



Sanchar Nigam Pensioners' Welfare Association

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Reg.No:SOCIETY/WEST/2021/8902564

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SNPWA/CHQ/ 2022-23/02

dated 01/03/2022

To
The Secretary,
Ministry of Finance,
NorthBlock
New Delhi.

Respected Sir,

Sub: Request for enhancing Income Tax exemption limit on ex-gratia received under VRS Scheme- Rule 10(10)C of income Tax Act 1961 and enhancing the limit on tax exemption on leave encashment under section 10(10AA) periodically as envisaged In Income Tax Act1961.

Ref: 1. BSNL VRS scheme 2019 notified vide BSNL CO No. 1-15/2019-PAT(BSNL) dated 04.11.2019

2. Rule 2 BA under Section 10(10)C of Income tax Act 1961

A huge number of our members have been retired on 31.01.2020 under VRS scheme as per ref 1above even though they had a balance active service of 9 to 1 years more.

The Union Cabinet in its memo dated 23rd October 2019 had also promised attractive offers which included lump sum compensation as ex-gratia and other accompanying benefits. Out of the amount granted to them as exgratia compensation huge amounts have been deducted as Income Tax which is a substantial part of the exgratia amount. Similar is the case with leave encashment granted to them

The BSNL VRS scheme satisfies all conditions specified in Rule 2 BA under Section 10(10)C of Income Tax Act 1961 . Clause 5 of Rule 2BA stipulates the maximum compensation payable to such retirees shall not exceed the **salary** at the time of retirement multiplied by the balance month of service left before the date of retirement or superannuation. It is pertinent to note that as per the Finance Bill 1992 any amount received under the VRS scheme was **exempted from Income TAX without any ceiling** . In the Finance Act 2000 the amount eligible for income tax exemption under section 10(10)C was limited to rupees five lakhs w.e.f 1-4-2001. The maximum pay of an executive in a public sector under taking in E9 scale during 2001 was Rs 28550 per month as per DPE notification (1st PRC 1997

pay revision) . This means that the **limit set on Income Tax exemption on exgratia viz. ₹ 5 lakhs is equivalent to 17 multiple of the monthly salary.**

Considering the inflation, increase in cost of living, money devaluation etc the pay scale of Government Employees were revised in 2006 and 2016 as per the recommendations of Sixth CPC and Seventh CPC. On a similar vein, the pay scales of the employees of public sector undertaking were also revised in 2007 and 2017 by Department of Public Enterprises on the recommendations of 2nd PRC and 3rd PRC. After these revisions, the limit of Gratuity which is a terminal benefit and eligible for Income Tax exemption was also revised by enhancing the limit taking into account the increase in pay scale by the Central Government in 2006 and 2016.

With effect from 1-1-2017 the maximum pay of an executive at E9 scale in a Public Sector Undertaking was revised to Rs.300000/ as per 3rd PRC. And it is only logical that the IT exemption limit must also have been raised accordingly to ₹50 lakhs (Rs 300000*17=51 Lakhs) w.e.f 1-1-2017 . But no revision has been made on the ceiling limit for Income tax exemption on the terminal benefits granted under VRS scheme after 1-4-2001 even after a lapse of 20 years .

As the Rule 2BA relates the maximum compensation under VRS to the salary at the time of retirement, the limit for IT exemption also should have been revised accordingly as envisaged by the Finance Bill 1992 and the Finance Act 2000 with respect to the salary at least after every pay revision.

Further, the Judgment of the Hon. Supreme Court in its Civil Appeal No.988 of 2019 [(2019) 3 SCC 653] stating “ However , we would impress upon the state Government the need to periodically revise the income limit preferably at interval of three years. Inflation and increase in the cost of living have an important bearing on financial exigencies faced by families serving as well as deceased employees.....” is equally applicable and legally valid in the instant case also.

It is therefore, kindly requested to revise the tax exemption limit under Section 10(10)C of income Tax Act 1961 by enhancing the limit to rupees fifty lakhs w.e.f.1-1-2017 the date on which the 3rd PRC of Public Sector Undertakings came into effect as per the DPE Notification No.W-02/0028/2017-DPE(WC)-GL-XIII/17 dated 3rd August 2017.

Similarly Section 10AA(ii)of the Income Tax Act, 1961 states that “Any payment of the nature referred to in sub-section (i) received by employees, 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 employees 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 regards to the limit applicable in this behalf to the employees of that Government).”

The above provisions in the Income Tax Act 1961 calls for periodical revisions through gazette notification by the Government . Such notifications and revisions happened only from 1982 to 2002, during which period 10 revisions were effected. This was in total compliance with common sense as well as the provisions of the Act, since such leave surrender included not only the basic pay but also the DA increments, which happens on a half-yearly basis. But

after 2002, it appears that the CBDT has forgotten about the above provision , which it still continues @ 3 lakhs for almost more than 20 years, even though the ceiling limit fixed was based on 10 months salary.

The exemption limit was enhanced to Rs three lakhs w.e.f. 1998 as per Notification under reference 2. The above enhancement was arrived at with respect to 10 months' salary of the Government employee (Cabinet Secretary). The maximum pay of the Cabinet secretary as per 5 th CPC during 1998 was Rs 30000/.

Considering the inflation, increase in cost of living, money devaluation etc the pay scale of Government Employees were revised in 2006 and 2016 as per the recommendations of Sixth CPC and Seventh CPC. On similar justification the pay scales of the employees of Public Sector Undertakings were also revised in 2007 and 2017 by Department of Public Enterprises as per the recommendations of 2nd PRC and 3rd PRC. After these revisions, the limit of Gratuity which is a terminal benefit and eligible for Income Tax exemption was also revised by enhancing the limit taking into account the increase in pay scale by the Central Government in 2006 and 2016.

Since the maximum pay of the Government employee increased from Rs 90,000/ in 2006 to Rs 2,50,000/ in 2016, the Government employees will be eligible for exemption from income tax for leave encashment to the tune of Rs 9 lakhs from 1-1-2006 and Rs 25lakhs from 1-1-2016. Unfortunately the limit has never been revisited after 2002 and thereby the limit for tax exemption towards leave encashment at the time of retirement for employees other than government remains at Rs 3 lakhs which was fixed in 1998, even after period of more than 20 years .

All terminal benefits on retirement like gratuity , pension commutation etc have been periodically revised after every pay revision and the Government employees are eligible for 300 days leave encashment without any limit whereas for the PSU employees, the limit for income tax exemption on leave encashment remains @ Rs 3 lakhs w.e.f . 1998 for an incredible 22 years.

As per clause (ii) of Section 10(10AA) of income Tax Act 1961 Provision exists to revise the limit periodically for employees other than Government employees, through Gazette notification with regard to the limit applicable to the employees of the Government , which had to be done in 2006 and 2016, but had not happened, so far.

We would, therefore, request your good self to raise the limit at least from 01.01.2016, the date of implementation of the last pay revision of Government employees in tune with 10 months' revised salary of the Cabinet Secretary which is Rs 25 lakhs and ensure that natural justice is done in this matter as done as per reference 2.

With kind regards,



Yours Sincerely,

General Secretary