GAURI AMIT GAEKWAD
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Gauri Gaekwad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 111 OF 2019

Pr. Commissioner of Income Tax – 14 …Appellant

Versus

ICICI Lombard General Insurance Co. Ltd. …Respondent

Mr. Akhileshwar Sharma for the Appellant.
Mr. Madhur Agrawal i/b. Mr. Atul K. Jasani for the Respondent.

CORAM: SUMAN SHYAM &
GAUTAM A. ANKHAD, JJ.

DATED: 15th OCTOBER 2026.

PC:-

1. The Department has approached this Court by filing the present Appeal under Section 260A of the Income Tax Act, 1961 (the Act), by raising a question as to whether the deletion of disallowance under sub-sections (15), (34) and (38) of Section 10 of the Act, pertaining to the deduction on account of gain on sale of investment, is in accordance with law.

2. Resisting the admission of the Appeal, Mr. Agrawal, learned counsel for the Respondent, has produced a copy of the communication dated 21st February, 2006 issued by the Under Secretary to the Government of India, Ministry of Finance,

Department of Revenue, Central Board of Direct Taxes, and addressed to the Chairman of the Insurance Regulatory Development Authority (IRDA), which states in unequivocal terms that the exemption available to any other Assessee under any clause of Section 10 of the Act, including clause (38) of Section 10 regarding long-term capital gains, would also be available to a person carrying on non-life insurance business, subject to fulfilment of the conditions, if any, under a particular clause of Section 10 under which exemption is sought. The communication dated 21st February, 2006 is mentioned in the decision of this Court rendered in the case of ***Principal Commissioner of Income Tax – 3 v/s. New India Assurance Co. Ltd.***[1], whereby the Department's submission on a similar point was dismissed.

3. Therefore, it is apparent that the controversy sought to be raised by the Department in the present Appeal stands conclusively resolved in the light of the communication dated 21st February, 2006 and the above judgment.

4. Mr. Sharma, learned counsel for the Appellant, has also submitted, in his usual fairness, that the communication dated 21st February, 2006 goes against the Department and, to that

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1. [2018] 91 taxmann.com 433 (Bombay)

extent, renders the Appeal not maintainable in law.

5. Taking note of such submission of the learned Departmental Counsel, **we dispose of this Appeal** as not maintainable, by retaining the copy of the communication dated 21st February, 2006 in the record of this Appeal, which is marked as '**X**' for identification.

(GAUTAM A. ANKHAD, J.) (SUMAN SHYAM, J.)