

ALL INDIA BSNL PENSIONERS' WELFARE ASSOCIATION

[Regd. T 1833/09]

Central Head Quarters

Website: www.bsnlpensioner.in

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H. No 6, G No 12th Street, Jogupalya, Halasuru, Bangalore 560008

President: P S Ramankutty
Phone: 9447551555

General Secretary: P Gangadhara Rao
Phone: 9448088404

By Email Dated 15th May 2020

To
Shri P.K.Purwar,
CMD, BSNL,
Bharat Sanchar Bhawan,
Janpath, New Delhi-110001

Sir,

Sub: VRS optees are eligible for tax exemption under 10C & u/s 89
Ref: Your letter No.1001-09/2019-20/Taxation/BSNL VRS 2019/3723
dt.11/2/2020

We would like to bring to your kind notice the following issue with a request for a positive decision.

2. Para iii of the above referred letter states "The VRS optee(s) can claim either exemption u/s 10(10C) or relief u/s 89, but not both, on such amounts received or receivable on or after 1/4/2009. This exemption is to be provided one time only in a single Assessment Year upon first time receipt of ex-gratia. Such exemption cannot be given proportionately".

3. We would like to state that the VRS optees are eligible for tax exemption u/s 10C and u/s 89 as per the verdict of two constitutional courts viz. Hon. Karnataka High Court and Hon. Bombay High Court.

4. Division Bench of Hon. Karnataka High Court delivered a judgement on 21/9/2005 in Commissioner of Incometax Vs P Surendra Prabhu case. Para 39 of the judgement states "In conclusion, in view of our discussion made in the earlier paragraphs, we are of the opinion that the assessee-employee of the respondent-bank is not only entitled to benefit of exemption under Section 10(10C) of the Act to the extent prescribed in the provisions itself and any amount over and above the prescribed limit under the aforesaid provision, the assessee is also entitled to relief under Section 89(1) of the Act read with Rule 21A of the Rules. To put it in the simple language possible, the amount received by the assessee under the voluntary retirement scheme after the exempted income under Section 10(10C) of the Act is compensation received in connection with the termination of his employment within the meaning of Section 17(3)(i) of the Act. Accordingly, the question of law framed by us in IT Appeal No.189/2005 is answered in favour of the assessee and against the Revenue".

5. Division Bench of Hon. Bombay High Court delivered a judgement on 9/4/2007 in Commissioner of Incometax Vs Nagesh Devidas Kulkarni case. Para

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25 of the judgement states *"For all the aforesaid reasons, the decision of the Tribunal in holding that the assessee is entitled to the exemption under Section 10(10C) of the Act and also rebate under Section 89 of the Act in respect of the amount received in excess of Rs.5,00,000 on account of voluntary retirement, cannot be faulted"*.

6. Not only Incometax tribunals but also two constitutional courts have clearly declared that the VRS optees are entitled for tax exemption not only under 10(10C) but also under 89 of IT Act.

7. In view of the above facts, we request you, sir, to modify the above-referred order and issue suitable guidelines in this regard.

Thanking you

Yours faithfully,


P. Gangadhara Rao, **
General Secretary.

Copy to
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