

आयकर अपीलीय अधिकरण , चण्डीगढ़ न्यायपीठ , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'SMC', CHANDIGARH

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./ITA No.42/CHD/2025
निर्धारण वर्ष / Assessment Year : 2021-22

Harish Kumar 2439 Sector 50C, Chndigarh.160047	बनाम	The ITO, Ward 5(5) Chandigarh.
स्थायी लेखा सं./PAN NO: ADVPK1006A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(PHYSICAL HEARING)

निर्धारिती की ओर से/Assessee by : Sh. Ajay Jain, C.A.

राजस्व की ओर से/ Revenue by : Sh. Vivek Vardhan, Addl.CIT.Sr.Dr

सुनवाई की तारीख/Date of Hearing : 26-05-2025

उद्घोषणा की तारीख/Date of Pronouncement : 30-05-2025

आदेश/Order

The present appeal has been preferred by the Assessee against the order dated 20-12-2024 passed by the Ld. Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi[hereinafter referred to as 'CIT(A)'], for the Assessment Year 2021-22.

2. The Assessee has taken the following effective grounds of appeal :-

“ That the CIT(A) has wrongly allowed exemption u/s 10(10B) on account of compensation under scheme approved by Central Government amounting to Rs. 5,00,000/- in place of Rs. 30,17,000/”.

3. The brief facts of the case that the Assessee was an employee of the Department of Telecommunication Services and Department of Telecom Operations (DOT). The department had been transformed in BSNL w.e.f. 01/10/2000. The assessee had opted BSNL Retirement Scheme 2019 (Voluntary Retirement Scheme) and he received total emoluments of Rs. 30,17,000/-. The Assessee had claimed exemption of Rs.30,17,000/- u/s 10(10B) of the Act in its ITR. However, the Assessing Officer disallowed Rs. 25,17,000/- out of total emoluments of Rs. 30,17,000/- and added back to the income of the Assessee as the scheme was on voluntary basis not compulsory as per 2nd proviso of Section 10(10B) of the Act. The Assessee has claimed that the Assessing Officer has wrongly added amount of Rs. 25,17,000/- on account of disallowing of compensation under BSNL Retirement Scheme 2019. Further, the Assessing Officer has wrongly allowed exemption u/s 10(10B) of the Act on account of compensation under scheme approved by Central Government to the extent of Rs. 5,00,000/- only in place of Rs. 30,17,000/-. Since as per the A.O., the scheme was on

voluntary basis and not compulsory therefore, he restricted exemption upto Rs. 5,00,000/- as per 2nd proviso of section 10(10B) of the Act. Aggrieved from the above order, the assessee preferred appeal before the CIT(A), how remained unsuccessful.

4. I have heard the rival contentions and gone through record. The Ld. counsel for the assessee has demonstrated before me that though, in the nomenclature, the scheme has been mentioned as VRS (Voluntary Retirement Scheme), however, in fact the same was retrenchment scheme. The Assessee was an employee of the Bharat Sanchar Nigam Limited (BSNL). The BSNL had incurred losses during the three consecutive years. The salaries of the employees were not paid. The Assessee and other employees were over the age of 50 years and were not conversant with the new technology adopted by the BSNL. The BSNL, therefore, launched Voluntary Retirement Scheme to shed the extra employees. The Ld. counsel in this respect has referred to the revival scheme of the Department of Telecommunications dated 29.12.2019, whereby, the purposes of the scheme was revival of BSNL and MTNL by way of reducing employees cost. Inter-alia, The compensation/exgratia on VRS was to be paid in two installments of 50% each during the financial years 1920-21 and 2020-21.

5. In this case, the Assessee received first installment of compensation/exgratia on VRS during the financial year 2019-20 upon which the claim exemption u/s 10(10B) of the Act to the Assessee has been allowed by the Ld. CIT(A) in the appellate order in relation to the assessment year 2020-21. The relevant part of the order of Ld. CIT(A) is reproduced as under :-

“ The appellant was employee of Department of Telecom Services. The Government of India in its Cabinet meeting dated 23.10.2019 approved the proposals of DOT for revival of BSNL and MTNL vide its Cabinet Note dated 22.10.2019. In its Circular Dated 04.11.2019 the BSNL envisaged a Scheme for effective implementation of VRS and invited options from employees under the scheme for seeking voluntary retirement. Reliance is also placed by the appellant upon the decision of Hon'ble Madras High Court in the case of M/S Hindustan Photo Film Workers Welfare Centre WP No. 18566 of 2015 dated 17.03.2017. Facts of this case is identical to the case of HTML-TD. Both the entities were closed in similar situation. Therefore, the provisions of section 10(10B) of the Act are clearly attracted in the

case of the appellant. 3.10 Further, the decision dated 20.09.2023 of Jurisdictional Hon'ble ITAT Chandigarh A” Bench was also perused wherein several appeals of employees of HTML-TD were taken up. The Hon'ble ITAT opined in para 48 that the matter had been examined by the Hon'ble Madras High Court and thereafter has attained finality in view of dismissal of the SLP by Hon'ble Supreme Court and also added that “such matters need not be litigated any further”. 3.11 Respectfully following the decision of the Jurisdictional Hon'ble ITAT and for the reasons mentioned above, the A.O. is directed to allow compensation received by the appellant at the time of VRS as exempt income u/s 10(10B) of the Act. Accordingly, Ground No.1 stands Allowed.”

7. Copy of ITAT order has been submitted, this decision dated 20.09.2023 Hon'ble ITAT Chandigarh Bench was perused wherein several appeals of employees of HTML TD were taken up. The Hon'ble ITAT opined in Para 48 that the matter had been examined by the Hon'ble Madras High Court and thereafter has attained finality in view

of dismissal of the SLP by Hon'ble Supreme Court and also added that "such matters need not be litigated any further"

8. Respectfully following the decision of the Jurisdictional Hon'ble ITAT, the A.O is directed to allow compensation received by the appellant at the time of VRS as exempt income u/s 10(10B) of the Act. Accordingly, the only one ground raised by the appellant in this appeal is allowed."

6. However, in respect of the 2nd installment of compensation/exemption on VRS the claim of the assessee has been disallowed, which in my view is not justified. When the claim of the Assessee relating to the first installment has been accepted by the Ld. CIT(A). There was no question to reject the claim of the Assessee in relation to second installment of compensation received by the Assessee. Moreover, Ld. counsel for the Assessee had duly demonstrated that the Assessee had not been paid salary for the last so many months and there was no option to the assessee than to accept the VRS scheme which, in fact, was retrenchment scheme in the garb of the VRS scheme. The amount received by the Assessee was, in fact, the compensation on account of retrenchment.

7. Faced with some what similar facts and circumstances, the co-ordinate Bench of the Tribunal in the case of “ Sh. Sarabjit Singh vs Income Tax Officer ITGA No. 764/Chd/2018, vide order dated 06.04.2019 has held as under :-

“We have considered the rival submissions and have also gone through the record. The issue is squarely covered by the decision of the Co-ordinate Chandigarh Bench of the Tribunal the Case of other employees in similar facts and circumstances vide order dated 11.3.2019 passed in ITA No.870/Chd/2018 & Others titled as 'Sh.Rajeshwar Sharma & Others Vs. ITO'. This Tribunal observed as under:

Though in strict terms, it may not be said that the amount received by the assessee was on account of commutation of pension, however, the fact on the file is that the aforesaid amount was given by the new employer who has taken over the company from the earlier employer and he had terminated the services of the employees on account of job retrenchment. The amount was paid as a Compensation for retrenchment of services taking into consideration the length of service, basic salary, the age and other factors. In our view, the said amount is a compensation paid by the employer while terminating the services of the employee on account of loss of job and further subsistence, thus, the said amount was just a capital receipt in the hands of the assessee. In fact, no part of amount received by the assessee is taxable. We, therefore, allow the appeal of the assessee and delete the disallowance and consequent additions made by the Assessing officer in this respect. We further hold that the assessee is entitled to claim refund / adjustment of the tax paid in respect of the aforesaid compensation received, if so, claimed by the assessee.

Following the above decision of the Tribunal in the identical facts and circumstances, this appeal of the appellant stands allowed with identical directions. “

8. In view of the above discussion and following the above decision of the Tribunal, the impugned disallowance made by the lower authorities is ordered to be deleted.

In the result, the appeal of the Assessee stands allowed.

Order pronounced on 30-05-2025.

Sd/-
(SANJAY GARG)
Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar