

आयकर अपीलीय अधिकरण “एस एम सी” न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1781/PUN/2025  
निर्धारण वर्ष / Assessment Year : 2020-21

Sudhakar Gundappa Paldewar, Flat No. 210, Solitaire pride Beside Vidut arcade, Bachupally B.O., Bachpalle, K.V. Rangareddy, Telengana, Hyderabad-500090	<b>Vs.</b>	Commissioner of Income Tax (Appeals), New Delhi
PAN : AAMPP4397H <b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

Assessee by :	Shri Sudhakar Gundappa Paldewar
Department by :	Shri Milind Debaje- JCIT
Date of hearing :	26-08-2025
Date of Pronouncement :	31-10-2025

आदेश / ORDER

**PER ASTHA CHANDRA, JM :**

The appeal filed by the assessee is directed against the order dated 27.09.2024 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**“CIT(A)/NFAC”**] pertaining to Assessment Year (**“AY”**) 2020-21.

2. There is a delay of 238 days in filing of this appeal before the Tribunal for which the assessee has filed an affidavit explaining the reasons for such delay. After hearing both the sides, we are of the view that the delay is attributable to the sufficient cause. We, therefore, in light of the decisions of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs. Mst. Katiji & Ors. (1987) 167 ITR 471 (SC)* and in the case of *Inder Singh Vs. The State of Madhya Pradesh* reported in 2025 Live Law (SC) 339, condone the said delay and proceed to decide the appeal.

3. Briefly stated, the facts of the case are that the assessee is a retired employee of PSU Bank i.e. State Bank of India. In his return of income filed for the relevant AY 2020-21, the assessee claimed exemption u/s 10(10AA)(i) treating himself to be an employee of the Government before his retirement instead of exemption u/s 10(10AA)(ii) and thus claimed the refund of Rs.1,96,170/- The return of the assessee was processed u/s 143(1) of the Income Tax Act, 1961 (**the "Act"**) wherein the Ld. Centralized Processing Centre (**"CPC"**)/Assessing Officer (**"AO"**) made an upward adjustment of Rs.5,45,848/- restricting the exemption to Rs.3,00,000/- and bringing the balance encashment of unutilized Earned Leave to tax, thus, reducing the quantum of refund to Rs.1,31,291/- as against the refund of Rs.1,96,170/- claimed by the assessee in his ROI. The assessee filed a rectification application u/s 154 wherein the Ld. CPC/AO vide its order dated 06.10.2022 determined the balance payable at Rs.Nil and rejected the excess claim of Rs.75,715/-.

4. Aggrieved by such order of the Ld. CPC/AO u/s 154 of the Act, the assessee filed an appeal before Ld. CIT(A)/NFAC who dismissed the appeal of the assessee upholding the action of the Ld. CPC/AO in rejecting the claim of deduction u/s 10(10AA)(i) of the Act by observing as under:-

*5.3 The principal contest of the appellant is that, though employees of PSUs and nationalized banks cannot be treated as government employees, they have to be given enhanced exemption in par with the Central Government employees, since factor determined by the notification dated 31.05.2002 was, as per the conditions that prevailed then, was that the determining Rs. 3,00,000/- was based on the maximum basic pay of highest paid government employee being the Cabinet Secretary to the Union of India. Since, the notification has not been modified in consonance with the Increase in basic pay of the Cabinet Secretary, which is at present Rs. 2.5 Lakhs at present, the appellant should not be deprived because of the inaction on part of the authorities to have failed to modify the notification suitably.*

*5.4 The narration of the factors which ought to determine the quantification of allowance/deduction u/s. 10(10AA)(ii) linking the same to the pay of the Cabinet Secretary is appreciated/However in the absence of Gazette notification by CBDT. providing approval to the basis for quantification of deduction u/s 10(10AA)(ii), made out by the Appellant, the same cannot be entertained, Further, the provisions of S.10(10AA)(i) have been suitably amended w.e.f. 01/04/2023 enhancing the limit to Rs.25 lakhs and a separate Gazette notification no. 31/2023 dated 24/05/2023 has been passed and published in <https://egazette.nic.in>. While the enhancement does not possess retrospective effect and when the intention of the Parliament to provide such relief to non-Government salaried employees only w.e.f. 01/04/2023, the grounds of appeal of the Appellant fails to withstand the test of appeal.*

5.5 It is pertinent to bring on record that various decisions of the Courts, rendered in the context of leave encashment deduction claimed by BSNL employees who were previously employed in Government service in Department of Telecommunications till their absorption in BSNL, had held that the deduction is to be computed as per the provisions of S. 10(10AA) (i) that corresponds to the quantum of the leave encashment of un-utilised leave while in service with the Department of Telecom and that of BSNL u/s.10(10AA)(ii) restricted to the maximum of Rs.3 lakhs. The findings by these Courts clearly postulate that the maximum deduction available u/s.10(10AA)(ii) is Rs.3 lakhs only and not more than that under any circumstance.

5.6 Since, the decisions of the Hon'ble Delhi High Court in the case of Kamal Kumar Kalia &Ors, Vs Union of India, had not entertained a similar claim by a retiree of a Public Sector undertaking, the claim of the appellant is found to be untenable and the action on the part of the CPC to reject the claim of deduction u/s 10(10AA)(1) is upheld.

5. The assessee himself appeared before the Tribunal to plead his case. Giving the background of the case narrated in Para 3 above, he submitted that the impugned issue is covered in favour of the assessee by catena of decisions of the coordinate Bench(es) of the Tribunal. He relied on the decision of the Jaipur Tribunal in the case of Govind Chhatwani vs. CIT(A), Delhi (ITA No. 385/JP/2023 for AY 2020-21), dated 31.10.2023 and the decision of the “SMC” Bench of the Delhi Tribunal (ITA No. 81/DEL/2025 for AY 2020-21), dated 21.04.2025 and submitted that the assessee is entitled to claim the deduction u/s 10(10AA)(i) of the Act as claimed by him in his return of income for the relevant AY 2020-21.

6. The Ld. DR on the other hand, supported the order of the Ld. AO and the Ld. CIT(A)/NFAC.

7. We have heard rival contentions and perused the order of the Ld. AO and CIT(A)/NFAC as well as various decisions cited by the assessee in support of his claim. The facts of the case are not disputed. The assessee's claim of deduction in respect of the amount received as leave encashment which has been claimed in the return of income for A.Y. 2020-21 as exempted u/s 10(10AA)(i) of the Act has been denied by the Ld. CPC/AO and such denial of exemption has been upheld by the Ld. CIT(A)/NFAC for the reasons mentioned in the preceding paragraphs. We find that the impugned issue is covered in favour of the assessee by the decision of the coordinate bench of the Tribunal in the case of Govind Chhatwani (*supra*) wherein the Tribunal under the similar set of facts to that of the assessee in the instant appeal held the assessee to be entitled to get the exemption as claimed in the return of income u/s 10(10AA) of

the Act. The relevant observation and findings of the Tribunal in this case is reproduced below:-

7. We have heard the rival contentions and perused the material placed on record. The bench noted that the apple of discord in this case that the assessee has received a sum of Rs. 17,68,479/- as leave encashment which was claimed in the return of income filed as exempt u/s 10(10AA) of the Act. The CPC and ld. CIT(A) contended that in the light of this specific notification being not issued the leave encashment allowable up to Rs. 3,00,000/- only whereas we note from the submission of the assessee that the assessee has relied upon the notification No. 31/2023/F.No. 200/3/2023-ITA-1 dated 24th May, 2023 and submitted that the revised limit of Rs. 25,00,000/- increased on account of leave salary is applicable and to be considered in the light of fact that government has issued this notification belatedly. The assessee has already claimed the leave salary as exemption the benefit should be given to the assessee. The similar issue has been decided by the bench in the case of Ram Charan Gupta in ITA No. 408/JP/2022 wherein the bench has already held as under

"8. We have heard the rival contentions and perused the material placed on record. The bench noted that the assessee relying the decision of Hon'ble Delhi High Court has issued a notice to the Union of India in the case of Kamal Kumar Kalia & Ors. Vs. Union of India & Ors in WP(C) 11846/2019 dated 08.11.2019 wherein the court has given the following directions

"8. We are however of the, *prima facie*, view that the grievances of the petitioner with regard to exemption limit under Clause (it) of Section 10 (10AA) not being raised since 1998, appears to be justified. This is so because over the decades, the pay-scales admissible to government servants, and even employees of the Public Sector Undertaking and Nationalised Banks and all others have been upwardly revised, keeping in view, the financial growth in the country as well as on account of rising inflation. The last drawn salaries have increased manifold since time and notification issued under Clause (il) of Section 10(10AA) was lastly issued, as taken note of hereinabove, on 31.05.2002. We therefore, issue notice to the respondents limited to this aspect.

9. Issue notice, learned counsel for the respondents accepts notice. Respondents should file counter affidavits be filed within six weeks. Rejoinder thereto, if any, be filed before the next date."

8.1 Recently the Central Board of Direct Taxes Suomotu revised the limit for deduction u/s 10(10AA) of the Act and the revised limit now stood at Rs. 25,00,000 as specified vide notification no. 31/2023 issued by the ministry of finance. Since the leave encashment amount as claimed by the assessee is amount to Rs. 6,97,100/- which is below the revised limit of leave encashment exempt prescribed by the Board, the assessee is eligible to claim of deduction. c said Rs. 6,97,100/-. Based on these observations the ld. AO is directed to allow the claim of the assessee u/s. 10(10AA) of the act within the revised limit prescribed. In terms of these observations the appeal of the assessee is allowed."

On being consistent to the said finding, we held that the assessee is entitled to get the deduction as claimed in the return of income u/s 10(10AA) of the Act as the limit has been increased from 3 lac to 25 lacs."

8. Further, the case of the assessee also finds support from the decision of the Delhi Bench of the Tribunal in Neelam Gupta's case (*supra*) wherein the Tribunal under the identical set of facts, allowed the impugned claim of the assessee by observing as under:-

*"3. It transpires during the course of hearing that assessee's sole substantive ground raised in the instant appeal challenges both the learned lower authorities action denying section 10(10AA) leave encashment exemption thereby holding that she is not entitled for the same since employed with Bank of Baroda and not a Central or State Government Department.*

4. It is next noticed that recently the tribunal in *Ram Charan Gupta, Jaipur vs. ITO, Ward 4(2), Jaipur, in ITA No.408/JPR/2022* dated 27.6.2023 has already rejected the Revenue's very stand as under:-

*3. Succinctly, the fact as culled out from the records is that the assessee who has retired is a bank employee and has claimed an amount of Rs. 6,97,100/- being leave encashment received as exempt u/s 10(10AA) of the Act. However, the AO, CPC while processing the return of income has allowed exemption of only Rs. 3,00,000/- as against 100% exemption claimed by the assessee. Hence, this appeal.*

*4. Aggrieved from the order of the AO, CPC assessee preferred appeal before the Id. CIT(A). A propose to the grounds so raised the relevant finding of the Id. CIT(A) is reiterated here in below:*

*"5.2.2 I have considered the facts of the case as also the submissions of the appellant. The appellant is a retiree from Bank and not any government organization. Here, reliance is placed on the decision of Hon'ble Delhi High Court in the case of Kamal Kumar Kalia v/s Union of India (2020) 268 Taxman 398/313 CTR 779 (Delhi) (HC) dated 08.11.2019, where the issue under consideration was whether the appellant being employee of Public sector undertaking (PSU) Ram Charan Gupta vs. ITO and Nationalised banks can be treated as government employee from the purposes of exemption u/s 10(10AA) of the 1.T. Act. In the said case, the Hon'ble High Court held as under:-*

*"The petitioner, who were the employees of the Public Sector undertaking and Nationalised banks, filed writ contending that they were discriminated against Central Government and State Government. The Central Government and State Government employees are granted complete exemption in respect of the cash equivalent of the leave salary for the period of earned leave standing to their credit at the time of their retirement. Dismissing the petition the Court held that merely because Public Sector Undertaking and Nationalised Banks are considered as State under article 12 of the Constitution of India for the purpose of entertainment of proceedings under Article 226 of the Constitution and for enforcement of fundamental right under the Constitution, it does not follow that the employees of such Public Sector Undertaking, Nationalised Banks or other institutions which are classified as 'State' Assume the status of Central government and State Government employees. Accordingly the petition is rejected."*

*5.2.3 Further, in the case of KPTCL Davangere V/s ITO (2018), the Hon'ble ITAT, Bangalore vide its order in ITA No. 170 ITD 587 (Bang.) (Trib.) has held that assessee being a statutory*

corporation its employees could not be regarded as State or Central Government employees and therefore exemption under S. 10(10AA) (i) was not available and assessee was liable to deduct tax at source. 5.2.4 In view of the above, the action of the AO of restricting the exemption u/s 10(10AA) to Rs. 3,00,000/- is found to be in order. This grounds of appeal are therefore, dismissed."

5. Feeling dissatisfied with the order of the Id. CIT(A) the assessee has preferred this appeal before this tribunal on the grounds as raised by the assessee as reiterated here in above para 2. To support the various grounds so raised by the assessee, the Id. AR appearing on behalf of the assessee has placed their written submission which is extracted in below:

"1. Under the facts and circumstances of the case learned CIT (Appeal) was not justified while confirming the order passed by AO u/s 143(1) Assessing total income Rs 1188620.00 Confirming Demand of Rs. 118280 Our submission Initially return was processed u/s 143(1) (vide document identification no cpc/2021/A3/186338352 dt.02/12/2021) allowing the claim of Rs.300000.00 u/s 10(10AA)-Earned Leave Encashment on Retirement. meaning thereby that there was enhancement in the income amounting 1188620.00 Thix Rs by Rs.397700.00 and assessing total income at made without providing any opportunity of being heard as it appears that this addition was made by treating the employee as non- government employee although no specific reasons has been informed to appellant. In fact, this organization is regulated by Bylaws made by central Government, thus by no means of stretch of imagination this organization can be treated as non- central government. Therefore, AO was not justified to disallow the claim upto the extent Rs 397100.00 without assigning any specific reasons and raising the demand of RS 118820.00 U/S 143(1)

2. Under the facts and circumstances CIT (Appeal) was not justified while restricting the claim Amounting To Rs 300000 ws 10(10AA) and rejecting the amounting to Rs. 397100.00 out of Rs 697100.00 which is earned leave encashment on retirement made by AO.

Our submission:-it is to explain that he is govt employee therefore he claimed full amount of leave encashment u/s 10(10AA) Rs 697100.00 in his return copy of computation is enclosed and marked as annexure B however while processing u/s 143(1) it appears that claim amounting to Rs 397100.00 out of Rs 697100.00 has been disallowed which is leave encashment u/s 10(10AA) from the order of cpc Bangalore without assigning any cogent reasons in fact the appellant is bank employee and nowhere in the section it has been mentioned that it is allowable only up to Rs 3.00 lacs in the case bank employee definition of other employee and govt has not been described in section 10(10AA) therefore it can be safely conclude that appellant is govt employee and he is entitle for full exemption of for the sake of argument bank employee cannot be put on different footing for purpose of treatment of govt employee. This is also clear from the fact that bank are nationalized and their management and administration is controlled by central govt even CMD is appointed by govt therefore there is no reasons to not to treat as govt employee and resultantly appellant is the govt employee and he cannot be denied the benefit of exemption w/s 10(10AA) it is also to clarify that in the definition of non govt employee bank employee are not specified therefore he is govt employee and is eligible for remaining balance of leave encashment Ram Charan Gupta vs. ITO amounting to RS

397100.00 meaning thereby that he is entitled for deduction of RS 10(10AA).

3. Under the facts and circumstances of the case CIT (Appeal) was not justified while confirming the order of AO treating the employer as non-government instead of government organization Our submission: it is to submit that although no reason has been mentioned 143(1) for in intimation send u/s disallowance of Rs 397100.00 out of Rs 697100.00 u/s 10(10AA) however it appears that bank has not been treated as govt employee and disallowance has been effected which is not a correct proposition as per principle of natural justice it becomes mandatory on the part of assessing officer to provide the opportunity of being heard however factually employer of the appellant is govt therefore he is entitle for deduction of Rs 697000.00.

4. Kindly stay the demand. As disallowance has been made on incorrect presumption therefore demand is liable to be quashed

5. Assessee craves to add alter any of the grounds of appeal before or at the time of hearing. This ground of appeal is general in nature therefore no submission are being submit."

6. In addition to the above detailed written submission the Id. AR of the assessee also submitted that in the recent budget speech Hon'ble Finance Minister indicated that for increase in the limit and the related notification is issued. The Id. AR thus based on the said nonfication submined that the relief be printed in the

*The Ld. DR is heard who has relied on the findings of the lower authorities and left the decision on bench to grant the relief to the assessee as per notification dated 24.03.2023.*

7. We have heard the rival contentions and perused the material placed on record. The bench noted that the assessee relying the decision of Hon'ble Delhi High Court has issued a notice to the Union of India be the case of Kamal Kumar Kalla & Ors Vs. Union of India Ors in WP(C) 11846/2019 dated 08.11.2010 wherein the court has given following directions

"8. We are however of the, *prima facie*, view that the grievances of the petitioner with regard to exemption limit under Clause (01) of Section 10 (10AA) not being raised since 1998, appears to be justified. This is so because over the decades, the pay-scales admissible to government servants, and even employees of the Public Sector Undertaking and Nationalized Banks and all others have been upwardly revised, keeping In view, the financial growth in the country as well as on account of rising inflation. The last drawn salaries have increased manifold since time and notification issued under Clause (11) of Section 10(10AA) was lastly issued, as taken note of hereinabove, on 31.05.2002. We therefore, issue notice to the respondents limited to this aspect

9. Issue notice, learned counsel for the respondents accepts notice. Respondents should file counter affidavits be filed within six weeks. Rejoinder thereto, if any, be filed before the next date"

8.1 Recently the Central Board of Direct Taxes Suomotu revised the limit for deduction w/s 10(10AA) of the Act and the revised limit now stood at Rs. 25,00,000 as specified vide notification no. 31/2023 issued by the ministry of finance. Since the leave encashment amount as claimed by the assessee is amount to Rs.

6,97,100/- which is below the revised limit of leave encashment exempt prescribed by the Board, the assessee is eligible to claim of deduction of said Rs. 6,97,100/-. Based on these observations the ld. AO is directed to allow the claim of the assessee u/s. 10(10AA) of the act within the revised limit as prescribed. In terms of these observations the appeal of the assessee is allowed."

5. I adopt the above extracted detailed reasoning mutatis mutandis to accept the assessee's instant sole ground in very terms. Ordered accordingly."

9. In the light of the above factual matrix of the case and respectfully following the decision(s) (*supra*) of the Co-ordinate Bench(es) of the Tribunal and in the absence of any contrary decision/material brought on record by the Revenue to enable us to take a different view, we hold that the assessee is entitled to the exemption of leave encashment u/s 10(10AA) of the Act as claimed by him in his return of income for AY 2020-21. The grounds raised by the assessee are accordingly allowed.

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

**Order pronounced in the open court on 31<sup>st</sup> October, 2025.**

Sd/- (R.K. Panda) <b>VICE PRESIDENT</b>	Sd/- (Astha Chandra) <b>JUDICIAL MEMBER</b>
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पुणे / Pune; दिनांक / Dated :31<sup>st</sup> October, 2025.

*Neeta*

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, एस.एम.सी बैंच,  
पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.  
//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव/Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune