



**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE COMMISSIONER OF INCOME TAX, APPEAL
ADDL/JCIT (A)-12 MUMBAI**

To, KANAYI SUGUNAN KUNDAN HOUSE ,ODAYAMMADAM CHERUKUNNU KANNUR 670301 ,Kerala India	
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PAN: AIYPS1615B	AY: 2020-21	Dated: 30/03/2026	DIN & Order No : ITBA/APL/S/250/2025-26/1088138688(1)
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Order u/s 250 of Income Tax Act,1961

*Instituted on 17/03/2026 from the order of **WARD 3, KANNUR** dated 24/02/2026*

Appeal No	ADDL/JCIT (A)-12 MUMBAI/10056/2019-20
Status/Deductor Category	Individual
Residential Status	Resident
Nature of Business	Others
Section under which the order appealed against was passed	154
Date of Order under which the order appealed against was passed	24/02/2026
Income/Loss Assessed (in Rs .)	2475880
Tax/Penalty/Fine/Interest Demanded (in Rs.)	0
Date of Hearing(s)	As per record(s)
Present for the appellant	Not Applicable
Present for the Department	Not Applicable

1. The appeal was instituted on 17.03.2026 against the order passed by CPC on 24.02.2026 u/s 154 of the Income Tax Act, 1961 for A.Y. 2020-21.

1.1. The relevant part of the statement of facts as narrated in Form No. 35 is as follows –

“The Appellant was a permanent employee of Department of Telecommunication, Govt of India absorbed into Bharat Sanchar Nigam Limited (BSNL), a Public Sector Undertaking, in terms of Rule 37A of CCS Pension Rules, 1972. During the Financial Year 2019-20 relevant to the

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* DIN- Document identification No.

Assessment Year 2020-21, the Appellant was retrenched from Bharat Sanchar Nigam Limited (BSNL), under the Voluntary Retirement Scheme (VRS)-2019, offered by the company as part of the revival of the company and shedding off employees as approved by the Govt. of India with budgetary financial support and received retrenchment compensation. The Appellant filed his return of income for AY 2020-21. While claiming the exemption on the VRS compensation, the Appellant inadvertently mentioned Section 10(10C) as reflected in Form-16 and claimed an exemption of Rs.5,00,000/- only, instead of the more appropriate Section 10(10B), where the full compensation amount is eligible for exemption of Income Tax.

2. Furthermore, exemption on leave encashment received was not fully claimed under Section 10(10AA). The Appellant filed a rectification application under Section 154 of the Income Tax Act, 1961 to the Assessing Officer requesting: (i) To allow exemption under Section 10(10B) in respect of the VRS compensation (which provides for full exemption without the monetary cap of Rs. 5,00,000/- for workmen), instead of Section 10(10C) which was claimed due to an oversight. (ii) To allow full exemption under Section 10(10AA)(i) on the leave encashment received, relying on recent judicial decisions treating BSNL employees at par with Central Government employees for retirement benefits. The Assessing Officer passed the impugned order u/s 154, rejecting the Appellants application. The reasoning provided in the order is as follows: (i) Regarding Section 10(10B): The Ld AO held that the appellant application for rectification has been considered but the exemption beyond Rs.5,00,000/- (Rupees Five Lakhs) which is applicable in respect of compensation received by a workman in accordance with any scheme approved by the Central Government in this behalf, having regard to the need for extending special protection to the workman, as laid down in section 10(10B) of Income Tax Act, cant be considered in the appellants case. The officer further held that the claim involves new interpretations and legal developments and is a debatable issue, thus not a mistake apparent from the record rectifiable u/s 154. (ii) Regarding Section 10(10AA): The order is conspicuously silent on the claim for leave encashment exemption u/s 10(10AA), effectively rejecting it by omission. Being aggrieved by the said order, the Appellant prefers this appeal.”

1.2. Aggrieved by the said order, the appellant has raised the following **Grounds of appeal** as narrated in Form No. 35 –

“1. On the rejection of exemption u/s 10(10B): The Ld. AO grossly erred in

rejecting the rectification u/s 154 by holding that the claim does not constitute a mistake apparent from the record. The ex gratia amount received was fully included in the return filed. The appellant had claimed only Rs. 5,00,000/- u/s 10(10C) due to bona fide error and lack of clarity at the time of return filing. The correct provision is Section 10(10B) (second proviso), as the scheme is substantively retrenchment compensation, as part of the revival of the company and shedding of employees with the approval of the Govt. Of India by extending financial assistance through budgetary support. Hence the compensation mentioned above is capital in nature and not liable for TAX. Once facts are on record and the correct legal position is settled by judicial authorities, the mistake of quoting the wrong section and short claiming exemption is rectifiable u/s 154 (T.S. Balaram, ITO v. Volkart Brothers (1971) 82 ITR 50 (SC);. The Ld. AO erred in holding that the compensation is eligible only u/s 10(10C) and not u/s 10(10B). The BSNL VRS 2019 was a Central Government approved revival package with budgetary support for downsizing employee size, a financially sick PSU. It is retrenchment compensation in substance, not a normal VRS. The nomenclature Voluntary Retirement is not decisive; substance prevails. The second proviso to Section 10(10B) squarely applies and grants full exemption without any limit on the amount. The Ld. AO held in the rejection that there is an exclusion provision for the cap up limit of exemption beyond Rs.5,00,000/- in section 10(10B) of Income Tax Act applicable in respect of compensation received by a workman in accordance with any scheme approved by the Central Government in this behalf, having regard to the need for extending special protection to the workmen. The appellants case is clearly a bona fide one as stated above. This position has been conclusively held by: (i) ITAT Chandigarh in Shri Martin Ekka v. ITO (ITA No. 281/ CHD/2 023) and Harish Kumar v. ITO (ITA No. 42/ CHD/2 025 dated 30.05.2025). (ii) ITAT Ahmedabad in Jayesh Kumar Tulsidas sutaria Vs ITO ITA Nos 2387& 2388 / Ahd/20 25 dt 17-02-2026, for the asst.years 2020-21 & 2021-22. (iii) ITAT Indore in Narendra Kumar Mishra Vs ITO. ITA No.233 / Ind/20 25 dt 27-02-2026, for the asst year 2020-21. The above legal position has been uniformly followed and relief granted (correcting limited 10(10C) claims to full 10(10B)) by multiple CIT(A) benches in identical BSNL VRS cases, including: 1. Mumbai Bench Appellant Name - Sreedhar Date of Order - 23/12/ 2025 AY 2020-21 DIN / Order No. - ITBA/ APL/ S/250/ 2025-26/1084 01575 4(1) 2. Guwahati Bench Appellant Name - Naresh Kumar Arora Date of Order - 10/02/ 2026 AY 2020-21 DIN / Order No. - ITBA/ APL/S/250/ 2025-26/1085 81692 0(1) 3. Mumbai Bench Appellant Name - Mahendrabhai Jerambhai Borad Date of Order - 28/01/ 2026 AY 2020-21 DIN / Order No. - ITBA/ APL/ S/250/ 2025-26/1085 24649 2(1). (Full list of 22+ identical CIT(A)/

ITAT orders allowing full exemption u/s 10(10B) in BSNL VRS cases, including Davinder Kumar (Udaipur), Sham Lal (Mumbai), Kuldeep Singh (rectification), etc., is enclosed as Annexure-A). Judicial discipline and uniformity demand the same relief in the appellants case.

2. On the rejection of exemption u/s 10(10A A): The Ld. AO erred in not allowing full exemption u/s 10(10A A)(i) on leave encashment amount received. As an employee absorbed from DoT under Rule 37A, the appellant is treated as a Central Government employee for retirement benefits. The Honble Kerala High Court (jurisdictional) in Sanchar Nigam Pensioners Welfare Association & Others. v. Union of India [WP(C) No.163 60/202 3, judgment dated 06/02/ 2026] has set aside BSNLs restrictive guidelines and held that absorbed DoT BSNL employees are eligible for full exemption u/s 10(10A A)(i) on the entire leave encashment (DoT + BSNL period) . The Court directed refund of tax illegally deducted. This judgment squarely covers the appellant and was available before the AO passed the 154 order. Additionally, CBDT Notification S.O.22 7(E) dated 27/05/ 2023 (raising limit u/ s 10(10A A)(ii) to Rs. 25 lakhs) has been applied retrospectively by ITAT Jaipur, ITAT Pune and various CIT(A) in pre-20 23 retirement cases (copies enclosed as Annexure-B). The learned AO erred in failing to adjudicate the claim for exemption under Section 10(10A A)(i) of the Act regarding leave encashment. The rejection of this claim by omission is arbitrary and perverse. The AO ought to have allowed full exemption on leave encashment, as the Appellant, being an employee of BSNL, is entitled to the same treatment as a Central Government employee for retirement benefits, as held by the Honble ITAT in Mr. Mangala Ram Nimbark (ITA No 542/ JPR/2023) and Mr. Dashrath Kumar Sen (ITA No.125 8/ JPR/20 24). The facts regarding the receipt of leave encashment were available on record, and the legal position having been clarified by judicial authorities, the failure to grant this exemption constitutes a mistake apparent from the record which is rectifiable u/s 154.

3. On the scope of Section 154: The learned AO erred in holding that the claims involve new interpretations and are debatable. A mistake can be rectified under Section 154 if it is glaring, obvious, and self evident . When judicial precedents directly on the issue exist and the facts are not in dispute , the mistake in not applying the correct law to the facts of the case becomes a mistake apparent from the records . The Honble Courts have repeatedly held that where the law is settled, its application to undisputed facts constitutes a rectifiable mistake. There is no bar on appellate authorities (or even AO u/s 154 when facts are on record) to allow a legitimate claim even if not made / wrongly made in the original return. This is settled by: (i) Wipro Finance Ltd. v.

CIT (2022) 443 ITR 250 (SC). (ii) Nation al Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383 (SC). (iii) Jute Corporation of India Ltd. v. CIT (1991) 187 ITR 688 (SC). (iv) CBDT Circular No. 14(XL 35) dated 11.04.1 955 (duty to assist assessee in claiming legitimate relief).

4. Violation of Article 265 of the Constitution: The impugned order results in levy and retention of tax without authority of law, contrary to Article 265 of the Constitution of India, which mandates that no tax shall be levied or collected except by authority of law. If a receipt is legally exempt, it cannot be taxed merely because the appellant failed to claim the correct provision in the return. PRAYE R: The Appellant prays that the order of the AO be quashed and the Assess ing Officer be directed to recompute the income by allowing exempt ion under Section 10(10B) on the VRS compensation (without the limit of Rs. 5,00,00 0/-) and full exempt ion under Section 10(10AA)(i) on leave encashment. The Appellant craves leave to add, amend, or alter any of the above ground s of appeal before or at the time of hearing.”

1.3. Order u/s 154 was passed on 24.02.2026, therefore appeal u/s 246A should have been filed on or before 26.03.2026 and appeal is filed by appellant on 17.03.2026. Hence, appeal is in time.

2. During the course of appellate proceedings, notice was issued u/s 250 of the Act. In response, the appellant filed response on the e-filing portal. The submissions of the appellant have been carefully perused and examined.

Decision and Reasons –

3. Ground No. 1: The ground taken by the appellant is that the AO has erred in not allowing exemption under section 10(10B) on account of compensation under scheme approved by the Central Government.

4. The appellant submitted that he has been retrenched from BSNL in accordance with Scheme announced by Government of India for revival of BSNL through Budgetary support given by Government of India. As per the as per the scheme the appellant has been given Ex gratia payment. However, appellant in the return of income filed for A.Y. 2020-21 claimed exemption to the extent of Rs. 5,00,000/- only u/s 10(10C) of the Act. Subsequently, the appellant filed rectification application u/s 154 of the Act before the AO claiming exemption related to Voluntary Retirement Scheme (VRS) receipts.

4.1. The AO in the rectification order dated 24.02.2026 held that there is no mistake apparent from the record. The AO therefore, rejected the claim of appellant in the

rectification order passed u/s 154 of the Act.

5. The appellant has submitted a plethora of case laws in support of its claim that he is entitled to claim full exemption u/s 10(10B) of the Act in the grounds of appeal raised by it.

6. The moot question is that whether entire amount received as VRS Compensation is exempted u/s 10(10B) of the Act. The appellant has relied on the decision of Tribunal in the case of Harish Kumar ITA No. 42/CHD/2025. The said decision of Hon'ble ITAT is perused. In the said decision the Hon'ble Tribunal has held that exemption cannot be denied u/s 10(10B) of the Act by relying on second proviso to the section. The compensation received from BSNL cannot be rejected as the VRS Scheme of BSNL was actually a retrenchment scheme in the garb of VRS Scheme. Hence, the compensation received by the employee was in fact compensation on account of retrenchment. Hence, deleted the disallowance made by lower authorities.

7. Regarding the new claim made during the appellate proceedings, the Hon'ble Supreme Court in the case of Goetze (India) Ltd. v. Commissioner of Income-tax 284 ITR 323 dated 24.03.2006 has held that the AO has no power to entertain new claim of the appellant without filing revised return of income, however, the appellate authority can admit new claim of the appellant. In this regard, the Hon'ble Mumbai ITAT in the case of Shree Kutchi Lal Rameshwar Ashram and Annakshetra Trust Vs. ITO Exem. Ward 2-3, Mumbai in ITA no. 8624/Mum/2025 dated 09.02.2026 have held as under:

We have heard the rival contentions and perused the material available on record. We find that where there is no dispute that the assessee is a registered trust u/s 12A and has been allowed exemption u/s 11 by the AO and where all material facts are emanating from the records in terms of gross receipts and amount accumulated/set-apart for charitable and religious purposes being less than 15% of gross receipts and the assessee makes a claim before the Id CIT(A) in terms of allowing the benefit of accumulation in terms of section 11(1)(a), the Id CIT(A) has all the powers to admit and adjudicate the said claim, being a legal claim. As far as the decision of Hon'ble Supreme Court in case of Goetze (India) is concerned, the same doesn't restrict the appellate authority and in the instant case, the Id CIT(A) in

entertaining the fresh legal claim so raised by the assessee. Further, various decisions relied upon by the assessee as so rendered by the Hon'ble Jurisdictional High Court supports the case of the assessee. In light of the same, we set aside the matter to the file of the Id CIT(A) to examine the said claim of the assessee as per law after providing reasonable opportunity to the assessee.

7.1. In view of above, the incorrect claim made by the appellant in the return of income filed can be corrected now during the appellate proceedings.

8. Further, the appellant has relied on judgment of the Hon'ble Tribunal in Martin Ekka in ITA No. 281/Chd./2023 dt. 27.03.2024 whereby the appellant claimed that its additional claim can be allowed by the appellate authorities. In the said order, the Hon'ble ITAT, while allowing the appeal of the appellant, has relied upon the decision of Hon'ble Madras High Court in the case of Hindustan Photo Film Workers' Welfare Centre (CITU) 441 ITR 661 (Madras) (01-07-2021). The decision is perused and the Hon'ble High Court has held in the said decision as under:

"31. As mentioned above, the Government of India had recommended a scheme to give relief to the employees of HPF. This proposal was approved by the Cabinet Committee on Economic Affairs and such approval was a non-plan budgetary support. The Government of India did not authorise the HPF to bring out a VRS package, but what was approved was a non-plan budgetary support, which is in the nature of a grant given by the Central Government to the second respondent for a specific purpose and a specific reason. The purpose is to rehabilitate the employees of HPF and the reason being that the employees have been receiving the pay scales as of 1987, the increase in the cost of living has made it very difficult for them to survive and meet their financial obligations and the Government thought fit to offer this package to enable the employees to come out of the financial crises. If such was the sanction made by the Central Government, it undoubtedly would qualify the parameters laid down under sub-section (10B) of Section 10 of the Income Tax Act. This is so because the monetary benefit which will accrue to the employees is in the nature of a compensation, which is pursuant to a decision taken by the Government of India specifically for the employees of HPF. Therefore, the amount would be exempted from income tax in terms of the first proviso under Section 10(10B) of the IT Act. In terms of clause (2) of first

proviso, the ceiling limit is Rs.5,00,000/-. The second proviso states that the first proviso shall not apply in respect of any compensation received by a workmen in accordance with any scheme, which the Government may, having regard to the need for extending the special protection to the workmen in the undertaking to which such scheme applies and other relevant circumstances, approve in its behalf. The compensation which is received by the workmen would fall within the definition of compensation found in explanation to Section 10(10B).

32. In such circumstances, this Court has no hesitation to hold that the package having been received by the workmen as compensation pursuant to the decision taken by the Central Government to offer special protection to the employees of HPF, the same stands exempted from deduction to income tax.....”

9. Respectfully following the decision of the Hon'ble ITAT and decision of Hon'ble Madras High Court mentioned above, it is held that the compensation received by the appellant is in the nature of retrenchment compensation and hence, exempt u/s 10(10B) of the Act. However, the appellant during the appellate proceedings, has not furnished any evidence to show that appellant has received ex-gratia in excess of Rs. 5,00,000/- during the year. The appellant is therefore, requested to produce the evidence of receipt of ex-gratia before AO for verification. The AO is directed to verify and treat the same as exempt income u/s 10(10B) of the Act to the extent appellant furnishes the evidence. Accordingly, **Ground No. 1** raised by the appellant is **Allowed for statistical purposes.**

10. In **Ground No. 2**, the appellant has contended that the AO has erred in not allowing full exemption u/s 10(10AA)(i) on leave encashment amount received. In the return of income filed, the appellant has claimed exemption of Rs. 6,22,763/- u/s 10(10AA) of the Act and same was allowed by CPC while processing the return of income u/s 143(1) of the Act. Appellant claims that entire receipts of leave encashment are exempt u/s 10(10AA) of the Act. The appellant also submitted that though it raised this issue in the rectification application before the AO, however, the rectification order remains conspicuously silent on the issue.

10.1. During appellate proceedings, appellant has relied on various decisions including that of the Hon'ble ITAT in Mr. Mangala Ram Nimbark (ITA No 542/JPR/2023) and Mr. Dashrath Kumar Sen (ITA No.1258/JPR/2024). In the case of Mr. Mangala Ram Nimbark the Hon'ble ITAT has held as under in the case of BSNL Employee:-

In this case also, since the leave encashment as claimed by the assessee is amounting to Rs.6,87,030/- u/s 10(10AA)(i) of the Act which is below the limit of Rs.25.00 lacs as specified vide Notification No. 31/2023 issued by the CBDT, Ministry of Finance, New Delhi, therefore, the assessee is



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eligible to claim deduction of said amount of Rs.6,87,030/- and thus the AO is directed to allow the claim of the assessee u/s 10(10AA)(i) of the Act within the revised limit as prescribed in the notification . Hence, in terms of these observations, the appeal of the assessee is allowed.

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

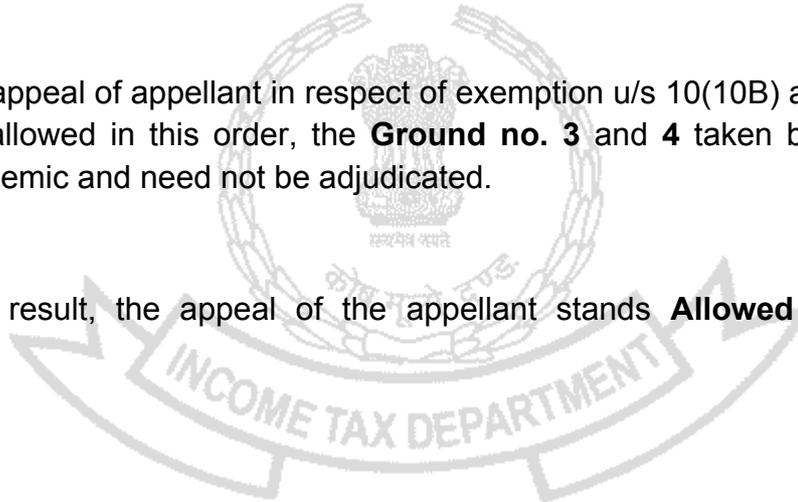
Order pronounced in the open court on 04/10/2023.

10.2. Further, the Hon'ble ITAT, Jaipur Bench in the case of Devi Dutt Agarwal vs ACIT (ITA No. 1375/JP/2024, order dated 13.03.2025), wherein after considering the CBDT Notification and the decision of the Hon'ble Delhi High Court in the case of Kamal Kumar Kalia & Ors. vs Union of India, has held that the enhanced exemption limit is applicable and the assessee is entitled to claim full exemption of leave encashment within such limit. The coordinate bench has thus taken a clear and reasoned view that the benefit of enhancement cannot be denied in such circumstances.

10.3. Further, it is to be noted that the appellant has claimed exemption of Rs. 6,22,763/- u/s 10(10AA) of the Act which has already been allowed by the CPC without restricting the same to the limit of Rs. 3,00,000/-. Therefore, the dispute is not regarding the application of limit of Rs. 3,00,000/- but full exemption of the amount received on account of leave encashment. The appellant however during the appellate proceedings, has not furnished any evidence to show that appellant has received leave encashment in excess of Rs. 6,22,763/- during the year. The appellant is therefore, requested to produce the evidence of receipt of leave encashment before AO for verification. The AO is directed to verify and treat the same as exempt income u/s 10(10AA) of the Act to the extent appellant furnishes the evidence. Accordingly, **Ground No. 2** raised by the appellant is **Allowed for statistical purposes**.

11. As the appeal of appellant in respect of exemption u/s 10(10B) and 10(10AA) of the Act are allowed in this order, the **Ground no. 3 and 4** taken by the appellant become academic and need not be adjudicated.

12. In the result, the appeal of the appellant stands **Allowed for statistical purposes**.



KIRAN PANCHAMRAM UNAVEKAR
ADDL/JCIT (A)-12 MUMBAI

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