

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

BEFORE SHRI INTURI RAMA RAO, AM

**ITA No. 895/Coch/2024
Assessment Year: 2020-21**

Jayakrishnan Gopalakrishnan Appellant
Chambady House, 49/44-A, Chambady Road
Elamakkara P.O., Cochin 682026
[PAN: AGUPG6237H]

vs.

The Income Tax Officer Respondent
Corporate Ward-2(5), Cochin

Appellant by: Shri P.T. Joy, CA
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 12.03.2025
Date of Pronouncement: 27.03.2025

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 30.08.2024 for Assessment Year (AY) 2020-21.

2. Brief facts of the case are that the appellant is an individual deriving salary income. The return of income for AY 2020-21 was filed on 30.12.2020 and the same was revised on 21.01.2021 by seeking exemption on ex-gratia payment u/s. 10(10C) of the Income Tax Act, 1961 (the Act) of Rs. 5,00,000/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Corporate Ward-

2(5), Cochin (hereinafter called "the AO") vide order dated 25.12.2023 passed u/s. 143(3) r.w.s. 144B of the Act bringing to tax the ex-gratia payment of Rs. 23,75,000/-.

3. Being aggrieved, an appeal was filed before the CIT(A) contending that the ex-gratia payment is a capital receipt, it cannot be brought to tax. However, the CIT(A) dismissed the claim of the appellant.

4. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

5. The learned counsel for the assessee submitted that the ex-gratia amount received from the employer is a capital receipt and cannot be taxed placing reliance on the decision of the Hon'ble Delhi High Court in the case of CIT v. Deepak Verma ITA No. 1431 of 2008 dated 14.09.2010.

6. On the other hand, the learned Sr. DR supporting the orders of the lower authorities submits that no interference in the orders of the lower authorities is called for.

7. I heard the rival contentions of both the parties and perused the material available on record. The only issue that arises for my consideration is whether the CIT(A) was justified in holding that the ex-gratia amount received from the former employer is taxable u/s. 17(3) of the Act or not. The undisputed facts are that the appellant received compensation for termination of service from his former employer. The Parliament had enacted provisions of section 17(3) which reads as under:

"Salary", "perquisite" and "profits in lieu of salary" defined.

17. For the purposes of [sections 15](#) and [16](#) and of this section,—

.....

(3) "profits in lieu of salary" includes—

(i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

(ii) any payment (other than any payment referred to in clause (10), clause (10A), clause (10B), clause (11), clause (12), clause (13) or clause (13A) of [section 10](#)), due to or received by an assessee from an employer or a former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this sub-clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of [section 10](#);

(iii) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

(A) before his joining any employment with that person;
or

(B) after cessation of his employment with that person."

8. Thus, the ex-gratia payment received from the former employer comes within the ambit and scope of section 17(3) of the Act. Therefore, the amount received is clearly taxable u/s. 17(3) of the Act. The decision of the Hon'ble Delhi High Court has no application, inasmuch as, the judgement was rendered prior to insertion of sub-section (3) to section 17

and it also made explicit by the Hon'ble High Court itself. Thus, I do not find any merit in the grounds of appeal filed by the assessee.

9. In the result, the appeal filed by the assessee stands dismissed.

10. Order pronounced in the open court on 27th March, 2025.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 27th March, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

Assistant Registrar
ITAT, Cochin