

**IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.440/Bang/2026
Assessment Year: 2019-20

Bindumadavan Prakash, No.287, Mysore University Layout, Mysuru. PAN – AIWPP 5719 M	Vs.	The Income Tax Officer, Ward – 2(4), Mysuru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Madhusudhan, CA
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for the Dept.

Date of hearing	:	08.04.2026
Date of Pronouncement	:	15.04.2026

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The present appeal filed, at the instance of the assessee, is directed against the order passed under section 250 of the Income Tax 1961 dated 09-12-205 pertaining to A.Y. 2019-20 at National Faceless Appeal Centre-NFAC, Delhi.

2. The only issue raised by the assessee is that the learned CIT(A) erred in confirming the disallowances of deduction of leave encashment of Rs. 4,26,190/- only claimed under section 10(10AA) of the Act.

3. The facts in brief are that the assessee is an individual and during the year under consideration was employed with BSNL. The assessee at the end of year under consideration also got retired. During the year under consideration, the assessee drawn gross total salary of Rs. 16,42,778/- which included leave encashment of 7,26,190/- only. The whole amount of leave encashment of Rs. 7,26,190/- was claimed as allowances/deduction under section 10(10AA) of the Act. Accordingly, the assessee after claiming allowances of leave encashment and certain other allowances/deduction under section 16 of the Act offered net income under the head salary at Rs. 8,74,188/- only.

3.1 The return of the assessee was processed and intimation under section 143(1) of the Act was generated accepting the income offered by the assessee. Subsequently the AO, Suo moto passed rectification order under section 154 of the Act and disallowed the deduction/allowances of leave encashment to the extent of Rs. 4,26,190/- only. Thereby, the AO assessed the income under the head salary at Rs. 13,00,378/- as against Rs. 8,74,188/- offered by the assessee.

4. The aggrieved assessee preferred an appeal before the learned CIT(A).

5. Before the learned CIT(A), it was submitted that the assessee joined service in the Department of Telecommunication a Government Department in the year 1978. Subsequently, the employee of Department of Telecommunication absorbed into BSNL w.e.f. 01-10-2000 from where he retires as on 31st March 2019. Upon retirement he received leave encashment of 300 days earned during employment with

Department of telecommunication and accordingly received an amount of Rs. 7,26,190/- only. Therefore, the entire sum of leave encashment is exempted as per the provision of section 10(10AA) of the Act as the same was received for leave accumulated during the employment with Government of India. In support of its contention, the assessee furnished copy of letter issued by the BSNL dated 18-02-2023 certifying that the leave encashment received by the assessee pertain to department of telecommunication only.

5.1 In this regard the assessee also referred to clause 24(b) of rule 37A of CCC pension Rule 1937 and contended that earned leave at the credit of the employees on the absorption (1st October 2000) shall stand transferred to CPSE (Central Public Sector Enterprise).

5.2 The AO/CPC wrongly disallowed part of deduction/exemption of leave encashment by treating the same as received by employee other than employee of Central or State Government. However, the learned CIT(A) after considering the submission of the assessee confirmed the disallowances made by the AO by observing as under:

5.2 *The appellant has filed ITR u/s 139(1) for the A.Y. 2019-20 on 31.07.2019 by declaring Total Income of Rs.10,85,810/- and claimed exemption of EL encashment of Rs. 7,26,190/-. The ROI was processed by the CPC with NIL demand. Subsequently, the Assessing Officer has suo moto rectified the IT return disallowing leave encashment exemption claimed u/s 10(10AA)(i) to the extent of Rs. 4,26,190/- and passed order u/s 154 of the IT Act. Aggrieved with the above order, the appellant filed present appeal. I have carefully considered the grounds of appeal raised by the appellant and written submissions made in support of the appeal; the information downloaded from departmental portals and examined the issue under dispute in the light of the facts and circumstances of the case and relevant provisions of the statute.*

5.3 *The main ground of appeal is regarding "DISALLOWANCE OF CLAIM OF LEAVE ENCASHMENT OF Rs.4,26,190/-".*

5.4 *The provisions of Section 10(10AA)(ii) of the Act, is reproduced for ready reference:*

Section 10(10AA) (ii):

(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 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 applicable in this behalf to the employees of that Government:

5.5 *For the AY 2019-20 relevant to the F.Y 2018-19, under consideration the leave encashment amount eligible for deduction u/s 10(10AA)(i) of the Act is Rs.3,00,000/-. Therefore, the adjustment made by the CPC is confirmed. As a result the ground of appeal raised by the appellant in this regard is dismissed.*

6. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

7. The learned AR before us filed paper book running from pages 1 to 55 and made identical submission as argued before the learned CIT(A).

8. On the contrary, the learned DR supported the order of the learned CIT(A) and the Assessing Officer. It was contended that after absorption into BSNL, the assessee ceased to be a Central Government employee and became an employee of a Public Sector Undertaking. Therefore, the benefit of full exemption under section 10(10AA)(i) is not available. The assessee is only eligible for exemption under section 10(10AA)(ii), which is subject to the prescribed monetary limit. Accordingly, the action of the AO in restricting the exemption to Rs. 3,00,000/- and taxing the balance amount was justified.

9. We have carefully considered the rival submissions and perused the materials available on record including the paper book filed by the

assessee. The short issue involved in the present appeal is whether the leave encashment received by the assessee upon retirement from BSNL, which pertains to the period of service rendered under the Department of Telecommunication, is fully exempt u/s 10(10AA)(i) of the Act or subject to the monetary limit applicable to non-government employees u/s 10(10AA)(ii) of the Act. From the facts on record, it is not in dispute that the assessee initially joined the Department of Telecommunication, which is a Government of India department. The assessee (employee) was subsequently absorbed in BSNL. It is also not disputed that the leave encashment received by the assessee relates to the leave accumulated during the period of service under the Department of Telecommunication. The assessee has also placed on record a certificate issued by BSNL confirming that the leave encashment pertains to such government service.

9.1 In our considered view, the character of the leave encashment cannot be altered merely on account of subsequent absorption in BSNL. The crucial test is the nature and source of the leave accumulated. Where the leave has been earned during service under the Central Government, the benefit available to a government employee cannot be denied merely because the employee was later absorbed in a Public Sector Undertaking. The provisions governing absorption also clearly provide that accumulated leave stands transferred without changing its intrinsic character.

9.2 The learned CIT(A), in confirming the disallowance, has proceeded on the footing that the assessee is an employee other than a Central or State Government employee at the time of retirement and

therefore applied the limit prescribed u/s 10(10AA)(ii) of the Act. However, such an approach ignores the factual position that the leave encashment in question pertains to the period of government service. The provision u/s 10(10AA) of the Act, has to be applied having regard to the nature of the benefit and not merely the status of the employer at the time of retirement.

9.3 At this juncture, we also find support from the decision of the Ahmedabad Bench of the Tribunal in the case of Pradipkumar Bhogilal Modi v. ADIT(CPC) ITA No. 83/AHD/2023 vide dated 19-07-2023, wherein on similar facts and circumstances, it was held as under:

"7. Heard both the parties and perused all the relevant material available on record. The assessee was absorbed in the Department of Telecommunication in respect of BSNL vide Presidential Order dated 23-9-2019 which has given the permanent absorption effective from 1-10-2000. The assessee was initially appointed on 28-11-1983 in the Department of Indian Post and Telegraphs and therefore, he was initially appointed in the Central Government which was affirmed in the certificate from the Accounts Officer of BSNL on 18-1-2023 that the leave encashment for 300 earned leave was of Department of Telecommunication originally that of Indian Post and Telegraph Department and therefore, the same cannot be treated as a PSU and the assessee is entitled for exemption under section 10(10AA) of the Act. The CIT(A) as well as the Assessing Officer has not taken cognizance of these facts and wrongly denied the benefit of exemption of leave encashment under section 10(10AA) of the Act. In fact, in Para 4.3 of the CIT-A's order the decision of the Tribunal, Mumbai Bench in case of Babulal Patel has been quoted but the same was not at all consider. Therefore, the appeal of the assessee is allowed."

9.4 The ratio laid down in the said decision squarely applies to the facts of the present case. Further, the action of the AO in invoking rectification proceedings u/s 154 to withdraw a claim which was originally accepted in the processing of return of income u/s 143(1) of the Act, also appears to be beyond the scope of a mistake apparent on record. The issue involves examination of facts and interpretation of law,

which is debatable in nature and hence not amenable to rectification u/s 154 of the Act.

9.5 In view of the above discussion, we hold that the assessee is entitled to full exemption of leave encashment received, as the same pertains to the period of service under the Central Government. Accordingly, the disallowance of Rs. 4,26,190/- sustained by the learned CIT(A) is hereby deleted. Hence, the ground of appeal of the assessee is allowed.

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

Order pronounced in court on 15th day of April, 2026

Sd/-

(KESHAV DUBEY)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 15th April, 2026

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore