

**THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

Before Ms. Suchitra Kamble, Judicial Member

**ITA No. 2204/Ahd/2025
Assessment Year 2020-21**

Madan Lal Grover, 615, Sector 30A, BRI Colony, Chandigarh PAN: ADSPG7681G (Appellant)	Vs	The Income Tax Officer, Ward-7(2)(1), Ahmedabad (Respondent)
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Assessee by: Shri Sunil Porwal, A.R.

Revenue by: Shri Umesh Kumar Agrawal, Sr. D.R.

Date of hearing : 28-01-2026

Date of pronouncement : 10-04-2026

आदेश/ORDER

This is an appeal filed against the order dated 22-05-2024 passed by CIT(A)/Addl/JCIT(A)-1, Gurugram for assessment year 2020-21

2. The grounds of appeal are as under:-

“1. Under the facts and circumstances, the Ld CIT(A) has erred in rejecting the claim of Leave Encashment amount received of Rs. 1590734/- exempt U/Sec. 10(10AA)(ii) of Act and has restricted the same to Rs. 300000/-.

2. The CBDT Notification in S.O. 2276(E) Notification No. 31/2023/F. No. 200/3/2023-ITA-I dated 24.05.2023 is with Retrospectively as made clarified by Board and thus applies on appellant.

3. Any other matter with prior permission of the chair.”

3. Assessee retired from services of M/s RBI (Samadhan) Unit handling HRO operations for RBI Region in F.Y. 2019-20 (on 31.05.2019). Received Rs. 15,90,734/- as "Leave Encashment" benefit in terms of sec 10(10AA) of Act. Return of Income was filed on 07.12.2020 (Later Revised on 08.01.2021) claiming whole of such amount of Leave Encashment of Rs. 15,90,734/- u/sec 10(10AA)(ii) of Act. While Assessment u/sec 143(1)(a) of Act dated 08.12.2021 the amount of such leave encashment of Rs. 15,90,734/- was restricted to Rs. 3,00,000/- U/sec 10(10AA)(ii) & has Disallowed/Added a sum of Rs. 12,90,734/- (Rs. 15,90,734/- 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. 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 Rs. 25,00,000/-(Maximum) u/sec 10(10AA) (ii) of Act; The CIT(A) NFAC in a routine manner has restricted the Leave Encashment Amount to Rs. 3,00,000/- (Vide Order dt. 26.09.2025 u/sec 250 of Act) with retrospective effect.

4. The Ld. A.R. submitted that Assessee retired from service of Reserve Bank of India during the year and received leave encashment of Rs. 15,90,734/- claimed exemption of such leave encashment amount of Rs. 15,90,734/- u/sec. 10 (10AA)(ii) of income Tax Act, 1961. Thus the CIT(A) NFAC has wrongly disallowed / Restricted the same to Rs. 3,00,000/-. The ld. A.R. submitted that in view of CBDT notification number 31/2023 dated, 24/05/2023 even non government employees are entitled u/sec. 10(10AA)(ii) of Income Tax Act, 1961 exemption upto Rs. 25.00 Lakhs maximum (Retrospectively). The Assessee has

retired from service of Reserve Bank of India during the year. Received Rs. 15,90,734/- as leave encashment. The CIT(A) NFAC order dated 25.05.2024 has disallowed / Restricted the same to Rs. 3,00,000/- for the reason that Assessee is since not a Central Govt/State Govt employee: thus, in view of provision of sec 10(10AA) of Act sub section (ii) to said section has restricted the Amount of leave Encashment of Rs. 15,90,734/-10(10AA) to Rs. 3,00,000/- (Maximum) against claimed at Rs. 15,90,734/-. The CBDT's Notification dated 24.05.2023 (No. 31/2023/F.No. 200/3/2023-ITA-1) (copy enclosed Page no. 1) clearly states that

"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-I/

SOURABH JAIN, Under Secy.

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

Thus in view of such notification section 10(10AA) sub section (i) & (ii) both are at par & since it is clear that as per explanatory memorandum that no person is being adversely affected by giving retrospective effect to this notification. Thus sec 10(10AA)(i) & (ii) both are at par (with RETROSPECTIVE effect & even the private employee on retirement are entitled for such higher limit of Rs. 25,00,000/- or actual amount received whichever is less; to claim u/sec 10 (10AA) of Act.

5. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

6. I have heard both the parties and perused all the relevant material available on record. There is a delay of 478 days in filing the present appeal for which the assessee has filed the detailed affidavit and also the application for condonation of delay. The reasons appear to be genuine, hence the delay is condoned. Beside this, it is pertinent to note that the assessee received Rs. 15,90,734/- as leave encashment benefit in terms of section 10(10AA) of the Act. The Ld. AR's contention that the Assessing Officer was not right in disallowing the exemption exceeding Rs. 3 lakhs u/s 10(10AA)(ii) of the Act considering the Gazette Notification No. 50588(E) dated 31.05.2002 issued by CBDT effective from 01.04.1998. It appears that the Hon'ble Kerala High Court in case of Ramesan P. A. vs. Union of India (WP(C) No. 28983 of 2021 order dated 29.01.2024 categorically held as under:

"5. The Government should have revised the upper limit, which was fixed under the notification of 2002 as Rs.3 lakhs taking into consideration the three pay revisions. However, the Government has not done so.

The petitioners all stood retired before the latest notification, which has been issued fixing the upper limit as Rs.25 lakhs for exemption from payment of earned leave income. The employer has also deducted the admissible tax above Rs.3 lakhs from the petitioners. At this distant point of time, this Court, considering the limitation on the power of the Court as well as the doctrine of separation of powers, cannot issue a mandamus to the respondent Authorities to revise the upper limit of the encashment of earned leave for granting exemption from payment of the income tax with retrospective effect. Issuance of notification, as provided in the provision, is in the realm of the powers of the Executive.

6. Learned Standing Counsel for the Revenue, submits that, in fact, in one of the cases, the Delhi High Court has directed the Government to consider revision of the upper limit. However, the Government has issued the notification only in the year 2023, which is applicable with effect from 01.04.2023.

7. In view thereof, the Court, though, has sympathy with the petitioners, but considering the limitation on powers of the Court, this Court is unable to issue a writ of mandamus commanding the respondents to revise the upper limit in respect of the employees who retired before 01.04.2023. This is in the realm of policy decision, which is to be taken by the Executive."

The decision relied by the Ld. AR that of Hon'ble Delhi High Court in case of Kamal Kumar Kalia vs. UOI (WP(c) No. 11846/19 order dated 08.11.2019 has only issued notice and final order has not been placed by the Ld. AR before us. Therefore, in light of this and the decision of Hon'ble Kerala High Court being the final judgment is binding on us. Therefore, the contentions of the Ld. AR are rejected. The addition made by the Assessing Officer is justified.

7. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 10-04-2026

Sd/-
(Suchitra Kamble)
Judicial Member

Ahmedabad : Dated 10/04/2026

a.k.

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

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