IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD

BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT

ITA Nos.708/Ahd/2026
(Assessment Year: 2021-22)

Rathindra Rabindra Dutta, 1-401 Kanak Kala-1, Opp Sima Hall, Anand Nagar Road, Ahmedabad 380015. [PAN : ABQPD3959 E]	Vs.	Income Tax Officer, Ward 7(2)(1), Ahmedabad.
(**Appellant**)	..	(**Respondent**)

Appellant by :	Shri Vipul Gohil, AR
Respondent by:	Shri Kalpesh Rupavatia, Sr. DR

Date of Hearing	21.10.2026
Date of Pronouncement	22.10.2026

O R D E R

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

The captioned appeal has been filed by the assessee against the order passed by the Ld. Addl./JCIT Commissioner of Income Tax(Appeal), Lucknow, vide order dated 28.01.2026. (hereinafter referred to as 'Ld. CIT (A)' in short), under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act' in short) for Assessment Year 2021-22.

2. The assessee has raised the following grounds of appeal:

> *1. The learned CIT(A) has erred in law in holding that the claim of exemption under section 10(10B) could not be entertained merely because it was not made in the original return of income. The learned CIT(A) failed to appreciate that appellate authorities are fully empowered to entertain and adjudicate a fresh legal claim even if not raised in the return, as held by the Hon'ble Supreme Court in Jute Corporation of India Ltd. v. CIT and NTPC Ltd. v. CIT and by the Hon'ble Bombay High Court in CIT v. Pruthvi Brokers & Shareholders Pvt. Ltd.. The reliance placed on Goetze (India) Ltd. v. CIT is misconceived, as the said judgment restricts only the powers of the Assessing Officer and does not curtail the jurisdiction of appellate authorities. The impugned order is therefore contrary to settled law and liable to be set aside.*
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> *2. The Ld. CIT(A) has erred in dismissing the appeal at the threshold without appreciating that the Appellants case is factually identical to Harish Kumar vs. ITO. (ITA No. 42/CHD/2025), WHARE compensation received under the same BSNL VRS-2019 was held fully exempt under Section 10(10B). The Ld. CIT(A) failed to adjudicate the merits despite the existence of a legitimate, legally sustainable, and directly applicable claim under Section 10(10B).*
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> *3. The Ld. CIT(A) has passed the impugned order without granting reasonable opportunity of hearing and without 3 issuing statutory notice under Section 250 of the Act during appellate proceedings. The order is thus vitiated for breach of natural justice and is bad in law.*

3. The assessee was employed with Bharat Sanchar Nigam Limited (BSNL), a Government of India enterprise. BSNL introduced the Voluntary Retirement Scheme (VRS), 2019, vide notification dated 04.11.2019. The assessee opted for the said scheme and received compensation in accordance with its terms and conditions. The assessee submitted that, prior to opting for the scheme, regular salary had not been paid for several months, resulting in financial hardship and professional uncertainty. Accordingly, it was contended that the

compensation received was, in substance, in the nature of compensation for involuntary retrenchment. The assessee offered the compensation received under the VRS to tax in the return of income due to a lack of awareness regarding the availability of exemption under Section 10(10B) of the Income-tax Act, 1961. Tax was also deducted at source by the employer on the said compensation. No claim for exemption under Section 10(10B) was made either in the original or in the revised return of income. Subsequently, the Centralised Processing Centre (CPC), Bengaluru, processed the return under Section 143(1) of the Act without allowing the exemption. No rectification application or appeal was filed at that stage.

4. Aggrieved by the assessment order, the assessee filed an appeal before the Ld. CIT(A), who dismissed the appeal of the assessee.

5. The Ld. Counsel for the assessee submitted that the issue came to light upon becoming aware of the decision of the Chandigarh Bench of the Income Tax Appellate Tribunal (ITAT) in Harish Kumar v. ITO, Ward 5(5), Chandigarh (ITA No. 42/CHD/2025, dated 30.05.2025), wherein, as contended by the assessee, compensation received under the BSNL VRS, 2019, was held eligible for exemption under Section 10(10B) of the Act, subject to compliance with Rule 2BA of the Income-tax Rules, 1962. Claiming that the facts of the present case were identical to those of the aforesaid decision, the assessee sought exemption of the compensation received under the said provision.

6. Heard the argument of both the parties and perused the material available on record.

7. At the outset, both the parties fairly submitted that the issue raised by the assessee in the present appeal stands covered by the order of the Tribunal in the case of Goverdhan D Bhambhani Vs. ITO for AY 2020-21 dated 28.07.2025. For the sake of ready reference, the operative portion of said order is reproduced as under:

> *3. 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*
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> > *"S.O. 2276(E).-In exercise of the powers conferred by sub-clause (ii) of clause (1044) 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.*
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> > *2. This notification shall be deemed to have come into force with effect from the 1st day of April, 2023.*
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> > *[Notification No. 31/2023/F. No. 200/3/2023-ITA-I]*
> > *SOURABH JAIN, Under Secy.*
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> *Explanatory Memorandum: It is hereby certified that no person is being adversely affected by giving retrospective effect to this notification."*
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> *4. 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.*
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> *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.*

It is requested to kindly consider & grant relief. Under similar circumstances number of decisions already granted by Jaipur Bench; details as below:-

(1) Govind Chatwani, Appeal No. ITA No. 385/JP/2023 dated 31.10.2023 copy as enclosed (Page 2108)

(2) Devendra kumar Gupta M.A. No. 49/JP/2023 dated 18.02.2025 copy as enclosed."

6. Ld. Sr. D.R. appearing for the Revenue supported the order passed by the lower authorities and requested to confirm the disallowance.

7. We have given our thoughtful consideration and perused the materials available on record. This issue of deduction u/s. 10(10AA)(ii) is no more res-integra based on the decisions passed by Co-ordinate Bench of this Tribunal in the case of Govind Chhatwani Vs. CIT(Appeals) in ITA No. 385/JP/2023 dated 31-10-2023 wherein it is held as follows:

"7. We have heard the rival contentions and perused the material placed on record. The bench noted that the apple of discord in this case that the assessee has received a sum of Rs. 17,68,479/- as leave encashment which was claimed in the return of income filed as exempt u/s 10(10AA) of the Act. The CPC and ld. CIT(A) contended that in the light of this specific notification being not issued the leave encashment allowable up to Rs. 3,00,000/- only whereas we note from the submission of the assessee that the assessee has relied upon the notification No. 31/2023/F.No. 200/3/2023-ITA-1 dated 24th May, 2023 and submitted that the revised limit of Rs. 25,00,000/- increased on account of leave salary is applicable and to be considered in the light of fact that government has issued this notification belatedly. The assessee has already claimed the leave salary as exemption the benefit should be given to the assessee. The similar issue has been decided by the bench in the case of Ram Charan Gupta in ITA No. 408/JP/2022 wherein the bench has already held as under:-

"8. We have heard the rival contentions and perused the material placed 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 Nationalised 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 Suomotu 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."

On being consistent to the said finding, we held that the assessee is entitled to get the deduction as claimed in the return of income u/s 10(10AA) of the Act as the limit has been increased from 3 lac to 25 lacs.

8. Further this decision is followed in the case of Devendra Kumar Gupta Vs. CIT(Appeals) in M.A. No. 49/JP/2023 dated 18-02-2025. Thus respectfully following the above decisions, the restricting the deduction u/s. 10(10AA) of Rs. 4,65,404/- made by the lower authorities are not sustainable in law. Therefore the same is liable to be deleted.

7.1 A similar issue has been considered by the Co-ordinate Bench of the ITAT in its consolidated order dated 09.07.2026 passed in ITA No. 1273/Ahd/2026 for Assessment Year 2020-21 in the case of

Pravinkumar Ramibhai Patel Vs. ITO. The relevant extract of the said order is reproduced hereunder:

> *7. The Ld. Counsel for the assessee submitted that the amount received by the assessee represented retrenchment compensation received from the Central Government under a scheme approved by the Government. It was submitted that the said amount is fully exempt from tax under section 10(10B) of the Income-tax Act, 1961, and, therefore, the assessee is entitled to full tax exemption. The Ld. Counsel for the assessee further relied upon the following decisions of Coordinate Benches of the ITAT in support of the claim of exemption.*
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> *"1. ITA No. 42/Chd/2025 AY 2021-22 in the case of Harish Kumar V/s. ITO Chandigarh dated 30.05.2025.*
> *2. ITA Nos.2387 & 2388/Ahd/2025 in the case Jayeshkumar Tulsidas Sutaria dated 17.02.2026*
> *3. ITA No.2389 & 2390/Ahd/2014 in the case of Suman Nandlal Raval dated 18.02.2026*
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> *8. I note that the issue under consideration is squarely covered by the above referred decisions of the Co-ordinate benches of this Tribunal. The Co-ordinate Bench of this Tribunal in ITA Nos. 2387 & 2388/Ahd/2025 for AYs 2020-21 & 2021- 22 vide order dated 17.02.2026, has held as under:*
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> *"4. Aggrieved by the orders of the Assessing Officer, the assessee carried the matter in appeal before the Ld.CIT(A), who dismissed the appeal of the assessee by observing as follows:*
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> *"... The Appellant was employed with Bharat Sanchar Nigam Limited (BSNL), a Government of India enterprise. BSNL had notified the Voluntary Retirement Scheme (VRS) 2019 on 04.11.2019, which was duly approved and implemented by the employer. The Appellant opted for this scheme and accordingly received compensation under the VRS, as per the terms laid out by BSNL. The compensation amount received under the scheme was offered to tax by the appellant in the return of income due to lack of awareness about the availability of exemption under Section 10(108) of the Income Tax Act. 1961. The employer had also deducted TDS on the said amount. No exemption was claimed in the original or revised return for the year by the appellant. The CPC, Bengaluru issued an intimation u/s 143(1) for the said year without granting any exemption, and no rectification or appeal was initiated at that time. The issue on this appeal pertains to exemption u/s 10(10B) of the Income Tax Act*

The appellant in his written submission has stated that it was only upon learning about the recent judgment of the Hon'ble ITAT Chandigarh, in the case of Harish Kumar vs. ITO Ward 5(5), Chandigarh (ITA No. 42/CHD/2025, dated 30.05.2025), that the Appellant came to know that the compensation received under the BSNL VRS 2019 scheme is eligible for full exemption u/s. 10(10B), subject to Rule 2BA compliance.

The grievance raised in the grounds of appeal does not emanate from the order appealed against. It is not a case where the appellant claimed exemption u/s.10(10B) and it was denied by the Assessing Officer. The appellant having omitted to claim relief in the return of income can claim the relief by filing the revised return. In cases where the time limit for filing the revised return has expired, the appellant may seek condonation of delay from the jurisdiction PCIT and then proceed with filing the revised return. The issue raised in grounds of appeal does not emanate from the order of intimation u/s.143(1), Hence, the appeal is dismissed..."

5. Aggrieved by the orders of the Ld.CIT(A, the assessee is in further appeal before us.

6. The Ld. Counsel for the assessee submitted that due to lack of awareness of the legal provisions at the time of filing the return of income, the assessee inadvertently offered the compensation received under BSNL VRS-2019 to tax. Subsequently, based on the decision of the Hon'ble ITAT Chandigarh Bench in Harish Kumar vs. ITO Ward 5(5), Chandigarh (ITA No. 42/CHD/2025 dated 30.05.2025), wherein compensation under the same BSNL VRS-2019 scheme was held to be exempt under section 10(10B), the assessee now seeks exemption of such compensation. We find that the assessee filed the claim before the Ld. CIT(A) and since the income of the assessee is not taxable, the assessee is eligible for the refund of the TDS.

7. In the result, both the appeals of the assessee are allowed."

9. Since, there is no change in the legal proposition and the factual matrix of the case, respectfully following the decision of the Co-ordinate Bench, the issue raised by the assessee in the present appeal is decided in favour of the assessee. It is held that the assessee is entitled to exemption u/s 10(10B) of the Act upon entire amount of retrenchment compensation (though named as VRS Compensation) and leave encashment, if any. The AO is directed to accordingly give the relief to the assessee.

7.2 A similar issue has also been considered by the Co-ordinate Bench of the ITAT in its consolidated order dated 17.02.2026 passed in ITA Nos.

2387-2388/Ahd/2026 for Assessment Years 2020-21 & 2021-22 in the case of **Jayeshkumar Tulsidas Sutaria Vs. ITO**. The relevant extract of the said order is reproduced hereunder:

> *"...6. The Ld. Counsel for the assessee submitted that due to lack of awareness of the legal provisions at the time of filing the return of income, the assessee inadvertently offered the compensation received under BSNL VRS-2019 to tax. Subsequently, based on the decision of the Hon'ble ITAT Chandigarh Bench in* ***Harish Kumar vs. ITO Ward 5(5), Chandigarh (ITA No. 42/CHD/2025 dated 30.05.2025)****, wherein compensation under the same BSNL VRS-2019 scheme was held to be exempt under section 10(10B), the assessee now seeks exemption of such compensation. We find that the assessee filed the claim before the Ld. CIT(A) and since the income of the assessee is not taxable, the assessee is eligible for the refund of the TDS.*
>
> *7. In the result, both the appeals of the assessee are allowed. ..."*

8. In the absence of any change in the factual matrix or legal position, and respectfully following the judicial precedents cited above, the appeal of the assessee is hereby allowed.

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

The order is pronounced in the open Court on 22.10.2026.

Sd/-
(DR. B.R.R. KUMAR)
VICE-PRESIDENT

((True Copy)

Ahmedabad; Dated 22.10.2026
MV

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad