

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH

**Before: Shri T.R. Senthil Kumar, Judicial Member And
Shri Narendra Prasad Sinha, Accountant Member**

**ITA No: 2148/Ahd/2025
Assessment Year: 2022-23**

Kanaiyalal P Dana A-602, Narayan Aura, Behind Narayan Villas, Sunpharma Road, Vadodara Gujarat-390020 PAN: ACDPD3415D (Appellant)	Vs	The DCIT, Circle-2(1)(1), Vadodara (Respondent)
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**Assessee Represented: Shri Bhupendra C Mehta, Adv.
Revenue Represented: Shri Abhijit Sr. D.R.**

Date of hearing : 26-03-2026
Date of pronouncement : 27-03-2026

आदेश/ORDER

PER: T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the Assessee as against the appellate order dated 17-09-2025 passed by the Addl./Joint Commissioner of Income Tax (Appeal)-1, Chennai arising out of the intimation passed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to Asst. Year 2022-23.

2. Brief facts of the case is that the assessee is an individual and salaried person filed his Return of Income for the Asst. Year 2022-23 on 23-11-2022 declaring total income of Rs.60,91,530/-. The

return was processed u/s. 143(1) on 31-01-2023 by disallowing the Leave Encashment u/s. 10(10AA)(ii) of Rs.12,46,902/- as against the claim of Rs.30,00,000/- by the assessee. Thus the assessee was issued with a demand of Rs.17,320/-.

3. Aggrieved against the intimation, assessee filed an appeal before Ld.CIT(A). The Ld. CIT(A) dismissed the appeal on the ground that the return was filed beyond the due date and Form No. 10E filed one day prior to the Return of Income filed. Thus dismissed the appeal filed by the assessee.

4. Aggrieved against the same, assessee is in appeal before us raising the following Grounds of Appeal:

- 1. The Ld. Addl /JCIT A grossly erred on facts and in law in dismissing the appeal without adjudicating the preliminary issue raised regarding the violation of statutory provision of Sec 143 (1) of the Income tax Act 1961 the Act in the form of non-issue and service of the notice by the Ld. AO u/s 143(1) of the Act before making the adjustment of Rs. 9,46,900/-*
- 2. The Ld. Addl/ JCIT A grossly erred on facts and in law in not considering and not adjudicating the raised ground in the appeal that the addition made by the Ld. AO is without jurisdiction and authority of law.*
- 3. The Ld Addl /JCIT A has grossly erred in law in not adjudicating the ground that the Ld DDIT CPC has grossly erred and is not justified in not allowing the claim of Leave Encashment on superannuation exceeding RS 3 Lakhs and making the adjustment of Rs.9,46,900/-.*
- 4. On merit also, the exemption claimed by the appellant exceeding RS 3 lakhs is allowable.*
- 5. The Ld Addl/JCIT A grossly erred on facts and in law in not allowing the raised ground regarding the relief claimed u/s 89 of the Act.*
- 6. Your appellant craves leave to add amend alter any ground of appeal.*

5. Ld. Counsel appearing for the assessee submitted that the intimation passed by CPC without giving prior notice to the assessee. In this regard, the Ld. D.R. was directed to get a factual report from CPC, Revenue vide letter dated 29-01-2026 F. No. VAD/Cir.2(1)(1)/KPD/2025-26 wherein CPC Bengaluru submitted the following report:

"Upon verification, it is noted that in the given case, while processing return u/s.143(1) Sec. 10(10AA) - Earned Leave Encashment was correctly restricted to the extent of Exemption limit specified u/s.10(10AA). However, due to technical issues prima facie adjustment notice was not triggered in this case before processing the return u/s.143(1)."

6. It is fairly admitted by CPC due to technical issue assessee was not given notice before making disallowance u/s. 143(1). This issue is no more res integra. Co-ordinate Bench of this Tribunal in the case of Arham Pumps vs. DCIT in ITA No. 206/Ahd/2021 vide order dated 27-04-2022 held as follows:

".....7. On going through the above section and proviso attached therein, the total income or loss shall be computed after making following adjustment mainly of any arithmetical error in the return. Incorrect claim, if such incorrect claim is apparent from any information in the return, etc. Thus, it is clear that a return can be processed u/s.143(1) by making adjustments on six types of adjustments only. The first proviso to section 143(1)(a) make it very clear that no such adjustment shall be made unless an intimation is given to the assessee of such adjustment either in writing or in electronic mode. Apparently in the case of the assessee, no intimation had been given to the assessee for making any adjustment or disallowance either in writing or in electronic mode. Thus, the CPC center has not followed the first proviso to section 143(1)(a) of the Act. This position was not controverted by the Id.DR also. Assuming a moment, if such an intimation is given to the assessee as per first proviso, then the second proviso stipulates that if any response is received from the assessee, the same should be considered before making any adjustment or disallowance, and also in a case where NO response is received, then within thirty days of the issue of such intimation, department is free to make such adjustment."

8. On going through the above intimation made under section 143(1), CPC has not followed the above provisos by giving proper opportunity to the assessee to defend its case as per the first proviso to section 143(1)(a) . Further, the NFAC order is also silent about the intimation to the assessee. Therefore, we find that intimation issued under section 143(1) dated 19.10.2019 is against first proviso to section 143(1)(a), and therefore, the entire 143(1) proceedings is invalid in law.

9. We also observe that the Id.NAFC has not looked into this fundamental principle of "audi alteram partem", which has not been provided to the assessee as per the 1st proviso of section 143(1) of the Act, but proceeded with the case on merits and also confirmed the addition made by the CPC. The Id.NAFC is thus erred in conducting the faceless appeal proceedings in a more mechanical manner without application of mind. We therefore hereby quash the intimation issued by the CPC and allow the appeal filed by the assessee.

10. In the result, appeal of the assessee is allowed."

7. This above decision is followed in many other decisions of this Tribunal. Respectfully following the same, the intimation passed u/s. 143(1) is against the provisions of law without giving prior notice to the assessee, as per the first proviso to Section 143(1) of the Act. Therefore we quash the intimation passed by the CPC and allow the appeal filed by the assessee.

8. In the result, the appeal filed by the Assessee is hereby allowed.

Order pronounced in the open court on 27-03-2026

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER *True Copy*

Ahmedabad :

Dated 27/03/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद