



ALL INDIA BSNL DOT PENSIONERS ASSOCIATION

[Registered No. S/68836/2010]

Central Head Quarters

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AIBDPA/IT-PEN/FM/2021

13th February, 2021

To,

**Ms. Nirmala Sitharaman,
Hon'ble Minister for Finance,
Government of India
New Delhi-110001**

Respected Madam,

Sub: - **Notice of Income Tax Department to BSNL pensioners for levying income tax from leave encashment on retirement for the exempted leave earned during government service- request for intervention- req.**

Ref : **Notice under section 154 of Income Tax Act, 1961 being issued by Centralized Processing Centre, Income Tax, Bangalore and Ghaziabad.**

We wish to bring one of the most important and agitating issues of the BSNL pensioners to the notice of your good self for kind intervention and early redressal, please.

Many BSNL pensioners are getting notices under section 154 of the Income Tax Act, 1961 from the CPCs, Bangalore and Ghaziabad stating that "the excess claim of exemption claimed u/s 10(10AA) is proposed to be withdrawn by restricting it to Rs.3,00,000 in view of the CBDT notification". Initially these were received for the IT Return filed for the year 2019-20 and now, it is reported that, some of the pensioners have got it for the Return filed for the year 2018-19 also.

The issue relates to the leave encashment during retirement. A maximum of 300 earned leave is allowed to be encashed by a government employee; so also BSNL employee. BSNL was formed on 01-10-2000 and all the employees in the Department of Telecommunications were transferred, rather absorbed in BSNL. According to the agreement reached with the Unions, the government agreed to pay the pension and terminal benefits to the absorbed employees from the Consolidated Fund and Rule 37 of CCS(Pension) Rules, 1972 was amended for this purpose. All earned leave and half pay leave in the credit of each employee were carried forward to the new entity. So, BSNL and MTNL absorbed pensioners have a special status that 100% liability of pension and pensionary benefits are borne by the Central Government.

The earned leave carried forward from government service is completely exempt from Income Tax under section 10(10AA), sub clause (i) of Income Tax Act, 1961. And if the leave earned during government service is short of 300, then for the balance leave earned during BSNL service is taxable subject to the exemption limit of Rs. 3,00,000. Accordingly, BSNL Corporate Office, New Delhi is regulating the process of computing and the respective Account Officers making deduction of income tax from each employee and remitting to the Income Tax Department. This position has been clarified/reiterated by BSNL vide its Letter No. 1001-04/2011-12/Taxation/BSNL/LE/196 dated 04-05-2012. (copy enclosed for ready reference)

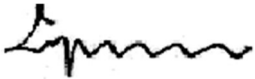
Further, in a similar issue, the appeal filed by Shri. Babulal Patel, a retired employee of MTNL against levying income tax for the amount of encashment of leave earned in government service, appeal No.CIT(A)-46-ITO-34(1) IT-188/2016-17, in the Income Tax Appellate Tribunal, Mumbai, the Hon'ble Tribunal has allowed the appeal in its judgment pronounced on 05-02-2019. (copy enclosed)

Therefore, it is very clear that there is no justification on the part of the Income Tax Officers to issue such notices to the pensioners which in practical amounts to be harassment/ intimidation at their old age, putting them to unnecessary mental agony.

So, Madam, we request your kind intervention in the matter to prevent such unwarranted and unjustified actions of the Income Tax Department and to extend justice to the BSNL pensioners by causing necessary action to withdraw the notices under section 154 of IT Act, 1961.

With kind regards,

Yours sincerely,



K G Jayaraj
General Secretary

Encl: (1) Copy of one of the notices issued by CPC, Bangalore under section 153 of IT Act, 1961
(2) BSNL clarification dated 04-05-2012 as referred to above.
(3) Copy of the judgment of Income Tax Appellate Tribunal.

Copy to: (1) Shri. P C Mody, Chairman, CBDT, New Delhi -110 001 (chairmancbdt@nic.in)
(2) Shri. Anshu Prakash, Secretary, DoT, Sanchar Bhawan, New Delhi-110001
(3) Shri. P .K. Purwar, CMD, BSNL, Bharat Sanchar Bhawan, New Delhi-110001