

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.1819/Del/2023  
Assessment Year: 2019-20

<b>Rajni Hansija C-94, New Multan Nagar, New Delhi-110056 PAN No.ABKPH3049P</b>	<b>Vs.</b>	<b>ITO Ward- 69 (1) New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Bhupinderjit Singh, Advocate Sh. Shreyansh Kushwaha, Advocate Sh. Rahul Garg, Advocate
Respondent by	Sh. Vivek Vardhan, Sr. DR

Date of hearing:	07/12/2024
Date of Pronouncement:	09/02/2024

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order dated 18.05.2023 by NFAC, Delhi pertaining to A.Y. 2019-20.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in confirming the disallowance of exemption claimed u/s. 10(10AA) (i) of the Act by holding that the assessee is not an employee of the Central or State Governments.

3. Briefly stated the facts of the case are that the assessee filed her return of income on 24.07.2019 and the return was processed by the CPC. The assessee filed a rectification application u/s. 154 requesting to allow her leave encashment as exempt u/s. 10 (10AA) of the Act. The CPC passed the rectification order restricting the claim of the assessee up to Rs. 3 lacs.

4. The entire quarrel revolves around whether the assessee is a Central Government / State Government employee.

5. We have carefully perused the orders of the authorities below and the relevant documentary evidences. In our considered view both the lower authorities have erred in not appreciating the facts in true perspective. It would be better to first understand the provisions of section 10 (10AA) which reads as under :-

**“Sec 10 (10AA)**

*(1) 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 eight] months, calculated on the basis of the average salary drawn by the employee during the period of ten months immediately preceding his*

*retirement whether] on superannuation or otherwise, 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):*

*Provided that where any such payments are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income- tax under this sub- clause shall not exceed the limit so specified]:*

*Provided further that where any such payment or payments was or were received in any one or more earlier previous years also and the whole or any part of the amount c such payment or payments was or were not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax und this sub- clause shall not exceed the limit so specified as reduced by the amount as the case may be, the aggregate amount not included in the total income of any su previous year or years: Explanation.- For the purposes of sub- clause (ii).-1 entitlement to earned leave of an employee shall not exceed thirty days for every of actual service rendered by him as an employee of the employer from whose ser he has retired;*

6. In the light of the above a perusal of the return of income show that the assessee was employed with Indian Railway Catering and Tourism Corporation Limited a Government of India Company and the tax has been deducted at source by the employer. Since the assessee was employed with the Central Government, therefore, she is very much eligible for the claim of deduction u/s. 10 (10AA) of the Act. We accordingly direct the AO to allow the same.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 09.02.2024.

**Sd/-**  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBR**

\*NEHA\*

Date:- .02.2024

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**Sd/-**  
**(N.K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI