

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.59/Ahd/2024  
Assessment Year: 2020-21**

Prakashkumar Mangaldas Tewani, 20, Rajeshwari Society, Opp. S.T. Nagar, Kapadwanj Road, Nadiad, Gujarat – 387 001. <b>[PAN – AAZPT 3668 G]</b>	Vs.	The Income Tax Officer, Ward – 1, Nadiad.
(Appellant)		(Respondent)
Assessee by	Shri B.T. Thakkar, AR	
Revenue by	Shri Ketan Gajjar, Sr. DR	
Date of Hearing	02.04.2024	
Date of Pronouncement	04.06.2024	

**ORDER**

This appeal is filed by the assessee against order dated 21.11.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2020-21.

2. The assessee has raised the following ground of appeal :-

*“1. Partial disallowance of Leave Encashment claim of Rs.5,18,100/- being exempt, is unjust and unlawful. Your appellant prays to add, alter and amend the grounds of appeal at the time of hearing.”*

3. The assessee joined Department of Telecommunication i.e. Government Department, and was an employee of BSNL. The assessee took Voluntary Retirement on 31.01.2020 and received amount on retirement as under :-

Particulars	Amount (Rs.)
Salary, Leave Encashment and VRS are received (A)	30,67,688
Less: Exemption claimed u/s.10(10AA) for leave encashment – 300 D.O.T. leaves	(15,83,420)
Less: Exemption claimed u/s.10(10C) for VRS	(2,60,197)

	Total (B)	(18,43,617)
Taxable amount declared in return of income (A-B)		12,24,071

4. The assessee filed his income tax return for Assessment Year (A.Y.) 2021 on 16.12.2020 declaring income at Rs.12,04,980/-. The assessee declared income under the head "income from salary and other sources" and declared gross salary under Section 17(1) of the Income Tax Act, 1961 at Rs.30,67,688/- against which the assessee claimed exemption on Leave Encashment of Rs.15,83,420/- under Section 10(10AA) of the Act and exemption of VRS amount received of Rs.2,60,197/- under Section 10(10C) of the Act. Thus, the assessee declared net salary of Rs.12,24,071/-. The Income Tax return was processed at CPC, Bangalore under Section 143(1) of the Act on 08.12.2021. The assessee being not satisfied with the intimation under Section 143(1) of the Act dated 08.12.2021 filed rectification but was unsuccessful due to certain technical glitches. However, as stated by the assessee, the ADIT CPC, Bengaluru passed a Rectification Order under Section 154 of the Act on 21.10.2022 by assessing the income at Rs.30,48,597/- as against declared total income at Rs.12,04,980/-. From the computation of intimation issued by the CPC under Section 154 of the Act, the Assessing Officer observed that the entire exemption claimed under Section 10(10AA) of the Act and Section 10(10C) of the Act should be disallowed and, therefore, disallowed the same.

5. Being aggrieved by the Rectification Order dated 21.10.2022, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

6. The Ld. AR submitted that while processing the return of income, CPC Bengaluru allowed the exemption of Rs.18,43,670/- including the leave Encashment and exemption under Section 10(10AA) of the Act but Rectification Order under Section 154 has withdrawn the exemption allowed under Section 10(10AA) and Section 10(10C) of the Act. The CIT(A) partly allowed the exemption in respect of Leave Encashment under Section 10(10AA) of the Act especially the component of Rs.7,65,320/- while the assessee was serving in Department of Telecommunication and Rs.3,00,000/- while the assessee was

-serving in BSNL. The total Leave Encashment of Rs.15,83,420/- was bifurcated on presumption that 145 leave period is from Department of Telecommunication and 155 leave period is from BSNL which is calculated on the basis of proportionate service period. The Ld. AR submitted that on transfer to BSNL on 01.10.2000, number of Earned Leave of the assessee was 300 days and it was well within the organisation of Department of Telecommunication where the assessee served since the beginning till the induction to BSNL. The assessee encashed the Earned Leave of 300 days with DOT period was the correct amount and exemption under Section 10(10AA) of the Act for Leave Encashment is Rs.15,83,420/- and the same should be granted.

7. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

8. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Ld. AR submitted the certificate issued by the BSNL through Chief Account Officer (Salary) thereby stating that number of Earned Leave at the time of VRS from BSNL was 300 days and from the perusal of the records the assessee has joined the Department of Telecommunication – Government Department – on 04.10.1983 and served in the said Department till 30<sup>th</sup> September, 2000 prior to induction in BSNL. The assessee has also shown the details of induction and the leave encashment period. The proportionate bifurcation given by the CIT(A) is not justifiable as BSNL is also prior to its separate PSU entity was coming under the purview of the Department of telecommunication. Thus, the leave encashment in the present case is exempt and exemption under Section 10(10AA) of the Act should be granted to the assessee. Hence, the appeal of the assessee is allowed.

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

Order pronounced in the open Court on this 4<sup>th</sup> June, 2024.

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 4<sup>th</sup> June, 2024**  
*PBN/\**

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*