

**SIN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
Ms SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA Nos.2389 & 2390/Ahd/2025
(Assessment Years: 2020-21 & 2021-22)

Suman Nandlal Raval, 29, Sparsh Country Bunglows, Opp. Gandhinagar International School, Randheja, Gandhinagar-382620. [PAN :ABAPR5790 H]	Vs.	The Income Tax Officer, Ward 1, Gandhinagar.
(Appellant)	..	(Respondent)

Appellant by :	Shri Vipul Gohil, AR
Respondent by:	Shri Veerabadram Vislavath, Sr. DR
Date of Hearing	13.01.2026
Date of Pronouncement	18.02.2026

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

The captioned two appeals have been filed by the Assessee against the orders passed by the learned Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi, vide orders dated 14.10.2025, for the Assessment Years 2020-21 and 2021-22. Since the issues involved in both the appeals are common and identical, we extract the grounds of appeal raised in ITA No.2387/Ahd/2025 for Assessment Year 2020-21 for the purpose of adjudication. The decision rendered in the said appeal shall apply *mutatis mutandis* to the other appeal bearing ITA No. 2388/Ahd/2025 for Assessment Year 2021-22.

2. The assessee has raised the following grounds of appeal:

1. *The Ld. CIT(A) has erred in law and on facts in refusing to condone the delay in filing the appeal without appreciating that the delay occurred solely due to the Appellants bonafide ignorance regarding the availability of exemption under Section 10(108) and lack of legal knowledge. These circumstances constitute a reasonable cause within the meaning of Section 249(3) of the Income-tax Act, 1961. The Ld. CIT(A) failed to apply the settled legal principles laid down by the Hon'ble Supreme Court in Lrd. Collector, Land Acquisition vs. KatijiLrd. and Lrd.N. Balakrishnan vs. M. KrishnamurthyLrd., wherein it has been held that substantial justice must prevail over technicalities and that the length of delay is immaterial when the explanation is bona fide.*

2. *The Ld. CIT(A) has erred in holding that the Appellant is making a new claim, ignoring that appellate authorities have plenary powers to grant all legitimate reliefs, even if not claimed in the return, as mandated by CBDT Circular No. 14 of 1955 and upheld by various judicial precedents including decisions of the Hon'ble Supreme Court and High Courts.*

3. *The Ld. CIT(A) has erred in dismissing the appeal at the threshold without appreciating that the Appellants case is factually identical to Lrd.Harish Kumar vs. ITOLrd. (ITA No. 42/CHD/2025), where compensation received under the same BSNL VRS-2019 was held fully exempt under Section 10(108). The Ld. CIT(A) failed to adjudicate the merits despite the existence of a legitimate, legally sustainable, and directly applicable claim under Section 10(108).*

4. *The Ld. CIT(A) has passed the impugned order without granting reasonable opportunity of hearing and without issuing statutory notice under Section 250 of the Act during appellate proceedings. The order is thus vitiated for breach of natural justice and is bad in law.*

3. The assessee was employed with Bharat Sanchar Nigam Limited (BSNL), a Government of India enterprise. BSNL notified the Voluntary Retirement Scheme (VRS) 2019 on 04.11.2019, which was duly

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approved and implemented by the employer. The assessee opted for the scheme and accordingly received compensation under the VRS, as per the terms laid down by BSNL. It is submitted that the assessee had not been paid regular salary for several months prior to opting for the scheme and was under severe financial and professional uncertainty. In view of these circumstances, the assessee opted for the scheme as a measure of financial security. The compensation received by the assessee was in the nature of compensation under the BSNL VRS-2019 scheme. The compensation amount received under the scheme was offered to tax in the return of income due to lack of awareness regarding the exemption available under section 10(10B) of the Income-tax Act, 1961. The employer had also deducted tax at source on the said amount. No exemption was claimed in the original or revised return of income. The CPC, Bengaluru issued an intimation under section 143(1) for the said year without granting any exemption, and no rectification or appeal was initiated at that time. It was only upon learning about the recent judgment of the Hon'ble ITAT Chandigarh Bench in the case of **Harish Kumar vs. ITO Ward 5(5), Chandigarh (ITA No. 42/CHD/2025, dated 30.05.2025)** that the assessee became aware that the compensation received under the BSNL VRS-2019 scheme is eligible for exemption under section 10(10B), subject to compliance with Rule 2BA.

4. Aggrieved by the orders of the Assessing Officer, the assessee carried the matter in appeal before the Ld.CIT(A), who dismissed the appeal of the assessee as non maintainable by observing as follows:

“...In the present case, the delay in filing of the appeal is almost four years which is an inordinate and huge delay. Moreover, as has been elaborately discussed above, the appellant has also failed to provide any reasonable ground that could assist the first appellate authority to draw sufficient cause for the inordinate delay of 1,396 days in filing of this appeal. The inordinate delay in the present case, if condoned, would make the term “Sufficient cause” in section 249(3) of the Income Tax Act, 1961 hollow and meaningless.

20. In light of the facts of the case, provisions of the Income Tax Act, 1961 and judicial decisions in the matter as discussed above, I am constrained to conclude that the appellant has failed to submit any reasonable ground for condoning the inordinate delay of 1,396 days i.e almost four years in filing this appeal. Being bereft of any sufficient cause as envisaged in section 249(3) of the Act, the appeal cannot be admitted. Since the appeal is not maintainable, there is no need to adjudicate on the merits therein.

5. Aggrieved by the orders of the Ld.CIT(A), the assessee is in further appeal before us.

6. We have gone through the records and considering the merits of the case, we condoned the delay and proceed to adjudicate the issue.

7. The Ld. Counsel for the assessee submitted that due to lack of awareness of the legal provisions at the time of filing the return of income, the assessee inadvertently offered the compensation received under BSNL VRS-2019 to tax. Subsequently, based on the decision of the Hon'ble ITAT Chandigarh Bench in **Harish Kumar vs. ITO Ward 5(5), Chandigarh (ITA No. 42/CHD/2025 dated 30.05.2025)**, wherein compensation under the same BSNL VRS-2019 scheme was held to be exempt under section 10(10B), the assessee now seeks exemption of such compensation. We find that the assessee filed the

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claim before the Ld. CIT(A) and since the income of the assessee is not taxable, the assessee is eligible for the refund of the TDS.

8. In the result, both the appeals of the assessee are allowed.

The order is pronounced in the open Court on 18.02.2026.

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

**Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

(True Copy)

Ahmedabad; Dated 18.02.2026
MV

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad