IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA(SMC) BENCH, AGRA
BEFORE :
SUNIL KUMAR SINGH, JUDICIAL MEMBER
BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

ITA No. 426/Agr/2026
Assessment Year: 2022-23

Hemant Goswami, 14 Sheetal Colony, Balwant Nagar, Gwalior- 474011	**Vs.**	ITO Ward 2(1), Gwalior, Aayakar Bhawan, City Centre, Gwalior- 474011
PAN :ACLPG8815E		
(Appellant)		**(Respondent)**

Assessee by	Shri Rajesh Kumar Bansal, Adv.
Department by	Sh. Anil Kumar, Sr. DR

Date of hearing	06.08.2026
Date of pronouncement	22.10.2026

ORDER

PER:BRAJESH KUMAR SINGH, A.M.

This appeal is directed against the impugned order dated 12.05.2026 passed in appeal No ADDL/JCIT (A) KOCHI/10048/2021-22 by the Addl/Jcit (A) Kochi (hereinafter referred to as the Commissioner of Income Tax), u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) for the

A.Y. 2022-23, wherein ld. CIT (A) wherein the ld. CIT(Appeals) has dismissed assessee's first appeal.

2. Brief facts of the case: The appellant/assessee, a retiree from State Bank of India, received retiral benefits in addition to other funds, the leave encashment of Rs.10,56,590/- and claimed exemption of Rs. 3,00,000/- u/s 10 (10AA)(ii) in the Income-tax Return submitted for the relevant assessment year 2022-23. The assessee submits that while processing the return of income, the CPC did not make any adjustment in respect of leave encashment amount of Rs. 7,56,590/- u/s 10 (10AA)(ii) of the Act though the assessee was legally entitled to further exemption of Rs. 7,56,590/- as held by the Co-ordinate Bench of Jaipur Tribunal in the following cases:

(i) Ramcharan Lal Gupta Vs ITO in IT no. 408/JPR/2022 A.Y. 2020-21

(ii) Govind Chatrani Vs CIT(A) in IT no. 385/JPR/2023 A.Y. 2020-21

2.1 Further, the assessee submitted before the Ld. CIT(A) while filing the grounds of appeal as under:

> "3. The appeal is filed to get due refund on excess tax paid after admitting a fresh claim which the learned CIT (A) is empowered to admit fresh claim even if not claimed in the return for exemption of income which could not be claimed by the retired assessee"

3. However, the Ld. CIT(A) did not accept the above claim of the assessee. The Ld. CIT(A) noted that from the intimation u/s 143(1) of the Act dated 27.07.2022, it was clear that the assessee had claimed a sum of Rs. 23,00,000/- as exempt income u/s 10 of the Act which was allowed in full in the intimation u/s 143(1) of the Act. The Ld. CIT(A) further noted that the CPC had processed the return on income at Rs. 15,93,800/- as admitted by the assessee in ITR and that there was no mistake in the said intimation order. The Ld. CIT(A) also noted that the assessee had verified the above return and in case "any omission" or any mistake was discovered by the assessee could have filed a revised return or had sought the order for condonation for delay from the appropriate authorities. Accordingly, the Ld. CIT(A) dismissed the appeal of the assessee.

4. Aggrieved with the said order, the assessee is in appeal before us on the following grounds of appeal:

> "1. On the Facts and in the circumstances of the case the learned ADDL/JCIT (A) Kochi was not justified in not accepting and allowing a fresh claim of leave encashment to which the appellant is legally entitled to as settled long back by the Hon'ble Supreme Court of India in the case of Geotez (India) Ltd Vs CIT (284 ITR 323) and by Hon'ble Bombay High Court in the case of CIT Vs Pruthvi Brokers & Share Holder Pvt Ltd (2012) 349 ITR 336 (Bom) holding that an assessee is entitled to raise additional claims before appellate authorities to determine correct tax. Hon'ble Benches of the Tribunal have also allowed to raise fresh claims involving leave encashment. The Jurisdictional Hon'ble Tribunal Agra Bench Agra in the case of Shri Vijay Kumar Jain Vs ITO ITA No 175/Agr/2022/ AY 2019-20 has

> accepted the additional claim of leave encashment which was allowed. (Copy of order is attached)
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> It is prayed that the Hon'ble Tribunal may kindly be pleased to grant exemption of Rs 756590/- being part of leave encashment of Rs 1056590/- out of which exemption of Rs 300000/- was claimed and the balance Rs 756590/- was included in the total income and was processed as such by CPC.
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> 2. The appellant craves leave to add, amend, modify and substitute any ground at the time or before hearing of appeal."

5. The assessee filed a written submission in support of the above grounds relying upon the case laws as referred above whereas the Sr. DR supported the order of the Ld. CIT(A).

6. Heard both the parties and perused the material on record. Regarding the entitlement of the assessee for claiming further exemption u/s 10 (10AA)(ii) of the Act of Rs. 7,56,590/- in addition to Rs. 3,00,000/- claimed by the assessee in his return of income, the same is supported by various orders of the different co-ordinate Benches of this Tribunal. In this regard, the relevant extract of the order of the co-ordinate Bench of Ahmedabad Tribunal in the case of Mr. Goverdhan Bhambhani in ITA no. 289/AHD/2025 for AY. 2020-21 is reproduced as under:

> "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:
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> > "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 :-
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> > "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.
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> > 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. "
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> 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."
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> 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.
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> 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.
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> 9. In the result, the appeal filed by the Assessee is hereby allowed."
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> (emphasis supplied by us)

6.1 Thus, in the abovementioned case, where the assessee had claimed the entire amount of leave encashment of Rs. 7,65,404/- as exempt u/s 10(10AA)(ii) of the Act in his return of income which was allowed to the extent of Rs. 3,00,000/- and the balance sum of Rs. 4,65,404/- was denied by CPC, the Co-ordinate Bench had allowed the entire amount of leave encashment of Rs. 7,65,404/- u/s 10(10AA)(ii) of the Act. However, in this case the assessee had not claimed the exemption in respect of the entire amount of leave encashment of Rs. 10,56,590/- u/s 10(10AA)(ii) of the Act in his return of income but had claimed only a sum of Rs. 3,00,000/- and had offered the entire amount of Rs. 10,56,590/- to tax. Thereafter, the

assessee for the reasons as stated above made a claim for further exemption of Rs. 7,56,590/- u/s 10(10AA)(ii) of the Act for the first time before the Ld. CIT(A) which was rejected by the Ld. CIT(A). In this regard, in a similar situation BSNL employees had claimed partial exemption of Rs.5,00,000/- u/s. 10(10C) of the Act in respect of compensation received under the BSNL Voluntary Retirement Scheme (VRS), 2019 and had offered the balance amount to tax in their Income Tax Return. Subsequently, they came to know that vide order dated 30 May, 2025, in the case of Harish Kumar (BSNL Employee) vs. ITO (ITA No. 42/CHD/2025), it was held by the Chandigarh Bench of Tribunal that the compensation received under the BSNL Voluntary Retirement Scheme (VRS), 2019 was fully exempt under section 10(10B) of the Act. Thereafter, the said employees made a claim for exemption of the entire above received u/s 10(10B) of the Act for the first time before the ld. CIT (A) who rejected such claims. On appeal such claim was allowed by the various Benches of this Tribunal. In this regard, we agree with the submission of the assessee that the appellate authorities are not barred by admitting the fresh claim during the appellate proceedings. On similar facts, the Pune Bench of the Tribunal in the case of Prathibha Jagdish Unawane vs. ITO (ITA No. 1117/Pun/2026) and others (batch of 102 appeals) by an order

dated 29.04.2026 had allowed such claim of the assessee for exemption u/s 10 (10B) of the Act in respect of similar compensation received under the BSNL Voluntary Retirement Scheme (VRS), 2019 where the assessee did not make the claim in the return of income and made the claim for the first time before the learned CIT(A). In this regard, the relevant extract of the order is reproduced as under :

> "8. We are of the considered opinion that Ld.CIT(A) should have condoned the delay as assessee had filed elaborate explanation regarding delay and there was sufficient cause for delay. These Assessees have filed Returns of Income based on professional Advice received at that point of time. However, subsequently they made revised claim before CIT(A).
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> 8.1 Substantial justice is more important than the procedural delay. The Hon'ble Bombay High Court in the case of Vijay Vishin Meghani vs DCIT [2017] 398 ITR 250 (Bombay) has condoned the delay of 2984days , which was on account of professional advice of a CA.
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> 9. The identical issue of BSNL employees is decided by ITAT Pune in favour of assessee in ITA Nos.290 and 293/PUN/2026,ITA Nos.294 and 295/PUN/2026. ITAT Pune has relied on the decision of ITAT Ahmedabad in the case of Jayeskumar Sutaria vs ITO ,ITAT has extensively reproduced the decision and finally allowed the appeal of the assessee. The relevant paragraph of the said order is reproduced here under :
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> *Quote, "15. Further, I find the Coordinate Bench, Ahmedabad in the case of Jayeshkumar Tulsidas Sutaria Vs. ITO (supra) following the decision of Coordinate Bench, Chandigarh in the case of Harish Kumar vs. ITO Ward-5(5), Chandigarh -ITA No. 42/CHD/2025 order dated 30.05.2025 has decided the issue in favour of the assessee by observing as under :*
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> *"3. The assessee was employed with Bharat Sanchar Nigam Limited (BSNL), a Government of India enterprise. BSNL notified the Voluntary Retirement Scheme (VRS) 2019 on 04.11.2019, which was duly approved and implemented by the employer. The assessee opted for the scheme*

and accordingly received compensation under the VRS, as per the terms laid down by BSNL. It is submitted that the assessee had not been paid regular salary for several months prior to opting for the scheme and was under severe financial and professional uncertainty. In view of these circumstances, the assessee opted for the scheme as a measure of financial security. The compensation received by the assessee was in the nature of compensation under the BSNL VRS-2019 scheme. The compensation amount received under the scheme was offered to tax in the return of income due to lack of awareness regarding the exemption available under section 10(10B) of the Income-tax Act, 1961. The employer had also deducted tax at source on the said amount. No exemption was claimed in the original or revised return of income. The CPC, Bengaluru issued an intimation under section 143(1) for the said year without granting any exemption, and no rectification or appeal was initiated at that time. It was only upon learning about the recent judgment of the Hon'ble ITAT Chandigarh Bench in the case of Harish Kumar vs. ITO Ward 5(5), Chandigarh (ITA No. 42/CHD/2025, dated 30.05.2025) that the assessee became aware that the compensation received under the BSNL VRS-2019 scheme is eligible for exemption under section 10(10B), subject to compliance with Rule 2BA.

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 as non maintainable by observing as follows:

"…In the present case, the delay in filing of the appeal is almost four years which is an inordinate and huge delay. Moreover, as has been elaborately discussed above, the appellant has also failed to provide any reasonable ground that could assist the first appellate authority to draw sufficient cause for the inordinate delay of 1,396 days in filing of this appeal. The inordinate delay in the present case, if condoned, would make the term ''Sufficient cause" in section 249(3) of the Income Tax Act, 1961 hollow and meaningless.

20. In light of the facts of the case, provisions of the Income Tax Act, 1961 and judicial decisions in the matter as discussed above, I am constrained to conclude that the appellant has failed to submit any reasonable ground for condoning the inordinate delay of 1,396 days i.e almost four years in filing this appeal. Being bereft of any sufficient cause as envisaged in section 249(3) of the Act, the appeal cannot be admitted. Since the appeal is not maintainable, there is no need to adjudicate on the merits therein.

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

6. We have gone through the records and considering the merits of the case, we condoned the delay and proceed to adjudicate the issue.

7. 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.

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

16. The contention of ld. DR that only a 'workman' as defined under the Act is eligible for benefit u/s.10(10B) of the Act has no force as the Hon'ble High Court of Madras in the case of Hindustan Photo Film Workers Welfare Centre vs. Govt. of India (2018) 400 ITR 299 (Madras) has held that benefit u/s.10(10B) would be applicable to all employees covered by the scheme.

17. In light of the above decisions which are squarely applicable on the facts of instant cases and the consistent view taken by the Coordinate Benches, I am of the considered view that the alleged sum is in the nature of Retrenchment Compensation received by the assessee(s) in appeal, under the forced retirement scheme as per the standing orders dated 29.10.2019 issued by the Union Cabinet for the revival plan of BSNL/MTNL and such compensation falls under the provisions of section 10(10B) of the Act and not u/s.10(10C) of the Act and therefore the alleged sum is in the nature of Capital receipt exempt from tax. In order to get relief as has been directed in this order, assessee(s) are directed to place revised computation of income before the respective Jurisdictional Assessing Officers claiming the exemption u/s.10(10B) of the Act as discussed (supra) and thereafter the Revenue authorities shall grant the refund (if any) entitled to the assessee(s) after due verification of such revised computation of income. Impugned findings of ld.CIT(A) are set aside. Common issue raised in the Grounds of appeal raised by respective assessee(s) stands allowed."

9. Since the facts in the instant bunch of appeals are same, therefore, following the same parity of reasoning, I hold that the alleged sum received under BSNL Voluntary Retirement2019 Scheme is in the nature of Retrenchment Compensation received by the assessee(s) in appeal and such compensation falls under the provisions of section 10(10B) of the Act and not u/s.10(10C) of the Act and is in the nature of Capital receipt exempt from tax. Assessee(s) are directed to place revised computation of income before the respective Jurisdictional Assessing Officers claiming the exemption u/s.10(10B) of the Act of the alleged sum and thereafter the Revenue authorities shall compute the tax liability and grant the refund (if any) entitled to the assessee(s) after due verification of such revised computation of income. Impugned findings of ld.CIT(A) are set aside and the common issue raised in the Grounds of appeal by respective assessee(s) stands allowed." Unquote.

10. Before us the Ld.AR also filed copies of the Orders of CIT(A) who have condoned the delay in identical facts and allowed the appeal of the assessee who were BSNL employees.

11. In following cases the CIT(A) has condoned the delay and allowed those BSNL employees Appeal on identical facts. It was submitted by Ld.AR that in these cases the Department has not filed any appeal. Ld.DR has not rebutted it. Thus, it is observed that CIT(A)'s have been taking different stand on identical issues. Consistency in judicial decisions is very important.

Sr. No.	Date	Assessee Name	Particulars	Page No.
1	27/11/2025	Bhuvneshwar Pandit Tambat	Order under section 250 Act	1-24
2	28/11/2025	Shripathi Rao Padubidri Govinda	Order under section 250 Act	25-33
3	12/12/2025	Ajay Pandurang Patil	Order under section 250 Act	34-51
4	12/12/2025	Ghanshyam Vitthal Dhond	Order under section 250 Act	52-72
5	12/12/2025	Ravindra Sahadu Patil	Order under section 250 Act	73-89
6	12/12/2025	Umrao Kerba Kore	Order under section 250 Act	90-106
7	22/12/2025	Youraj Raghunathrao Pawar	Order under section 250 Act	107-141
8	22/12/2025	Valmik Vedu Patil	Order under section 250 Act	142-16-

9	29/12/2025	Sunil Ramlingappa Gulave	Order under section 250 Act	161-186
10	29/12/2025	Mary Cruz Janet Francis	Order under section 250 Act	187-212
11	31/12/2025	Rajendra Babulal Takle	Order under section 250 Act	213-227
12	06/01/2026	Devendra Vishwarao Sonawane	Order under section 250 Act	228-259
13	05/03/2026	Niva Baruah	Order under section 250 Act	260-265

12. We have perused the submission of the Ld.DR. Ld. DR has not brought on record any contrary decision of Hon'ble High Court. We also find support from the decision of ITAT Ahmedabad in the case of Vishnu Mohan T Nair v. Income Tax Officer, [2018] 61 ITR(T) 796 (Ahmedabad- Trib.), the operative portion of the said order is extracted below:

> *"While on this subject, it is also useful to take note of Hon'ble Supreme Court's judgment in the case of Mahendra Singh Dhantwal v. Hindustan Motors Ltd. [1985] 20 Taxman 1/152 ITR68, wherein compensation in lieu of reinstatement was treated as eligible for retrenchment compensation under section 10(10B). To us, the takeaway from this judgment seems to be that it is not the form but the substance that matters so far definition of retrenchment compensation is concerned. Right now we are dealing with an employee who is giving up his source of livelihood under the threat of dislocation, and the hyper technical interpretations based on technicalities about the wordings in the settlement deed, signed by him under these compelling circumstances, is being taken as the understanding about assessee's actual conduct; that is too pedantic an approach and it cannot meet our approval. Let us also not forget that while taking calls on these issues, which deal with employees in the lower rung of hierarchy, we must not be too pedantic or hyper technical in approach. We have to be pragmatic in approach and we must give full effect to the true intent of the public welfare provisions. To us, the arrangement in question is nothing but a termination of employment with the offer of compensation. Viewed thus, the payment in question cannot be anything but retrenchment compensation.*
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> *10. In our considered view, the conditions of section 10(10B), so far as eligibility for exemption is concerned, is satisfied. That, however, is not the end of the matter"*

> 13. However, we are bound by the decision of ITAT Pune on identical facts mentioned above. Respectfully following the decision of ITAT Pune (supra), ITAT Ahmedabad & ITAT Chandigarh, we hold that the impugned amounts were exempt from tax. Assessee(s) are directed to place revised computation of income before the respective Jurisdictional Assessing Officers claiming the exemption u/s.10(10B) of the Act of the alleged sum and thereafter the Revenue authorities shall compute the tax liability and grant the refund (if any) entitled to the assessee(s) after due verification of such revised computation of income. Impugned findings of ld.CIT(A) are set aside and the common issue raised in the Grounds of appeal by respective assessee(s) stands allowed.
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> 14. Accordingly, Appeals of the assessee(s) are allowed."

6.2 Respectfully following the above order of the Co-ordinate Bench of Ahmedabad Bench and the Pune Tribunal on similar facts, we hold that the assessee would be entitled for further exemption of Rs. 7,56,590/- u/s 10(10AA)(ii) of the Act in addition to Rs. 3,00,000/- already allowed by the department. Accordingly, we direct the assessee to place revised computation of income before the jurisdictional Assessing Officer claiming further exemption of Rs. 7,56,590/- u/s 10(10AA)(ii) of the Act and thereafter the Revenue authorities shall compute the tax liability and grant the refund (if any) entitled to the assessee after due verification of such revised computation of income. The impugned finding of the ld. CIT(A) is set aside and the issues raised in the grounds of the appeal by the assessee are allowed. Accordingly, the appeal stands allowed.

7. In the result, the appeal filed by the assessee is allowed in the terms indicated above.

Order pronounced in the open court on 22/ 10 /2026.

Sd/-	***Sd/-***
(SUNIL KUMAR SINGH)	**(BRAJESH KUMAR SINGH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 22/10/2026

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra