IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER

I.T.A. No.1821/Ahd/2025
(Assessment Year: 2018-19)

Rajkumar Pavankumar Sharma, A-1, Shivam Tenement-1, Nr. Jalaram Nagar, B/h. Tulshi Shyam Society, Vadodara-390010	Vs.	Income Tax Officer, Ward-4(1)(7), Vadodara
[PAN No.BHNPS4974A]		
(Appellant)	..	**(Respondent)**

Appellant by :	Shri Rajeev Kumar Goyal, AR
Respondent by:	Ms. Ketaki Desai, Sr. DR

Date of Hearing	12.02.2026
Date of Pronouncement	18.02.2026

O R D E R

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short "Ld. CIT(A)"), National Faceless Appeal Centre (in short "NFAC"), Delhi vide order dated 24.07.2025 passed for A.Y. 2018-19.

2. The assessee has taken the following grounds of appeal:

"1. The Ld. Commissioner of Income-tax (Appeals) failed to provide an opportunity for a personal hearing via video conferencing, despite the appellant's specific request.

2. The Learned NFAC erred in disposing of the appeal without recognizing that the same income was already offered for taxation, resulting in double taxation.

3. The actions of the Ld. Assessing Officer and Ld. Commissioner of Income-tax (Appeals) disregard established legal principles, judicial precedents and constitutional tenets.

4. The Assessee craves leave to add, alter, or delete any grounds before or at the time of hearing before the Hon'ble Tribunal.

5. The Ld. CIT (Appeals) erred in failing to establish that the Ld. FAO's assessment was based on non-existent facts and a misinterpretation of the law.

6. The facts and circumstances of the case were not adequately considered by the Ld. Commissioner of Income-tax (Appeals) concerning the appellant's legal claim."

3. The brief facts of the case are that the assessee is an individual who was employed with GE Power India Ltd. and had filed his return of income for Assessment Year 2018-19 on 18.07.2018 declaring a total income of Rs. 25,71,830/-. Subsequently, the assessee revised his return of income on 18.09.2018 declaring a reduced total income of Rs. 7,27,199/-. Thereafter, on the basis of information received through the Insight Portal that the assessee had taken Voluntary Retirement Scheme (VRS) from GE Power India Ltd. and that the employer had deducted tax at source on higher salary figures, the Assessing Officer formed a belief that income chargeable to tax had escaped assessment to the extent of Rs. 18,44,484/-. Accordingly, after obtaining due approval, the assessment was reopened under section 147 of the Income-tax Act, 1961 ("the Act").

4. During the reassessment proceedings, the Assessing Officer noted that under the VRS, the employer had paid a sum of Rs. 15,00,000/- directly to LIC for purchasing an annuity policy in favour of the assessee and had also paid tax of Rs. 4,50,000/- on behalf of the assessee. The Assessing Officer issued notices asking the assessee to explain why the said amounts should not be brought to tax in his hands as his taxable income. **In response, the assessee submitted that the amount of Rs. 15,00,000/- was not received by him but was paid directly by his employer to LIC for a deferred**

annuity, which would commence after four years, and therefore no vested right accrued to him during the relevant year. It was also submitted that the tax of Rs. 4,50,000/- paid by the employer was a non-monetary perquisite exempt under section 10(10CC) of the Act. The assessee placed reliance on the decision of the Hon'ble Supreme Court in CIT v. L.W. Russel and other judicial precedents.

5. The Assessing Officer, however, was not convinced with the explanation furnished by the assessee. He held that the amount paid by the employer to LIC constituted a perquisite under section 17(2)(v) of the Act and was taxable in the year of payment by the employer. The Assessing Officer further held that the exemption under section 10(10CC) of the Act was not available in respect of the tax paid by the employer, treating the same as monetary in nature. Accordingly, the Assessing Officer added a sum of Rs. 13,94,484/- (being the balance annuity amount after reducing annuity actually offered to tax) to the total income of the assessee and completed the assessment under section 143(3) read with sections 147 and 144B of the Act.

6. Aggrieved by the assessment order, the assessee carried the matter in appeal before the Commissioner of Income-tax (Appeals). Before the CIT(Appeals), the assessee raised grounds challenging the validity of reassessment proceedings and also challenged the additions made on account of the LIC annuity payment and tax paid by the employer. As regards the validity of reassessment, the assessee contended that the notice under section 148 of the Act was without jurisdiction and not issued in accordance with the faceless assessment scheme. The CIT(Appeals) examined the provisions of section 151A and the e-Assessment of Income Escaping Assessment Scheme,

2022 and held that the case was selected through an automated process based on risk management strategy and that the jurisdictional Assessing Officer was competent to issue notice under section issued notice u/s 148 of the Act. of the Act. Accordingly, CIT(Appeals) dismissed the ground challenging jurisdiction by the assessee.

7. On the issue of taxability of Rs. 15,00,000/- paid to LIC, the CIT(Appeals) held that section 17(2)(v) of the Act clearly includes within the definition of perquisite any sum payable by the employer to effect a contract for annuity. The CIT(Appeals), relying on the judgment of the Hon'ble Patna High Court in CIT v. J.G. Keshwani [1993] 202 ITR 391, **held that the amount paid by the employer for purchase of annuity policy was taxable as salary in the hands of the employee irrespective of whether the benefit accrued in the year or not**. The CIT(Appeals) distinguished the decision of the Hon'ble Supreme Court in L.W. Russel on the ground that it was rendered in the context of the 1922 Act and confirmed the addition made by the Assessing Officer.

8. With regard to the claim of exemption under section 10(10CC) of the Act in respect of tax paid by the employer, the CIT(Appeals) held that the perquisite in question was monetary in nature and therefore outside the scope of section 10(10CC) of the Act. Accordingly, CIT(Appeals) upheld the disallowance.

9. The assessee is in appeal before us against the order passed by the CIT(Appeals) dismissing the appeal of the assessee.

10. Before us, the learned counsel for the assessee reiterated that the amount of Rs. 15,00,000/- paid by the employer to LIC for purchase of annuity policy did not accrue or vest in the assessee during the relevant previous year and the assessee had no enforceable right over the said amount in Assessment Year 2018-19. **It was submitted that the annuity was to commence only after four years and that the assessee had already offered to tax the annuity installments actually received from LIC on accrual/receipt basis**. The learned counsel submitted that taxing the employer's contribution in the year of payment and again taxing the annuity receipts in subsequent years would result in impermissible double taxation. The Counsel for the assessee placed reliance on the recent decision of the Ahmedabad Bench of the Tribunal in the case of Biswas Manik v. Income-tax Officer [2025] 177 taxmann.com 369 / [2025] 214 ITD 197, which has considered identical facts and held that employer's contribution to LIC for deferred annuity cannot be taxed as perquisite in the year of contribution in absence of a vested right. It was thus prayed that the addition sustained by the CIT(Appeals) be deleted.

11. In response, the Ld. DR placed reliance on the observations made by the Assessing Officer and Ld. CIT(Appeals) in their respective orders.

12. We have heard the rival contentions and perused the material on record. The issue for our consideration is whether the amount paid by the employer to LIC for purchase of an annuity policy in favour of the assessee, payable in future, can be taxed as a perquisite in the hands of the assessee in the relevant assessment year.

13. We find that the issue in controversy is squarely covered by the decision of the Ahmedabad Bench of the Tribunal in the case of **Biswas Manik v. Income-tax Officer [2025] 177 taxmann.com 369 / [2025] 214 ITD 197**. In the said decision, the Tribunal, after examining sections 15 and 17(2)(v) of the Act and the judicial precedents, has held that for a payment to be taxed as salary or perquisite, it is essential that the amount is either due, paid or allowed to the employee and that a contingent benefit or non-vested future entitlement cannot be brought to tax in the year of employer's contribution. The Tribunal further held that where the employee does not acquire any vested or enforceable right over the amount in the relevant year and the annuity payments commence in future years, taxing the employer's contribution in the year of payment would result in double taxation when the annuity receipts are again taxed on accrual or receipt basis.

14. The relevant observations of the Tribunal in the case of Biswas Manik read as under:

> *"…in order for such a payment to be taxed in the hands of the employee, it is essential, as per section 15, that the amount is either due, paid, or allowed to the employee. A contingent benefit or a non-vested future entitlement cannot be brought to tax in the year of payment by the employer unless the employee acquires a vested right in the amount… taxing the employer's payment in the relevant assessment year would amount to taxing the same amount twice—once at the stage of employer's contribution and again at the time of annuity receipts—which is impermissible in law."*

15. Applying the above ratio to the facts of the present case, we note that the assessee did not acquire any vested or enforceable right over the sum of Rs. 15,00,000/- during Assessment Year 2018-19. The amount was paid directly by the employer to LIC and the annuity was structured to commence only after a specified future period. We also note that the assessee has already

offered to tax the annuity installments actually received from LIC. Therefore, taxing the employer's contribution in the year under consideration would lead to double taxation, which is not permissible under law.

16. Respectfully following the binding decision of the coordinate Bench in *Biswas Manik v. Income-tax Officer supra,* we hold that the addition made on account of the employer's contribution to LIC for deferred annuity is not sustainable. Consequently, the addition sustained by the CIT(Appeals) is directed to be deleted.

17. In the result, the appeal of the assessee is allowed.

This Order is pronounced in the Open Court on	**18/02/2026**

Sd/-	**Sd/-**
(NARENDRA P. SINHA)	**(SIDDHARTHA NAUTIYAL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Ahmedabad; Dated 18/02/2026

TANMAY, Sr. PS ***TRUE COPY***

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad