

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : SMC-I : NEW DELHI

BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER

ITA No.1361/Del/2016  
Assessment Year : 2010-11

Anant Kumar Gupta,  
1367A, Housing Board Colony,  
Sector-15A,  
Hisar.

Vs. ITO,  
Ward -1,  
Aayakar Bhawan,  
Sector-14,  
Hisar.

PAN: ABHPR3661E

(Appellant)

(Respondent)

Assessee By : Shri V. Raja Kumar, Advocate  
Department By : Shri Anil Kumar Sharma, Sr. DR

Date of Hearing : 10.08.2016  
Date of Pronouncement : 10.08.2016

ORDER

This appeal filed by the assessee is directed against the order passed by the CIT(A) on 23.12.2015 in relation to the assessment year 2010-11.

2. The only issue pressed by the ld. AR in this appeal is against the denial of exemption in respect of the amount received by the assessee towards arrears of gratuity at Rs.4,82,880/- and arrears of leave encashment amounting to Rs.1,95,060/-.

3. Briefly stated, the facts of the case are that the assessee was an employee of Chaudhary Charan Singh Haryana Agricultural University, Hisar (hereinafter called CCS HAU) and retired from service before 24.05.2010. Return for the previous year relevant to the assessment year under consideration declaring total income of Rs.2,02,540/- was filed, which was processed u/s 143(1) of the Act. The AO initiated re-assessment proceedings on the premise that the assessee had wrongly claimed exemption u/s 10(10) in respect of the arrears of gratuity and arrears of leave encashment. He observed that gratuity and leave encashment were exempt up to the limit of Rs.3,50,000/- and Rs.3 lac, respectively, in the case of the assessee, which limit stood exhausted in the earlier year at the time of their receipt. He further noticed that

exemption limit was enhanced to Rs.10 lac for the persons retiring from service on or after 24.5.2010. Since the assessee retired before this cut-off date, the AO opined that the extended benefit of exemption was not available to the assessee. He jettisoned the claim of the assessee for exemption u/s 10(10) of the Act and held that the correct sections applicable were 10(10)(iii) and section 10(10AA)(ii). Since the assessee was an employee of CCS HAU, the AO held that such employees could not be termed as Government employees and, hence, the benefit u/s 10(10)(i) was not available to the assessee. Resultantly, he made addition towards the amount of arrears of gratuity received at Rs.4,82,880/- and the amount of arrears of leave encashment received of Rs.1,95,060/-. The Id. CIT(A) echoed the view taken by the AO that the assessee was not a 'holder of civil post under the State Government' and hence not eligible for exemption u/s 10(10)(i). Further, the assessee was held to be not covered u/s 10(10)(ii) as he did not receive any gratuity under the Payment of Gratuity Act, 1972. That is how, he held that the employees of the CCS HAU were covered u/s 10(10)(iii) of the Act, for which there is a limit on the exempt gratuity amount, which stood

exhausted by the assessee in earlier year. Since the assessee was employed before 24.5.2010, the Notification issued by the CBDT enhancing the limit of Rs.10 lac on gratuity u/s 10(10)(iii) was held to be not applicable. The assessee is aggrieved against the confirmation of denial of exemption made by the Id. CIT(A).

4. I have heard the Id. AR and perused the relevant material on record. It is observed that the Delhi Bench of the Tribunal in Shri Ram Kanwar Rana vs. ITO, Ward-3, Hisar in ITA No.1307/Del/2016 has allowed exemption in respect of the arrears of gratuity and arrears of leave encashment and dismissed the grounds about the initiation of re-assessment. Similar view has been taken in the case of Raghubir Singh Panghal vs. ITO in ITA No.1308/Del/2016. Following the same, I extend the benefit of exemption to the instant assessee also in respect of arrears of gratuity and arrears of leave encashment u/s 10(10)(i) and 10(10AA)(i). Other grounds including the initiation of reassessment proceedings were not pressed by the Id. AR. The same, therefore, stand dismissed as not pressed.

5. In the result, the appeal is partly allowed.

The order pronounced in the open court on 10.08.2016.

Sd/-

[R.S. SYAL]  
ACCOUNTANT MEMBER

Dated, 10<sup>th</sup> August, 2016.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.