IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: "SMC" NEW DELHI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No.5072/Del/2026
Assessment Year: 2021-22

Sangita Khanna, C-3, U.T.C. Astha Apartment, Main G.T. Road, Rajendra Nagar, Sahibabad, Ghaziabad - 201005	**Vs.**	Income Tax Officer, Ward-67(1), Delhi
PAN: ABFPK7013F		
(Appellant)		**(Respondent)**

Assessee by	Sh. Jatin Khanna, AR
Department by	Sh. Manoj Kumar, Sr. DR

Date of hearing	04.08.2026
Date of pronouncement	04.08.2026

ORDER

This assessee's appeal for assessment year 2021-22, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/APL/S/250/2023-24/1061684236(1), dated 28.02.2024 involving proceedings under section 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. Delay of 703 days in filing of the assessee's instant appeal is condoned in larger interest of justice and in light of Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).

3. It transpires during the course of hearing that the assessee's sole substantive ground raised in the instant appeal challenges both the learned lower authorities' action denying section 10(10AA) leave encashment exemption thereby holding that he is not entitled for the same since employed with Canara Bank and not a central or state government department.

4. It is next noticed that recently the tribunal in Ram Charan Gupta, Jaipur vs. ITO, Ward 4(2), Jaipur, in ITA No. 408/JPR/2022 dated 27.06.2023 has already rejected the Revenue's very stand as under:

> *"3. Succinctly, the fact as culled out from the records is that the assessee who has retired is a bank employee and has claimed an amount of Rs. 6,97,100/- being leave encashment received as exempt u/s 10(10AA) of the Act. However, the AO, CPC while processing the return of income has allowed exemption of only Rs. 3,00,000/- as against 100% exemption claimed by the assessee. Hence, this appeal.*
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> *4. Aggrieved from the order of the AO, CPC assessee preferred appeal before the ld. CIT(A). A propose to the grounds so raised the relevant finding of the ld. CIT(A) is reiterated here in below:*
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> *"5.2.2 I have considered the facts of the case as also the submissions of the appellant. The appellant is a retiree from*

Bank and not any government organization. Here, reliance is placed on the decision of Hon'ble Delhi High Court in the case of Kamal Kumar Kalia v/s Union of India (2020) 268 Taxman 398/313 CTR 779 (Delhi) (HC) dated 08.11.2019, where the issue under consideration was whether the appellant being employee of Public sector undertaking (PSU) Ram Charan Gupta vs. ITO and Nationalized banks can be treated as government employee from the purposes of exemption u/s 10(10AA) of the I.T. Act. In the said case, the Hon'ble High Court held as under:-

"The petitioner, who were the employees of the Public Sector undertaking and Nationalized banks, filed writ contending that they were discriminated against Central Government and State Government. The Central Government and State Government employees are granted complete exemption in respect of the cash equivalent of the leave salary for the period of earned leave standing to their credit at the time of their retirement. Dismissing the petition the Court held that merely because Public Sector Undertaking and Nationalized Banks are considered as State under article 12 of the Constitution of India for the purpose of entertainment of proceedings under Article 226 of the Constitution and for enforcement of fundamental right under the Constitution, it does not follow that the employees of such Public Sector Undertaking, Nationalized Banks or other institutions which are classified as 'State' Assume the status of Central government and State Government employees. Accordingly the petition is rejected."

5.2.3 Further, in the case of KPTCL Davangere V/s ITO (2018), the Hon'ble ITAT, Bangalore vide its order in ITA No. 170 ITD 587 (Bang.) (Trib.) has held that assessee being a statutory corporation its employees could not be regarded as State or Central Government employees and therefore exemption under S. 10(10AA)(i) was not available and assesse was liable to deduct tax at source. 5.2.4 In view of the above, the action of the AO of restricting the exemption u/s 10(10AA) to Rs. 3,00,000/- is found to be in order. This grounds of appeal are therefore, dismissed."

5. Feeling dissatisfied with the order of the ld. CIT(A) the assessee has preferred this appeal before this tribunal on the grounds as raised by the assessee as reiterated here in above para 2. To support the various grounds so raised by the assessee, the ld. AR appearing on behalf of the assessee has placed their written submission which is extracted in below;

"1. Under the facts and circumstances of the case learned CIT (Appeal) was not justified while confirming the order passed by AO u/s 143(1) Assessing total income Rs 1188620.00

Confirming Demand of Rs. 118280 Our submission Initially return was processed u/s 143(1) (vide document identification no. cpc/2021/A3/186338352 dt.02/12/2021) allowing the claim of Rs.300000.00 u/s 10(10AA)-Earned Leave Encashment on Retirement. meaning thereby that there was enhancement in the income amounting by Rs.397100.00 and assessing total income at Rs 1188620.00 This was made without providing any opportunity of being heard as it appears that this addition was made by treating the employee as non-government employee although no specific reasons has been informed to appellant In fact, this organization is regulated by Bylaws made by central Government, thus by no means of stretch of imagination this organization can be treated as non- central government. Therefore, AO was not justified to disallow the claim upto the extent Rs 397100.00 without assigning any specific reasons and raising the demand of RS 118820.00 U/S 143(1).

2. Under the facts and circumstances CIT (Appeal) was not justified while restricting the claim Amounting To Rs 300000 u/s 10(10AA) and rejecting the amounting to Rs. 397100.00 out of Rs 697100.00 which is earned leave encashment on retirement made by AO.

Our submission:-it is to explain that he is govt. employee therefore he claimed full amount of leave encashment u/s 10(10AA) Rs 697100.00 in his return copy of computation is enclosed and marked as annexure B however while processing u/s 143(1) it appears that claim amounting to Rs 397100.00 out of Rs 697100.00 has been disallowed which is leave encashment u/s 10(10AA) from the order of CPC Banglore without assigning any cogent reasons in fact the appellant is bank employee and nowhere in the section it has been mentioned that it is allowable only up to Rs 3.00 lacs in the case bank employee definition of other employee and govt. has not been in described in section 10(10AA) therefore it can be safely conclude that appellant is govt. employee and he is entitle for full exemption of for the sake of argument bank employee cannot be put on different footing for purpose of treatment of govt. employee. This is also clear from the fact that bank are nationalized and their management and administration is controlled by central govt. even CMD is appointed by govt. therefore there is no reasons to not to treat as govt. employee and resultantly appellant is the govt. employee and he cannot be denied the benefit of exemption u/s 10(10AA) it is also to clarify that in the definition of non govt. employee bank employee are not specified therefore he is govt. employee and is eligible for remaining balance of leave encashment Ram Charan Gupta vs. ITO amounting to RS 397100.00 meaning thereby that he is entitled for deduction of RS 10(10AA).

3. Under the facts and circumstances of the case CIT (Appeal) was not justified while confirming the order of AO treating the employer as non-government instead of government organization Our submission: it is to submit that although no reason has been mentioned in intimation send u/s 143(1) for disallowance of Rs 397100.00 out of Rs 697100.00 u/s 10(10AA) however it appears that bank has not been treated as govt. employee and disallowance has been effected which is not a correct proposition as per principal of natural justice it becomes mandatory on the part of assessing officer to provide the opportunity of being heard however factually employer of the appellant is govt. therefore he is entitle for deduction of Rs 697000.00.

4. Kindly stay the demand. As disallowance has been made on incorrect presumption therefore demand is liable to be quashed.
5. Assessee craves to add alter any of the grounds of appeal before or at the time of hearing. This ground of appeal is general in nature therefore no submission are being submit."

6. In addition to the above detailed written submission the ld. AR of the assessee also submitted that in the recent budget speech Hon'ble Finance Minister indicated that for increase in the limit and the related notification is issued. The ld. AR thus based on the said notification submitted that the relief be granted to the assessee.

7. The ld. DR is heard who has relied on the findings of the lower authorities and left the decision on bench to grant the relief to the assessee as per notification dated 24.05.2023.

8. We have heard the rival contentions and perused the material placd on record. The bench noted that the assessee relying the decision of Hon'ble Delhi High Court has issued a notice to the Union of India in the case of Kamal Kumar Kalia & Ors. Vs. Union of India & Ors in WP(C) 11846/2019 dated 08.11.2019 wherein the court has given following directions:-

"8. We are however of the, prima facie, view that the grievances of the petitioner with regard to exemption limit under Clause (ii) of Section 10 (10AA) not being raised since 1998, appears to be justified. This is so because over the decades, the pay-scales admissible to government servants, and even employees of the Public Sector Undertaking and Nationalized Banks and all others have been upwardly revised, keeping in view, the financial growth in the country as well as on account of rising inflation. The last drawn salaries have increased manifold since time and notification issued under Clause (ii) of Section 10(10AA) was lastly

issued, as taken note of hereinabove, on 31.05.2002. We therefore, issue notice to the respondents limited to this aspect.

9. Issue notice, learned counsel for the respondents accepts notice. Respondents should file counter affidavits be filed within six weeks. Rejoinder thereto, if any, be filed before the next date."

8.1 Recently the Central Board of Direct Taxes Suo-motu revised the limit for deduction u/s 10(10AA) of the Act and the revised limit now stood at Rs. 25,00,000 as specified vide notification no. 31/2023 issued by the ministry of finance. Since the leave encashment amount as claimed by the assessee is amount to Rs. 6,97,100/- which is below the revised limit of leave encashment exempt prescribed by the Board, the assessee is eligible to claim of deduction of said Rs. 6,97,100/-. Based on these observations the ld. AO is directed to allow the claim of the assessee u/s. 10(10AA) of the act within the revised limit as prescribed. In terms of these observations the appeal of the assessee is allowed."

5. I adopt the above extracted detailed reasoning *mutatis mutandis* to accept the assessee's instant sole ground in very terms. Ordered accordingly.

6. This assessee's appeal is allowed.

Order pronounced in the open court on 4th August, 2026

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 27th August, 2026.
RK/-
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi