

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'SMC' : NEW DELHI)

BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT

ITA No. 5676/Del/2025
Asstt. Year : 2018-19

ANUPAMA AGARWAL,
E-383, Ground Floor,
GK-II, New Delhi – 48
(PAN: AEHPM6683C)
(Appellant)

vs.

DCIT, 61.1
Civic Centre,
New Delhi

(Respondent)

Appellant by : None
Respondent by : Shri Manoj Kumar, Sr. DR

| | |
|-----------------------|------------|
| Date of Hearing | 28.10.2025 |
| Date of Pronouncement | 28.10.2025 |

ORDER

This appeal by the assessee is emanating from the order of the Ld. NFAC, Delhi in Appeal No. ITBA/NFAC/S/250/2025-26/1078813311(1), order dated 23.07.2025 on the following grounds:-

1. The CIT(A) has violated principles of natural justice by not considering fresh evidence submitted by the appellant and also not providing a reason for not considering the fresh evidence.
 2. The CIT(A) and the ITAT has the power to allow a fresh claim not raised in the income tax return and the CIT(A) has erred in not allowing the exemption u/s. 10(10D).
 3. CIT(A) has erred in not allowing deduction u/s. 54 on the basis that the income from surrender of the Life Insurance Policies being LTCG is not genuine.
2. Brief facts of the case are that the assessee is in individual filed her return of income for AY 2018-19 electronically on 31.08.2018 declaring total income of Rs. 15,57,940/-. The case was selected for Scrutiny under CASS on the following issues :-
- i) Investment in immovable property.

ii) Capital gains deduction claimed.

Assessment was completed by making an addition of Rs. 17,21,385/- u/s. 69 and completed on a total income of Rs. 32,79,330/-. Aggrieved, assessee appealed before the NFAC, who vide its order dated 23.7.2025 has upheld the addition. Against the aforesaid, assessee is in appeal before the Tribunal.

3. None appeared on behalf of the assessee.

4. After hearing the Ld. DR and perusing the records, I note that in the course of scrutiny proceedings in the assessee's case, the AO observed that in Schedule CG of the return of income filed by the assessee for AY 2018-19 the net long term capital gain shown by the assessee is Rs. 2,99,38,656/- on which she had claimed deduction under section 54 of the Act. It was further noted that above net long term capital gain of Rs. 2,99,38,656/- included Rs. 17,21,385/- from HDFC Mutual Fund Capital Gain. ON perusal of ITR-3 filed by the assessee for the preceding AY 2017-18 it was observed that the assessee had not shown any investment in her return of income. As the assessee failed to prove the genuineness of the claim made in her return of income for AY 2018-19 in respect of the above, deduction claimed u/s. 54 of the Act from the long term capital gain from mutual funds of Rs. 17,21,385/- was denied and added back as the total income of the assessee for the AY 2018-19 by invoking provisions of section 69 r.w.s. 115BBE of the Act. Before the Ld. CIT(A) assessee has submitted that the same amount was the receipt from maturity of Unit Linked Insurance Schemes, and that reason the investments were not recorded in her books of accounts that the premiums for both these investments were paid by her parents. It was further submitted by the assessee before the Ld. CIT(A) that the amount is an 'exempt income' as per Section 10(10D) of the Act, being a sum received under a life insurance policy. It was further submitted that since the income is an exempt income, although not specifically claimed by appellant in her return of income, she is entitled to such exemption. It is noted that Ld. CIT(A) has admitted the additional evidences and remanded to the AO, by requisitioning the remand report, however, no report has been received by the CIT(A) from the AO, despite issuing 06 reminders, hence, he adjudicated the issues on merits in absence of any remand report. Ld. CIT(A) observed that the powers of the CIT(A) are restricted to the matters within the

boundaries of the proceedings in which the order appealed against was passed. He observed that ground now raised before him was never a subject matter of consideration in the proceedings u/s. 143(3) as the appellant never made such a claim of exemption u/s. 10(10D). Hence, he upheld the action of the AO. In view of the aforesaid discussions and in the interest of justice, I deem it fit and proper to remit back the issues to the file of the AO alongwith additional evidences, if any, for its examination and fresh adjudication, after giving adequate opportunity of being heard to the assessee. Assessee is also directed to furnish all the requisite evidences during the proceedings to canvass its case properly and fully cooperate with the AO.

5. In the result, the Assessee's appeal is allowed for statistical purposes
Order pronounced in the Open Court on 28.10.2025.

Sd/-

(MAHAVIR SINGH)
VICE PRESIDENT

Date :12-11-2025

SRBhatnagar

Copy forwarded to: -

1. Appellant
2. Respondent
3. DIT
4. CIT (A)
5. DR, ITAT

By Order,

Assistant Registrar, ITAT, Delhi Bench