

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1019/Del/2023
(Assessment Year: 2020-21)**

Shashi Joshi, E-1/5, Malviya Nagar, New Delhi (Appellant)	Vs. ITO, Ward-70(1), New Delhi (Respondent)
PAN:	

Assessee by :	Ms. Vandana Bhandari, CA
Revenue by :	Shri Sahil Kumar Bansal, Sr. DR

Date of Hearing	09/12/2024
Date of pronouncement	13/12/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1019/Del/2023 for AY 2020-21, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2022-23/1049766813(1) dated 15/02/2023 against the order of assessment passed u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 30.11.2021 by the Assessing Officer, ACIT, CPC, New Delhi (hereinafter referred to as 'ld. AO').
2. The only issue to be decided in this appeal is as to whether the leave encashment received by an employee of Indian Institute of Technology could be brought to tax in his hands in the facts and circumstances of the instant case.
3. We have heard the rival submissions and perused the materials available on record. The assessee was an employee with Indian Institute of Technology (IIT) Delhi. The assessee pleaded that IIT Delhi comes under Ministry of Human Resource Development, Government of India and accordingly the leave

encashment received by her on retirement shall be exempt from tax. The assessee at the time of filing the return of income had mentioned her employment to fall under 'others' category instead of central government employees category leading to restriction of exemption of leave encashment under section 10(10AA) of the Act to only Rs 3 lakhs and accordingly a sum of Rs 9,97,930/- stood taxed as income of the assessee arising out of leave encashment received on retirement. This was agitated by the assessee before the Learned NFAC. The Learned NFAC observed that leave encashment received by a central government or state government employee alone is fully exempt from tax in terms of section 10(10AA) of the Act. However, in the instant case, the Learned NFAC observed that the assessee is neither a central government employee nor a state government employee and accordingly the Learned CPC Bengaluru was justified in restricting the claim of exemption to Rs 3 lakhs as is available for other category of employees and accordingly dismissed the appeal of the assessee. Aggrieved, the assessee is in appeal before us.

4. We find that the issue under consideration under similar circumstances of employee of an Tamil Nadu Agricultural University was subject matter of consideration by the Hon'ble Madras High Court in the case of Dr P Balasubramanian Vs CCIT (TDS) reported in 142 taxmann.com 25 (Mad HC) vide order dated 10.8.22 wherein it was held that Tamil Nadu Agricultural University (TNAU) was constituted under a State Act and its employees were bound by conditions and terms of employment that would be applicable to Government Servants and hence leave encashment given to retired employees of TNAU would be exempt from tax under section 10(10AA)(i) of the Act. Similar views were taken by various tribunals in the country with regard to employees of Haryana Agricultural University, Mahatma Gandhi University, Chaudhary Charan Singh Haryana Agricultural University, Hisar, a State University established under the Haryana and Punjab Agricultural Universities Act, 1970 and notified under University Grants Commission.

5. We find that the IIT has been established and notified as an Act of Parliament by The Institutes of Technology Act, 1961 as amended by Institutes of

Technology Amendment Act, 1963. Further we find from the circular issued by Ministry of Human Resource Development, Department of Higher Education, Government of India dated 27-10-2017 that the employees of Indian Institute of Technologies are governed by the pay structure prescribed and recommended by the 7th Central Pay Commission. These documents are enclosed in pages 16 to 20 of the paper book filed before us. This goes to prove that these institutions are funded by the Government and hence its employees are made to comply with the directions prescribed by the 7th Pay Commission with regard to the pay structure. Hence it could be safely concluded that the employees of IIT would be eligible to claim exemption from leave encashment received on retirement in terms of section 10(10AA) of the Act as is applicable for Government employees. Accordingly the grounds raised by the assessee are allowed.

6. In the result the appeal of the assessee is allowed.

Order pronounced in the open court on 13/12/2024.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated:13/12/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi