordance with regulation laid down by IRDAI. As per IRDAI regulation, profit and loss account of a life insurance company is divided into technical accounts (policyholders account) and non-technical account (shareholders account). The sole purpose of presenting the annual account in two different accounts is that policyholders are assured of the financial insolvency and capacity of company to honour its long term commitment to the policyholders with whom they have fiduciary relationship. Further, technical accounts deal with transaction relation to income including premium and expenditure and actuarial provision shown segment-wise. Non-technical accounts are prepared taking into account, the result of actuarial valuation made in accordance with Insurance Act. The impact of actuarial valuation is considered while drawing up these accounts. Thus, we find that while passing the assessment order, the assessing officer has considered technical and non-technical account and tax provision, actual tax liability and excess provisioning and took a reasonable, plausible view. The Id. PCIT has not specified in his order as to how, the view taken by assessing officer is erroneous. The Id PCIT has not dealt with the contentions raised in the reply by assessee. The Id CIT-DR for the revenue also failed to counter such

submissions. The Id PCIT failed to specified as to how the order passed by assessing officer is erroneous or prejudicial to the interest of revenue. In our view, the twin condition for invoking jurisdiction under section 263 of the Act is not satisfied for invoking the jurisdiction under section 263 of the Act. In the result, the grounds of appeal raised by assessee are allowed.

**ITA 3363/Mum/2025 (2020-21)**

12. We find that the Id. PCIT revised the assessment order on similar line except on provision of income tax, which we have set aside, therefore, following the principle of consistency, the order passed by Id. PCIT for A.Y. 2020-21 is also set aside with similar direction.

13. In the result, both the appeals of the assessee are allowed.

Order was pronounced in the open Court on 31/10/2025.

**Sd/-**

**RENU JAUHRI  
ACCOUNTANT MEMBER**

**Sd/-**

**PAWAN SINGH  
JUDICIAL MEMBER**

MUMBAI, Dated: 31/10/2025

*Biswajit*

Copy of the order forwarded to:

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

By Order

Assistant Registrar  
ITAT, Mumbai