आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़

IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'SMC', CHANDIGARH

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

आयकर अपील सं./ **ITA No. 769/CHD/2023**

निर्धारण वर्ष / Assessment Year : 2016-17

Chander Shekher Saini, C/p Shri Tej Mohan Singh, # 527, Sector 10D, Chandigarh	बनाम Vs.	The ITO, Ward 2(2), Ropar
स्थायी लेखा सं./PAN NO: ACSPS4233M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(Physical Hearing)

निर्धारिती की ओर से/Assessee by : Sh. Tej Mohan Singh, Advocate
राजस्व की ओर से/ Revenue by : Smt. Priyanka Dhar, Sr. DR

सुनवाई की तारीख/Date of Hearing : 10-11-2025
उदघोषणा की तारीख/Date of Pronouncement : 13-11-2025

आदेश/Order

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), NFAC, dated 09.10.1023, for the assessment year 2016-17.

2. The grounds of appeal raised by the Assessee are as under: -

> *1. That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in upholding that the assessee was not a*

Government employee and as such was not entitled to get full tax exemption on leave encashment received from PSPCL after retirement under section 10(10AA) which is arbitrary and unjustified.

2. That the Ld. Commissioner of Income Tax (Appeals) has erred in holding that employees of PSPCL cannot be treated as Government employees which is an incorrect finding and as such the order passed is arbitrary and unjustified.

3. Without prejudice to the above and strictly in the alternative, the Ld. Commissioner of Income Tax (Appeals) has failed to consider the alternate submission of the assessee that he was entitled to complete Leave Encashment at least in respect of the period when he was a serving employee of the Punjab Government under Punjab State Electricity Board which is arbitrary and unjustified.

4. That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.

5. That the order of Ld. Commissioner of Income Tax (Appeals) Officer is arbitrary, opposed to the facts of the case and thus untenable.

3. The facts of the case, as per the order of the Ld. CIT(A) are that the assessee is a retired Government employee, retired from PSPCL (Punjab State Power Corporation Limited), 100 per cent owned by the State Government. The assessee

could not claim exemption under Section 10(10AA) of the Income Tax Act, 1961, on account of leave salary or leave encashment. When he realised this mistake of his which is apparent from the records, he submitted a rectification application u/s 154 of the Income Tax Act 1961 before the Assessing Officer rejected the application on the plea that the assessee was not retired from the Government job. In contrast, he retired from the corporation, which the Punjab Government wholly owns. On appeal before the Ld. CIT(A), the Ld. CIT(A) did not find any reason to deviate from the stand taken by the Assessing Officer and uphold the order of the Assessing Officer.

4. The Assessee, thus, has come into appeal before the Tribunal.

5. It is the submission of the ld. AR, Shri Tej Mohan Singh that the Assessee was an employee of Punjab State Electricity Board (PSEB) from 18.11.1983 to 16.4.2010. Thereafter, the PSEB was restructured, and a company by the name of Punjab State Power Corporation Limited (PSPCL) came into existence. As a result of this restructuring, the Assessee's employment was transferred from PSEB to PSPCL through a government

restructuring scheme. It was the contention of the Ld.AR that without prejudice to the rights of the Assessee, that the leave encashment received by the Assessee for the period the Assessee served to PSEB is not taxable to tax as the PSEB was the State undertaking of the State Government which fully falls within the realm of section 10(10A) of the Income Tax Act, 1961 (in short 'the Act') It was submitted that though the Coordinate Bench in the case of Arvind Kumar Jolly vs ITO (ITA No.952/Chd/2025) vide order dt. 8.10.2025, had decided the issue against the Assessee, however, nonetheless, the period for which the services were rendered by the Assessee with PSEB, which happens to qualify to a State utility, the Assessee is entitled to the relief to that extent for the amount of Rs. 13,02,816/-

6. Per contra, the Ld. DR relied upon the order passed by the lower authorities and also on the decisions of the Coordinate Bench of the Tribunal against the Assessee, decided in the case of Arvind Kumar vs ITO (supra) and in the case of Shri Ashwani Kumar Sharma vs ITO (ITA No. 652/Chd/2023. Order dated 26.6.2025.

7. I have heard the Ld. representatives of the parties and perused the material available on record. It is not disputed before me that the assessee served with the Punjab State Electricity Board (PSEB) from 18.11.1983 to 16.04.2010 and thereafter with the Punjab State Power Corporation Limited (PSPCL) until his retirement on 30.11.2015. The limited issue for my consideration is whether the assessee, who had admittedly rendered more than 17 years of service with the State Government and subsequently continued with an undertaking/company formed under the State Government's restructuring scheme, would be entitled to the benefit of exemption under section 10(10A) of the Act in respect of the commuted value of pension received on retirement.

8. From the record, it is clear that the Electricity Distribution Company, namely Punjab State Power Corporation Limited (PSPCL), cannot be treated as the State Government or an undertaking of the State Government within the meaning of section 10(10A) of the Act. Therefore, its employees are not entitled to the benefit of section 10(10A) of the Act for the period of their service under the Corporation. The plain and literal interpretation of section 10(10A) makes it evident that

the exemption is available only to employees of the Central or State Government or of a local authority or other specified bodies. Accordingly, the assessee, who had served under PSPCL during the period 16.04.2010 to 30.11.2015, would not qualify for the benefit of section 10(10A) for that period.

9. However, the assessee had served with the Punjab State Electricity Board (PSEB) from 18.11.1983 to 16.04.2010—an undertaking which squarely qualifies for the provisions of section 10(10A) of the Act.

10. The next question, therefore, is whether the assessee would be entitled to claim exemption in respect of the leave encashment amount of ₹13,02,816/- relatable to his qualifying service with the State Government for the period between 18.11.1983 and 16.04.2010.

11. It is an admitted position that the benefit of leave encashment is ordinarily receivable only upon retirement, superannuation, or resignation. A strict and literal reading of section 10(10A) may lead to the inference that eligibility should be determined with reference to the employment status as on the date of retirement. On such strict interpretation,

the assessee, having ceased to be an employee of the State Government w.e.f. 16.04.2010, would stand disentitled even for the portion of benefit relatable to his earlier State Government service.

12. Nevertheless, in my considered view, such an interpretation would defeat the very object and benevolent intent underlying section 10(10A). The provision is a beneficial provision, intended to extend relief to employees who have rendered long service to the Government. Merely because, by operation of a State restructuring scheme, the assessee was compulsorily transferred from PSEB to PSPCL, he cannot be deprived of the benefit accrued or earned during his qualifying Government service up to the date of restructuring. The law cannot be read to inflict undue hardship or unintended consequences on employees who had no choice in the restructuring process. Therefore, the exemption under section 10(10A) must be allowed to the extent of the service rendered under the Punjab State Electricity Board up to 16.04.2010, while the portion relatable to the subsequent service with PSPCL shall remain taxable.In this regard, I may fruitfully rely on the decisions of the

Coordinate Benches, wherein it has been consistently held that employees are entitled to the benefit of Section 10(10A). Reference may be made to:

In the case of Shri Ashwani Kumar Sharma vs ITO (ITA No. 652/Chd/2023 -:

8. We have heard the rival contention and perused the material available on the record. In the present case, we find that there is no dispute that HVPNL is a public sector utility wholly owned by the State Government. However, the decisive question is whether such employment qualifies as Government employment for purposes of Section 10(10AA)(i). Section 10(10AA) reads as under:

Section 10(10AA) of the Income Tax Act, 1961, provides for exemption of leave encashment received at the time of retirement:

Clause (i): Entire leave encashment is exempt for employees of the ***Central or State Government.***

Clause (ii): In the case of any other employee, exemption is limited to:

Actual amount received,

10 months' average salary,

Leave standing to credit (cash equivalent),

Rs.3,00,000 — whichever is least.

Clause (iii): Pertains to other special cases such as employees governed by Industrial Disputes Act or notified schemes.

8.1 Section 10(10AA)(i) applies strictly to employees of the Central Government or a State Government. The statute does not extend this benefit to statutory corporations or government-owned companies, unless such extension is expressly provided. Merely being under the ownership and control of the State Government or being governed by State Service Rules does not convert the employer into a "State Government." Ld. AR has not pointed out any decision whereby the employer of the assets was held to be the state government under the Income Tax Act for the purposes of section 10A(10AA) of the Act.

8.2 While coordinate bench rulings in Jagdeep Singh, Om Prakash, and Baliramji Thakre support the assessee's position, it must be noted that these decisions do not conclusively settle the legal character of the employer vis-à-vis Section 10(10AA)(i). In fact, the legislative framework and judicial precedents from High Courts (were available) require strict interpretation of exemption provisions.

8.3 The principle of consistency, though important, cannot override legal interpretation. As held by the Hon'ble Supreme Court in Distributors Baroda vs. Union of India (155 ITR 120), beneficial interpretation cannot be applied where statutory language is clear and unambiguous.

8.4 Furthermore, It is a settled principle of law that where the language of a statute is plain, clear, and unambiguous, the rule of literal interpretation must be applied. In such circumstances, neither the Tribunal nor the Court is empowered to legislate or to read into the provision any meaning not expressly intended by the legislature. Where the statutory language admits of only one meaning, it must be given effect to, regardless of the consequences. Courts are not authorised to supply any omission or add words under the guise of interpretation. This principle assumes greater significance in the context of taxation laws, where it is well established that a provision must be construed strictly, and no equitable or liberal construction is permissible. We are also of the considered opinion that there is no scope for equity or equality in the interpretation of taxing statutes. The assessee may have contended that other benches of the Tribunal granted similar relief to certain colleagues; however, we are of the firm view that there is no merit in perpetuating an interpretation that is contrary to the statutory scheme. It is a well-settled principle that consistency cannot override the correct interpretation of law, and there is no heroism in sustaining an erroneous precedent.

8.5 Furthermore, the decisions cited by the assessee are distinguishable and not applicable to the facts of the present case. The definition of 'State' under Article 1, read with Schedule I of the Constitution of India, and the delineation of the Central and State Governments under the Income-tax Act and the Constitution, do not include undertakings of such Governments as being synonymous with the Governments themselves for the purposes of the present controversy. In view of the above, we are of the considered opinion that the case laws relied upon by the assessee do not aid its case and are clearly inapplicable on both facts and law. Furthermore, no decision from the jurisdictional High Court or any binding authority was brought to our attention to conclusively demonstrate that State PSU employees are deemed to be State Government employees for the purposes of Section 10(10AA).

8.6 Thus, we find ourselves in agreement with the reasoning of the CIT(A). The assessee is eligible only for exemption under Section 10(10AA)(ii), i.e., up to Rs.3,00,000.

9. In the result, the appeal of the assessee is dismissed."

In the case of Arvind Kumar Jolly vs ITO (ITA No.952/Chd/2025) -

"9. We have considered rival submissions and examined the record. The issue before us is whether the assessee, a retired PSU employee, is entitled to exemption of leave encashment beyond the limit of Rs.3,00,000.

9.1 For proper appreciation, we reproduce the bare provision of section 10(10AA):

> *"(i) any payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise;*
>
> *(ii) any payment of the nature referred to in sub-clause (i) received by an employee, other than an employee of the Central Government or a State Government, in respect of so much of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise as does not exceed ten months, calculated on the basis of the average salary drawn by the employee during the period of ten months immediately preceding his retirement, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government."*

9.2 The language of the provision makes a clear distinction between Government employees and non-Government employees. For Government employees, the exemption is absolute, whereas for other employees, the exemption is limited both in terms of period (ten months' salary) and in terms of the monetary limit notified by the Government. The last such notification prior to the assessment year under consideration was issued in 2002, fixing the limit at Rs.3,00,000. The subsequent notification dated 24.05.2023 enhancing the limit to Rs.25,00,000 has expressly been made applicable with effect from 01.04.2023. The assessee, having retired prior thereto, cannot claim the benefit of the subsequent notification.

9.3 The reliance placed on the decisions referred hereinabove does not alter the legal position. We, therefore, are bound to follow the statutory mandate which limits the exemption for non-Government employees to the notified amount.

9.4 The first decision relied upon by the assessee was in the case of Satish Chandra Hiralal. We find that the said judgment does not advance the case of the assessee since the issue therein was entirely different and not related to the controversy under our consideration. Hence, the reliance placed thereon is misplaced.

9.5 The second judgment cited by the assessee was that of Ram Charan Gupta decided by the Jaipur Bench. In that case, the Coordinate Bench proceeded to allow the claim of deduction towards leave encashment, relying upon CBDT Notification No. 31/2023. However, it is material to note that the said notification was issued on 1 April 2023 and, by its plain terms, was prospective in nature. The Jaipur Bench had not examined the specific issue as to whether the notification could be given retrospective effect; the Bench merely proceeded to extend the benefit. A bare perusal of the notification, as has also been extracted by the learned CIT(A) in the impugned order, makes it manifest that the benefit was intended to be operative prospectively and not with retrospective force. Therefore, in our considered opinion, the reliance placed by the assessee on Ram Charan Gupta is of no avail.

9.6 The assessee further placed reliance on the decisions of Vijay Kumar Jain (Agra Bench), Devendra Singh Bhaskar (Ahmedabad Bench) and Goverdhan Deepchand (Ahmedabad Bench). In all these matters, the Coordinate Benches have simply followed the reasoning in Ram Charan Gupta. As already held above, the decision in Ram Charan Gupta cannot be construed as laying down any binding proposition of law to the effect that Notification No. 31/2023 operates retrospectively. It is only a fact-based relief granted without adjudicating the true scope and temporal applicability of the notification. Consequently, the subsequent decisions which merely echo the view taken in Ram Charan Gupta cannot assist the assessee.

9.7 In light of the foregoing discussion, we are of the view that the precedents cited on behalf of the assessee are clearly distinguishable and do not support the proposition sought to be canvassed.9.4 Further the issue is squarely covered by the coordinate decision of this very Bench in Shri Ashwani Kumar Sharma v. ITO (ITA No. 652/Chd/2023, AY 2020-21, order dated 23.06.2025) . In that case too, the assessee, a retired Chief Engineer of a State power utility (HVPNL), claimed full exemption of leave encashment. The Tribunal, after considering section 10(10AA), CBDT notifications, and case law, categorically held that:

> *"Section 10(10AA)(i) applies strictly to employees of the Central or State Government. The statute does not extend this benefit to statutory corporations or government-owned companies. Merely being under the ownership and control of the State Government or governed by State service rules does not convert the employer into a 'State Government.' Employees of PSUs/utilities are covered only*

under clause (ii), and the exemption is capped at Rs.3,00,000. The enhanced limit to Rs.25,00,000 applies prospectively from 01.04.2023."

9.8 Respectfully following the above binding coordinate Bench decision, and applying the plain language of the statute, we hold that the assessee herein, being a PSU employee, is covered under section 10(10AA)(ii) and hence entitled only to exemption up to Rs.3,00,000.

13.. In view of the above, I am of the considered opinion that the Assessee who had served the PSEB being an undertaking of the Punjab Government for a period 18.11.1983 to 16.4.2010 is entitled to the leave encashment for the for amount of Rs. 13,02,816/- which the Ld has mentioned. CIT(A) in the appellate order at page 8. However, for the remaining service, the assessee is not entitled to any relief when he served with the Punjab State Power Corporation Limited.

10. In view of the above, the appeal of the Assessee is partly allowed.

Sd/-
(LALIET KUMAR)
Judicial Member

"आर.के."

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar