IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

Coram:

THE HON'BLE Dr.JUSTICE G. JAYACHANDRAN

and

THE HON'BLE MR.JUSTICE SHAMIM AHMED

TCA.Nos.1542 of 2008, 132 of 2012 and 843, 844, 860, 861, 863, 865, 867, 869, 904, 905, 906, 908, 909, 911, 912 and 914 of 2018

and

C.M.P.Nos.20702 and 20703 of 2018

M/s United India
Insurance Company Ltd .,
No 24 Whites Road
Chennai- 600 014.

..Appellant in all the appeals

Vs.

The Assistant Commissioner of Income Tax,
Large Tax Payer Unit,
121, Mahatma Gandhi Road,
Chennai-600 034. .. Respondent in T.C.A.No.132 of 2012

The Assistant Commissioner of Income Tax,
Corporate Circle 3(2),
Chennai-600 034. .. Respondent in T.C.A.No.1542 of 2008, 843, 844, 906 and 912 of 2018

The Deputy Commissioner of Income Tax,
Asst. Commissioner of Income Tax,
Income Tax Officer (TDS),
Large Tax Payer Unit,
Chennai-600 101. .. Respondent in T.C.A.Nos.908 and 860 of 2018

The Deputy Commissioner of Income Tax/
Assistant Commissioner of Income Tax,
Large Tax Payer Unit,
Chennai-600 101. .. Respondent in T.C.A.No.861, 863, 865, 867, 869, 904, 905, 908 and 909 of 2018

The Assistant Commissioner of Income Tax/,
Deputy Commissioner of Income Tax,
Corporate Circle 3(2),
Chennai-600 034. .. Respondent in T.C.A.Nos.911 and 914 of 2018

Tax Case Appeal No.1542 of 2008 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.801/MDS/07, dated 07.03.2008 on the file of the Income Tax Appellate Tribunal, Chennai, Bench-C, Chennai.

Tax Case Appeal No.132 of 2012 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.2107/Mds/2008, dated 26.11.2010 on the file of the Income Tax Appellate Tribunal, Bench-D, Chennai.

Tax Case Appeal No.843 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.626/Chny/2016, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai,

Tax Case Appeal No.844 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.364/Chny/2016, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.860 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.906/Chny/2011, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A. Chennai.

Tax Case Appeal No.861 of 2018 under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1607/Chny/2011, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.863 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1608/Chny/2011, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.865 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.28/Chny/2014, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.867 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.Nos.1606/Chny/2011 & 1688/Chny/2011, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.869 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1605/Chny/2011, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.904 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1610/Chny/2011, dated 28.08.2018, on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.905 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1609/Chny/2011, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.906 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1149/Chny/2016, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.908 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.30/Chny/2014, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.909 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.764/Chny/2014, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.911 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1571/Chny/2017, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.912 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1085/Chny/2017, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

Tax Case Appeal No.914 of 2018 filed under Section 260-A of the Income Tax Act, 1961, against I.T.A.No.1511/Chny/2016, dated 28.08.2018 on the file of the Income Tax Appellate Tribunal, Bench-A, Chennai.

For Petitioner(s): Mr.Swaroop in all the appeals

For Respondent(s): Mrs.V.Pushpa, Senior Standing Counsel for Income Tax in all the appeals

COMMON JUDGMENT

(Common Judgment of the Court was delivered by Dr.G.Jayachandran J.)

The United India Insurance Company being governed by the Insurance Act, 1938 and Insurance Regulatory Authority Guidelines, is the appellant in all these appeals, challenging the orders passed by the Income Tax Appellate Tribunal in respect of the respective Assessment Orders pertaining to the relevant Assessment Years.

2. In this batch of appeals, ten issues are raised in respect of the disallowance under certain heads to see that non-resident Indians are also insured. These issues are gaining significance since interpretation of Section 2(16-B) of the Insurance Act defines the word “re-insurance” with the expression employed in the statute, for the Insurance Companies registered in India or even in any foreign company.

3. Such disallowance of amortisation of premium paid on securities which were

produced by the Insurance Company, are not in compliance with the statutory mandate and the disallowance of the provisions for the claims incurred, but not reported or not claimed, are the incidental issues raised in this batch of Tax Cases Appeals.

4. Heard both parties at length and also perused the ten issues raised, except eighth issue being not pressed, and also perused the judgment rendered by the Division Bench of this Court in the case of Cholamandalam MS General Insurance Company Limited Vs. Deputy Commissioner of Income-Tax, Large Tax Payer Unit and others, reported in 2019 (411) ITR 386 (Madras).

5. We are of the view that the conclusion of the Tribunal that the provisions of Section 2(9) of the Insurance Act, 1938, is applicable even prior to 26.12.2014, being the date on which the Insurance Act was amended by introducing the re-insurance programme with Indian re-importers, needs a re-visit, in view of the above said case of Cholamandalam. This Court accordingly remits the matters back to the Tribunal for fresh consideration of the following 9 issues raised by the assessee to avoid multiplicity of litigations and to consider the matter afresh by answering the following disputed points:-

No.1: Disallowance of reinsurance premium ceded to non-resident re-insurers ;

No.2: Disallowance of amortization of premium paid on securities ;

No.3 : Disallowance of provisions for claims incurred but not reported (IBNR & IBNER) ;

No.4: Validity of reassessment proceedings ;

No.5: Disallowance of depreciation on investment ;

No.6: Fringe benefit tax – Disallowance of contribution made to pension fund ;

No.7 – Disallowance of profit on sale of investment ;

No.8 – Non-applicability of Rule 8D with reference to disallowance under Section 14.A – no directions given by ITAT and

No.9 – Validity of reopening assessment already completed under Section 115 WE (3).

6. Accordingly, these Tax Case Appeals are disposed of and the matter is remanded back to the Tribunal to answer the nine points raised, within a period of six months from today. Consequently, the miscellaneous petitions are closed.

(Dr.G.J.,J.) (S.S.A.,J.)
24.03.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
cs

To

1. The Assistant Commissioner of Income Tax,
Large Tax Payer Unit,
121, Mahatma Gandhi Road,
Chennai-600 034.

2. The Assistant Commissioner of Income Tax,
Corporate Circle 3(2),
Chennai-600 034.

3. The Deputy Commissioner of Income Tax,
Asst. Commissioner of Income Tax,
Income Tax Officer (TDS),
Large Tax Payer Unit,
Chennai-600 101.

4. The Deputy Commissioner of Income Tax,
Assistant Commissioner of Income Tax,
Large Tax Payer Unit,
Chennai-600 101.

5. The Assistant Commissioner of Income Tax,
Deputy Commissioner of Income Tax,
Corporate Circle 3(2),
Chennai-600 034.

6. The Registrar,
Income Tax Appellate Tribunal,
Chennai.

Dr.G.JAYACHANDRAN, J.

and

SHAMIM AHMED, J.

cs

TCA.Nos. 1542 of 2008 .132 of

2012 and 843, 844, 860,

861, 863, 865, 867, 869, 904,

905, 906, 908, 909, 911, 912

and 914 of 2018

24.03.2026