

IN THE INCOME TAX APPELLATE TRIBUNAL “A(SMC)” BENCH, KOLKATA
[Before Shri A. T. Varkey, JM]**I.T.A. No. 425/Kol/2021**
Assessment Year: 2017-18

Sandeep Modi (PAN: AEYPM6946H)	Vs.	Deputy Commissioner of Income-tax, CPC
Appellant		Respondent

Date of Hearing (virtual)	09.02.2022
Date of Pronouncement	04.03.2022
For the Appellant	Shri Harsh Vardhan Vhardwaj, CA
For the Respondent	Smt. Archana Gupta, Sr. DR

ORDER

This is an appeal preferred by the assessee against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 22.07.2021 for AY 2017-18.

2. At the outset, it is noticed that this appeal of assessee is time barred by 21 days. However, after going through the reason for the delay caused in filing the appeal, I am inclined to condone the delay and admit the appeal for hearing.

3. The assessee has raised the following grounds of appeal:

“(i) That on the facts and circumstances of the case, the Ld. CIT(A) had erred both in law and on facts in confirming the order by Assessing Officer and making an addition of Rs.10,00,000/- being the premium component of the maturity of Life Insurance Policy as Income from other sources.

ii) that on the facts and circumstances of the case, the Ld. CIT(A) had ought to deduct the premium paid on the maturity proceeds received from LIC to determine the correct taxable income.”

4. Brief facts of the case are that as per the statement of facts is that the assessee is an individual and promoter director of M/s. Rinki Plastic Private Limited. The assessee had availed bank finance for his company for manufacturing of epvc pipe and pipe fittings etc. As a condition for giving loan, the banker had asked the promoter director to avail life insurance policy entailing single premium policy of Rs 10,00,000/- maturing after 3 years. Accordingly, the assessee had taken the SBI Life Insurance Policy against which he did

not claim any benefit of deduction under Sec 80C of the Income Tax Act, 1961 (hereinafter referred to as the "Act"). Since, the assessee did not avail any deduction under Sec 80C of the Act, therefore, he did not include redemption payment of premium amount of Rs. 10,00,000/- in his return of income. However, he had shown appreciation in its maturity payment (Rs.13,09,000/-) over the premium amount paid by the assessee to the SBI (Rs.10,00,000/-) as income to the tune of Rs.3,09,000/- during the year and the same had been disclosed in his return of income. However, when the return of income was processed by the Central Processing Centre (CPC) of the Income Tax department which added Rs.10,00,000/- as income from other sources. Aggrieved by the action of CPC he had filed petition for rectification u/s 154 of the Act to the AO/CPC. However, according to the assessee, the AO at CPC Bangalore did not give any specific reason for rejection of his petition and simply rejected his application and so he appealed before the Ld. CIT(A) who was pleased to confirm the action of the CPC enhancing the total income by Rs. 10 lacs which according to assessee, was the premium paid by the assessee to the SBI. Aggrieved, assessee is before this Tribunal.

5. Having heard rival submissions and after having carefully gone through the facts and circumstances of the case, it is noted that the assessee took the policy of Rs.10,88,000/- in AY 2012-13 against payment of one time premium of Rs. 10 lacs from SBI Life Insurance Co. Ltd. (credit of bonus @ 3.25%). In this relevant assessment year i.e. (AY 2017-18) the policy got matured and the assessee received Rs.13,09,000/- and while making the payment the SBI deducted TDS @ 1% on the entire amount of Rs.13,09,000/-. And the assessee in his return of income (ROI) showed total income of Rs.7,54,269/- and showed this income (SBI LIC maturity benefit) under the head "Income from Other Sources" to the tune of Rs.3,09,000/-.

6. Thereafter, when the ROI was processed by the CPC it took note of the fact that the assessee has shown only the net income [Rs.13,09,000 – Rs. 10,00,000] i.e. Rs. 3,09,000/- as LIC maturity benefits under the head "income from other sources" in its computation for total income. So, the CPC has taxed Rs. 10 lacs. This action of CPC, according to the assessee, is erroneous because according to him Rs. 10,00,000/- was his investment (premium paid from his already taxed income) and the income component from the total receipt of Rs.13,09,000/- was only Rs.3,09,000/- which, according to assessee, has duly

been offered to tax by the assessee in his ROI. However, AO/CPC did not accept the plea of the assessee. On appeal the Ld. CIT(A), was pleased to uphold the action of CPC/AO by observing as under:

“I perused the grounds of appeal, Order u/s 154, Appellant's submission and material available on record. My observations in respect of the grounds raised by the appellant are as follows:

5. *Maturity amount from SBI Life Insurance Company Limited;*

5.1 *In the grounds of appeal the appellant contested that the Assessing Officer at CPC Bangalore erred in considering the return of principal amount from the maturity of life Insurance Policy of Rs.10,00,000/- as income from Other Sources whereas the appellant did not take the benefit of deduction u/s 80C of the income tax act, 1961 in the year of its contribution.*

5.2 *In the written submission the appellant stated -*

(i) The appellant took the policy of Rs.10,88,000/- against payment of one time premium of Rs 10,00,000/- from SBI life insurance company limited. (credit of bonus @ 3.25% to policy)

(ii) This policy was assigned in favour of the -bank and the maturity proceeds of the policy were directly transferred to the bank.

(iii) The insurance company deducted TDS on the full maturity amount of Rs. 13,09,000/- @1%

(iv) The appellant had shown the income component of the maturity proceeds as income from other sources in its income tax return. But CPC while processing the return had taken the full maturity proceeds as income of the appellant.

(v) This had resulted into double taxation because the premium amount paid is already a tax paid payment and when the same is again taxed on refund of payment. Therefore, this addition of Rs 10,00,000/- should be deleted.

5.3. *As per Sec 10(10D) for policies issued on or after April 1, 2012, the exemption is available only if the premium amount in any financial year does not exceed 10 per cent of the actual capital sum assured. This is applicable to all life insurance policies, including SPLI (Single Premium Life Insurance Policy)*

Thus the maturity proceeds from the single premium life insurance policy will be tax-free only if the minimum sum assured throughout the policy term remains at least 10 times the single premium paid.

SPLI taken by the appellant does not satisfy this condition. Hence taxing the entire maturity proceeds is upheld.”

7. Aggrieved, the assessee has assailed the impugned action of Ld. CIT(A) confirming the action of CPC/AO before this Tribunal.

8. It was brought to our notice by the Ld. AR that Ld. CIT(A) erred in denying the claim of the assessee by merely finding that the exemption is not available to the assessee's

claim u/s. 10(10D) of the Act. According to Ld. AR, it was never the case of the assessee that the amount received to the tune of Rs.3,09,000/- (i.e. total amount received minus (-) premium paid by the assessee Rs.10,00,000/-) was not taxable i.e. exempt u/s. 10(10D) of the Act. The assessee's case is that the net amount i.e. Rs. 3,09,000/- (Rs.13,09,000-Rs.10,00,000) is only the income element and is only exigible to tax and which has been duly offered by the assessee in his return of income. According to the assessee, the whole confusion happened because the payer (SBI) while disbursing the total amount of insurance due for assessee i.e. Rs.13,09,000/- had deducted 1% of the entire amount i.e. of Rs.13,09,000/- which was erroneous. According to Ld. AR, the TDS supposed to have been deducted by SBI/payer ought to have been restricted only to the net amount i.e. Rs.3,09,000/-. In such event, according to Ld. AR, there would have been no problem. To buttress this aspect the Ld. AR submitted that this precise difficulty or problem was taken note by the Parliament while introducing amendment through Finance No. 2 Bill No. 2019 which will be discussed (infra). Drawing our attention to section 10(10D) of the Act, the Ld. AR submitted that the LIC maturity benefit assessee received (Rs.3,09,000/-) was not allowable as a deduction u/s. 10 of the Act (income not included in total income) and drew our attention to section 10(10D) of the Act (income which do not form part of total income under chapter III) which reads as under:

“Chapter III

Income which do not form part of total income

10. Income not included in total income

In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included

(1).....

(2).....

.....

.....

(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than-

(a)

(b)

(c)

(d) Any sum received under an insurance policy issued on or after the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds ten percent of the actual capital sum assured.”

9. According to the Ld. AR, assessee is not entitled to benefit u/s. 10 of the Act, since the assessee's premium payable exceeds 10% of the actual capital sum assured, so the assessee does not get the benefit of chapter III, section 10 of the Act since it is evident that

its LIC policy's, one time premium paid by the assessee was almost the assured value i.e. Rs. 10 lacs and the assured value was Rs.10,88,000/-. So, according to him, the Ld. CIT(A) is right to that extent. However, thereafter the Ld. AR drew our attention to section 194DA of the Act which reads as under:

“payment in respect of life insurance policy-

194DA. Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy (other than the amount not includible in the total income under clause (10D) of section 10), shall, at the time of payment thereof, deduct income-tax thereon at the rate of [one per cent on the amount of income comprised therein].”

10. According to Ld. AR, the whole confusion was due to the TDS deduction @ 1% made by the payer in this case (SBI) in respect of the total amount i.e. Rs.13,09,000/- [which according to assessee should have been restricted (TDS) assessee should have been restricted (TDS) only to the income component i.e. Rs.3,09,000/- (Rs.13,09,000 – Rs.10,00,000/-) and, according to him, this mischief has been taken note by the Parliament which is evident from copy of Finance No. 2 Bill 2019 wherein this problem has been identified and effective measures have been made/discussed as under:

“TDS on non exempt portion of life insurance pay out on net basis.

Under section under section 194DA of the Act, a person is obliged to deduct tax at source, if it pays any sum to a resident under a life insurance policy, which is not exempt under sub-section (10D) of section 10. The present requirement is to deduct at the rate of one per cent of such sum at the time of payment. Several concerns have been expressed that deducting tax on gross amount creates difficulties to an assessee who otherwise has to pay tax on net income (i.e after deducting the amount of insurance premium paid by him from the total sum received). From the point of views of tax administration as well, it is preferable to deduct tax on net income so that the income as per TDS return of the deductor can be matched automatically with the return of income filed by the assessee. The person who is paying a sum to a resident under a life insurance policy is aware of the amount of insurance premium paid by the assessee. Hence, it is proposed to provide for tax deduction at source at the rate of five per cent on income component of the sum paid by the person.” [Empasis given]

11. Therefore, according to Ld. AR, the CPC/AO/Ld. CIT(A) erred in not appreciating the legitimate claim of the assessee that only the income component (Rs.3,09,000/-) in the total LIC Maturity Value of Rs.13,09,000/- was amenable to tax and the CPC/Ld. CIT(A) erred in adding the premium paid by the assessee to the tune of Rs.10,00,000/-.

12. Per contra, the Ld. DR submitted that SBI (Payer) has rightly deducted tax at 1% of Rs.13,09,000/- and the Ld. CIT(A) taking notice that assessee's Insurance Policy would not

fall in the ken of sec. 10(10D) of the Act, has rightly upheld the action of CPC which does not deserve any interference on the part of this Tribunal.

13. Having heard both the parties and after perusal of the records it is noted that the assessee has taken a life insurance policy in AY 2012-13 of the SBI of sum assured to the tune of Rs.10,88,000/- (along with credit bonus of 3.25%) by paying single premium of Rs.10,00,000/-. And in this year (AY 2017-18), the assessee received the LIC maturity benefit to the tune of Rs.13,09,000/-. And the assessee in his Return of Income disclosed the net amount Rs.3,09,000/- (i.e. total receipt of Rs.13,09,000/- minus (-) Rs.10,00,000 premium paid by assessee) as taxable income under the head "Income from Other sources". It is noted that the assessee neither availed any deduction under Sec 80C of the Act in respect of the premium paid to SBI, [therefore, he did not include redemption payment of premium amount of Rs. 10,00,000/- in his return of income] nor claimed any deduction under section 10(10D) of the Act and offered Rs 3,09,000/- for tax. However, since SBI (Payer) had deducted 1% TDS on the entire receipt of Rs.13,09,000/- and the CPC while processing the ROI, found that out of Rs.13,09,000/- assessee received (total LIC benefit) the assessee has offered for taxation only Rs.3,09,000/- and therefore added the balance Rs.10,00,000/- as income of the assessee. On appeal, Ld. CIT(A) has confirmed the action of CPC/AO. Before us the claim of the assessee is that only the net amount i.e. Rs.3,09,000/- is taxable (which assessee has offered in his ROI) and the addition of Rs.10,00,000/- is erroneous because it is the premium amount paid by the assessee in AY 2012-13 and the same is his investment which assessee had in his possession/saving being tax paid amount. So, according to assessee in effect the impugned action tantamount to double taxation. It has been pointed out by the Ld. AR that this confusion happened because SBI (Payer) has deducted tax at source of one (1%) on the entire amount as contemplated u/s. 194DA of the Act. And this problem has been taken notice while increasing the TDS rate from 1% to 5% albeit in the Finance Bill 2019 (supra). Having carefully gone through the contents while moving the Bill, I find that the Govt. has taken note of this problem by observing "*.....Under section under section 194DA of the Act, a person is obliged to deduct tax at source, if it pays any sum to a resident under a life insurance policy, which is not exempt under sub-section (10D) of section 10. The present requirement is to deduct at the rate of one per cent of such sum at the time of payment.*

Several concerns have been expressed that deducting tax on gross amount creates difficulties to an assessee who otherwise has to pay tax on net income (i.e after deducting the amount of insurance premium paid by him from the total sum received). From the point of views of tax administration as well, it is preferable to deduct tax on net income so that the income as per TDS return of the deductor can be matched automatically with the return of income filed by the assessee. The person who is paying a sum to a resident under a life insurance policy is aware of the amount of insurance premium paid by the assessee.” From a reading of the aforesaid observation as well as taking note of the contention of the assessee, and taking note of the fact that assessee had neither availed any deduction under Sec 80C of the Act in respect of the premium paid to SBI nor claimed any deduction under section 10(10D) of the Act and offered Rs 3,09,000/- for tax in his ROI, according to me, no addition was warranted. Therefore in this case only the net amount that is Rs.3,09,000/- should have been taxed, which assessee has already offered to tax in his ROI. Therefore, in the light of the aforesaid discussions I am of the considered opinion that the assessee’s claim is valid and allow the claim of the assessee by directing deletion of the addition of Rs 10 Lakhs.

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

Order is pronounced in the open court on 4th March, 2022

(A. T. Varkey)
Judicial Member

Date 4th March, 2022

JD(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – Shri Sandeep Modi, 5/1, Clive Row, 2nd floor, Room No. 50, Kolkata-700 001.
2. Respondent – DCIT, CPC
3. CIT(A) (NFAC), Delhi
4. CIT Kolkata.
5. DR, ITAT, Kolkata. (sent through e-mal)

/True Copy,

By order,

Assistant Registrar