



IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2014/PUN/2025  
Assessment Year : 2020-21

Sunil Kumar Bhilare, 453/2, Ganpati Ali, Taluka Wai, Satara, Satara, Maharashtra-412803 PAN : AAVPB2531J	Vs.	Income Tax Officer, Ward-3, Satara
Appellant		Respondent

Appellant by	:	Shri Sunil Porwal (through virtual)
Respondent by	:	Shri Ajitesh Meena
Date of hearing	:	15.10.2025
Date of pronouncement	:	03.11.2025

**आदेश / ORDER**

The captioned appeal at the instance of assessee pertaining to Assessment Year 2020-21 is directed against the order dated 17.11.2022 of National Faceless Appeal Centre, Delhi emanating out of Intimation order dated 03.11.2021 passed u/s.143(1) of the Income Tax Act, 1961.

2. Registry has informed that that the instant appeal is barred by limitation as the assessee has filed this appeal with a delay of 938 days. Assessee has filed an Affidavit explaining the reasons for delay and the contents of the same are as follows :

- 1) *That I have retired from services of State Bank of India (SBI) on 29/02/2020 in the financial year 2019-20.*
- 2) *That during the retirement I received my retirement benefits in form of gratuity, provident Fund Encashment and Leave Encashment etc. as per norms.*



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3) During the Financial year 2019-20; I receive, Leave Encashment of Rs.9,60,574/- claimed same in return exempt U/Sec 10 (10AA) of Income Tax Act 1961 but CPC while processing the return restricted the said claim to Rs.3,00,000/-

4) The Ld. CIT (A) NFAC, in a routine manner in absence of any clarity dismissed the appeal on 17/11/2022.

5) In between I was confused and kept taking the opinion of legal experts before moving to your court and this has resulted in delay in filing Appeal. In between I came to know that Ld ITAT Jaipur / Ahemdabad bench has mean time considering the impact of said CBDT Notification dated 24.05.2023 has granted relief so I have come forward for appeal to get justice.

6) Thus the delay in filing appeal is for "Reasonable cause" and looking to "RETROSPECTIVE EFFECT" of said notification I am filing this appeal."

3. After hearing both the sides and perusing the averments made in the affidavit, I am satisfied that 'reasonable cause' prevented the assessee to file the appeal within the stipulated time. Even though the assessee has mentioned various reasons and one of the same indicate that only after the CBDT Notification dated 24.05.2023 came to the notice of the assessee he has decided to file the appeal. However, in the larger interest of justice adopting justice oriented approach and taking guidance from the judgments of Hon'ble Apex Court in the case of *Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors. reported in (1987) 2 SCC 107* and in the case of *Inder Singh Vs. State of Madhya Pradesh judgment dated 21.03.2025 (2025 INSC 382)* I condone the delay of 938 days in filing of the instant appeal before this Tribunal and admit the appeal for adjudication.

4. The only grievance of the assessee is that ld.CIT(A) erred in confirming the action of Central Processing Cell of



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restricting the exemption u/s.10(10AA)(ii) of the Act to Rs.3.00 lakh as against the claim of assessee at Rs.9,60,574/-.

5. At the outset, ld. Counsel for the assessee submitted that the CBDT vide Notification dated 24.05.2023 has enhanced the limit of exemption u/s.10(10AA)(ii) from Rs.3.00 lakh to Rs.25.00 lakh and further the claim of the assessee is applicable retrospectively. He also referred and relied on the decisions of various Tribunal and in the written submissions which are detailed as under :

*“(1) Assessee retired from services of M/s State Bank of Bikaner & Jaipur (SBBJ), New (SBI) in F.Y. 2019-20 (on 29.02.2020).*

*(2) Received Rs. 9,60,574/- as "Leave Encashment" benefit in terms of sec 10(10AA) of Act*

*(3) Return of Income was filed on 19.11.2020 claiming whole of such amount of Leave Encashment of Rs. 9,60,574/-u/ sec 10(10AA) of Act.*

*(4) While processing the return u/ sec 143(1)(a) of Act dated 03.11.2021 the amount of such leave encashment of Rs. 9,60,574/- was restricted to Rs. 3,00,000/- U/ sec 10(10AA)(ii) & has Disallowed/Added A sum of Rs. 660574.00 (Rs. 9,60,574/- Amount Actual Received Rs. 3,00,000/- Maximum Amount Allowed u/ sec 10(10AA)(ii) considering not in category of Central/ State Govt. Employee U/ sec 10(10AA)(ii) of Act.*

*5) No care for Board notification No. 31/2023/F. No. 200/-/2023-ITA-I dated 24.05.2023 (Effective Retrospectively) made where limit for Non-Govt. Employees (others than Central/ State) have been raised to Ras. 25,00,000/- (Maximum) u/ sec 10(10AA) (ii) of Act; The CIT(A) considering that this notification is not with retrospective effect but w.e.f 01.04.2023 &n since Appellate has already retired in F.Y. 2021-22, hence the claim of assessee for Rs. 14,24,413/- u/ sec. 10(10AA)(ii) is not tenable and has restricted to Rs.3,00,000/-.”*

6. The impugned order under consideration is passed on 17.11.20222 and the CBDT Notification is dated 24.05.2023. Therefore, it is ostensible that the CBDT Notification is issued after the passing of the impugned order.



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7. On the other hand, ld. DR supported the order of ld.CIT(A) and also stated that the CBDT Notification is not applicable retrospectively as contended by the assessee.

8. I have heard the rival contentions and perused the record placed before me. I observe that the assessee is an individual and is employee of State Bank of India and on his retirement he received Leave Encashment of Rs.9,60,574/- and claimed it as exempt income in the income-tax return. However, CPC granted exemption for only Rs.3.00 lakh as provided u/s.10(10AA)(ii) of the Act and ld.CIT(A) has dismissed the assessee's appeal by observing as under :

*"5.1 Ground 1:*

*Vide this ground of appeal the Appellant has challenged the Intimation passed u/s 143(1) wherein the exemption of Rs.9,60,574/- claimed by the Appellant u/s 10(10AA)(ii) has been restricted to Rs.3,00,000/- only. In this regard, the relevant part of the Intimation passed u/s 143(1) extracted below.*

*Incorrect Claim u/s 143(1)(a)(ii)*

*xxxxxxxxx  
xxxxxxxxx*

*The Appellant has submitted a detailed reply in support of his contention that the exemption of Rs. 9,60,574/- has been rightly claimed u/s 10(10AA)(ii). This submission has been reproduced at para 4 above. I have carefully perused the submissions of the Appellant, however, I do not agree with the same.*

*The Appellant has submitted that he has claimed exemption of leave encashment under the provisions of section 10(10AA) (ii) of the Act. In this regard, the relevant section is reproduced below;*

*"(10AA) (1)*

*(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 ten months, calculated on the basis of the*



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*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<sup>1</sup> 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 of 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 under this sub-clause shall not exceed the limit so specified, as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.*

*Explanation. For the purposes of sub-clause (ii),-*

*the entitlement to earned leave of an employee shall not exceed thirty days for every year of actual service rendered by him as an employee of the employer from whose service he has retired;"*

*From the above provisions, it is amply clear that there is a limit to which exemption can be claimed under this provision. This limit is notified by the Central Government from time to time in the Official Gazette. The latest such notification is dated 31/05/2002 vide which this limit is quantified at Rs.3,00,000/- only. The said notification is extracted below,*

*"Notification No : 123  
Date of Issue : 31/5/2002  
Section(s) Referred: s.10(10AA(ii)  
Notification No. S.O. 588(E), dated 31st May, 2002*

*In exercise of the powers conferred by sub-clause (ii) of clause (10AA) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to the maximum amount receivable by its employees as cash equivalent of leave salary in respect of the period of earned leave at their credit at the time of their retirement, whether superannuation or otherwise, hereby specifies the amount of Rs. 3,00,000 (rupees three lakhs only) as the limit in relation to employees mentioned in that sub-clause who retire, whether on superannuation or otherwise, after the 1st day of April, 1998.*



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*[Notification No. 123/2002/F, No. 200/23/98-ITA-I]*

*Thus, from the above, it is very clear that the Appellant is entitled to a maximum exemption of Rs.3,00,000/- only under the provisions of section 10(10AA) (ii) of the Act. In view of the same, I uphold the action of the AO, CPC, in restricting the exemption claimed by the Appellant under section 10(10AA)(ii) to Rs.3,00,000/- only in the Intimation passed u/s 143(1) of the Act. This ground is accordingly dismissed.”*

9. Before me, ld. Counsel for the assessee has referred to CBDT Notification dated 24.05.2023 and the contents of the same is reproduced below :

*“MINISTRY OF FINANCE (Department of Revenue)  
(CENTRAL BOARD OF DIRECT TAXES)  
NOTIFICATION  
New Delhi, the 24th May, 2023*

*(INCOME TAX)*

*S.O. 2276(E)-In exercise of the powers conferred by sub-clause (ii) of clause (10AA) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to the maximum amount receivable by its employees as cash equivalent of leave salary in respect of the period of earned leave at their credit at the time of their retirement, whether superannuation or otherwise, hereby specifies the amount of Rs. 25,00,000 (twenty-five lakhs rupees only) as the limit in relation to employees mentioned in that sub-clause who retire, whether on superannuation or otherwise.*

*2. This notification shall be deemed to have come into force with effect from the 1st day of April, 2023.*

*[Notification No. 31/2023/F. No. 200/3/2023-ITA-1]  
SOURABH JAIN, Under Secy.*

*Explanatory Memorandum: It is hereby certified that no person is being adversely affected by giving retrospective effect to this notification.”*

10. Further, ld. Counsel for the assessee also referred to various decisions of this Tribunal having dealt with this issue. I however observe that ld.CIT(A) had no occasion to examine the CBDT Notification dated 24.05.2023. Therefore, I deem it



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appropriate to restore this issue back to Id.CIT(A) for afresh adjudication to be carried out in light of CBDT Notification dated 24.05.2023 and other judicial pronouncements which can be placed by the assessee before Id.CIT(A) in the set aside proceedings. Needless to mention that Id.CIT(A) shall grant reasonable opportunity to the assessee. Assessee is also directed to remain vigilant and not to take adjournment unless otherwise required for reasonable cause. Effective grounds raised by the assessee are allowed for statistical purposes.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 03<sup>rd</sup> day of November, 2025.

Sd/-

**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 03<sup>rd</sup> November, 2025.  
Satisb

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.