

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, KOLKATA

**SHRI SONJOY SARMA, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 800/Kol/2025
Assessment Year 2017-18**

Yamini Arjan Bharwani,
3, Mayfair Road, Gariahat,
Kolkata - 700019
[PAN: BQCPB6705J]

..... **Appellant**
vs.

Income Tax Officer,
Ward-30(1), Kolkata,
Aayakar Bhawan Dakshin, 2,
Gariahat Road, (South),
Kolkata - 700031

..... **Respondent**

Appearances by:

Assessee represented by : Ankit Jalan, AR
Department represented by : Saumitra Ghosh, JCIT

Date of concluding the hearing : 28.10.2025
Date of pronouncing the order : 30.10.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) dated 02.01.2025, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)”].

1.1 In this case, the Ld. AO made two additions of Rs. 16,00,000/- and Rs. 16,01,284/- respectively on account of alleged unexplained cash deposited during the demonetization period and the second addition has been made by bringing to tax the entire maturity amount of insurance policy, after denying benefit of u/s 10(10D) of the Act.

1.2 Aggrieved with this action, the assessee approached the Ld. CIT(A)

where she could partially succeed on the ground that the amount of Rs. 16,00,000/- deposited as cash during demonetization period was accepted as explained on account of sums received through termination of the life insurance policy. However, the Ld. CIT(A) has upheld the denial of exemption u/s 10(10D) of the Act on the basis of following findings:

“4.4 As regards, the grounds relating to the Ld. ITO has erred in adding the cash deposit as unexplained cash credit of Rs 1600000 and not giving the exemption u/s 10(10D) of amounting to Rs. 16,01,284/- where as it is quite clear that the cash was available in hand and the same has been deposited are concerned.

The exemption under Section 10(10D) of the Income Tax Act, 1961, for amounts received under a Unit Linked Insurance Plan (ULIP) depends on specific conditions In case of applicability in the case of premature termination for ULIP policies issued before April 1, 2012. No restriction on the premium-to-sum assured ratio was there. The policy was purchased by appellant on 29.01.2011 For exemption under Section 10(10D), the amount must be received as part of a matured policy or a payment on the occurrence of a specified contingency (e.g., death of the insured). In the case of premature termination (e.g. surrender of ULIP), the exemption will still be available if the conditions (e.g, death of the insured) above are met. Presently, the pre mature termination of the policy will not qualify for exemption under Section 10(100). Instead, the gains from the ULIP will be taxed as capital gains. Hence the ground relating to Additions for taxable ULIP proceeds of 16,01,284/-is confirmed.”

1.3 Further aggrieved, the assessee has approached the ITAT with the following grounds:

“1. For that on the facts and circumstances of the case, the Ld. CIT(A) was not justified in confirming the action of the A.O. in denying the exemption u/s 10(10D) of the IT Act 1961 claimed by the assessee to the tune of Rs. 16,01,284/-.

2. For that the Ld. CIT(A) ought to have considered that the assessee had rightly claimed the exemption u/s 10(10D) since the Unit Linked Insurance Plan (ULIP) policy was surrendered after 5 years' lock in period

3. The appellant craves leave to add, alter or delete all or any of the grounds of appeal at the time of hearing.”

2. Before us, the Ld. AR argued by reading out section 10(10D) of the Act and stating that the conditions precedent for allowing exemption therein were duly available in the present case and thus the action of Ld. CIT(A) was unjustified. The Ld. AR also placed before us the receipt of amounts received after terminating the said life insurance policy.

2.1 The Ld. DR, on the other hand, relied on the findings given by the Ld. AO, which form the basis for denying such exemption. The Ld. AR pointed out the relevant portion from the Ld. AO's order at page 4. The Ld. DR argued that the exemption had been correctly denied.

3. We have carefully considered the submissions of the Ld. AR/DR and have gone through the documents before us. It is seen that the Ld. AO has given the following finding regarding claim of exemption u/s 10(10D) of the Act.

“On perusal of subsequent reply it was noticed that the assessee stated that the entire premium amount was paid from SAR International i.e. a Partnership Firm and treated as self withdrawal of Veena Arjan Bharwani, she was one of the partner of the said firm and proposer of the assessee i.e. Yamini Arjan Bharwani. However, the assessee did not submit the relevant documents in connection with firm so that her claim could be justified. Further the assessee stated that the ULIP must be kept in force for 5 years to claim deduction, the premium must be paid regularly and the ULIP must be continued to avail tax benefit under section 80C. In this context the assessee did not submit copy of Bond Paper of the concern policy in which the matter could be explained properly. However the assessee did not submit or discuss anything regarding total sum assured value and maturity period which was fixed for ten years. Actually, the assessee had received the amount before maturity of policy as termination of the policy. The provision of Section 10(10D) of Income Tax Act, 1961 was not satisfied in this case, the credited amount will be taxable in the hand of the assessee for the relevant assessment period.”

3.1 It is understood from a plain reading of the documents before us that the claim of exemption u/s 10(10D) depends on certain factual aspects being fulfilled. Even though the Ld. AR has vehemently argued that the assessee placed all relevant material before the Ld. AO, but still we find there is a gap in fact finding as is evidenced by the portion extracted (supra) from the Ld. AO's order. Accordingly, we deem it fit to set aside the order of Ld. CIT(A) on this particular issue and remand this matter back to the file of Ld. AO for fresh assessment. The assessee would be expected to furnish all relevant documents before the Ld. AO so that he can take a considered view regarding the applicability, or otherwise, of the provisions of section 10(10D) of the Act in this case. We direct accordingly.

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

Order pronounced on 30.10.2025

Sd/-
(Sonjoy Sarma)
Judicial Member

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 30.10.2025
AK, Sr. P.S.

Copy of the order forwarded to:

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

//True copy//

By order

Assistant Registrar, Kolkata Benches