

CLARIFICATORY NOTE for PSU / CPSE Retirees AND SUGGESTIONS ON THE PRACTICAL APPLICABILITY OF SECTION 10(10B) REGARDING EXEMPTION OF VRS-EXGRATIA SETTLEMENT AS RETRENCHMENT COMPENSATION AMOUNT

Tax Exemption on VRS / Ex-gratia Compensation – Section 10(10B)

1. Background

Many employees of PSUs/CPSEs (such as BSNL, MTNL and similar undertakings) opted for Voluntary Retirement Schemes (VRS) introduced as part of Government-approved revival or restructuring plans. Although described as “voluntary”, these schemes were effectively implemented to reduce surplus manpower, often in circumstances where employees had little or no real choice.

2. Legal Position under Income-tax Act

- Section 10(10B) of the Income-tax Act grants exemption for compensation received on retrenchment under:
- Industrial Disputes Act, or
- Any scheme approved by the Central Government.
- The substance and real nature of the scheme, and not its nomenclature, determines taxability.

3. Tribunal Ruling – Key Clarification

In ITA No. 42/CHD/2025 (Harish Kumar vs ITO, AY 2021-22), the ITAT Chandigarh Bench vide their order date 30.05.2025 has held:

- Compensation received under BSNL VRS 2019 is in substance, a retrenchment compensation, even though described as “VRS”.
- The scheme was part of a government-approved revival plan aimed at reducing employee cost.
- Employees had no realistic alternative due to financial stress of the PSU, non-payment of salaries, and technological redundancy.
- Entire ex-gratia amount is exempt under Section 10(10B).
- Exemption cannot be denied merely because payment is made in instalments across different financial years.
- Once exemption is allowed for the first instalment, subsequent instalments must receive the same treatment.

4. Judicial Support

The Tribunal relied on:

- Madras High Court decision in *Hindustan Photo Film Workers Welfare Centre* case.
- Dismissal of SLP by the Hon’ble Supreme Court, giving finality to the issue.
- Earlier ITAT Chandigarh Bench rulings, holding that such compensation is either:
- Fully exempt under Section 10(10B), or
- Capital receipt not chargeable to tax.

5. Applicability to PSU / CPSE Retirees

This ruling is directly relevant for:

- BSNL / MTNL VRS retirees
- Employees of any PSUs/CPSEs opting for VRS under:
- Revival packages
- Disinvestment / closure schemes
- Workforce rationalisation plans approved by Government of India

6. Practical Guidance for Retirees

- Retirees who have paid tax on VRS / ex-gratia compensation may:
- Claim exemption while filing returns, or
- File appeals / rectification applications, or
- Seek refund of excess tax paid, filing revised I T return on condonation of delay granted by Income Tax Authority on application filed under section 119(2)(b) of the Income Tax Act ,subject to limitation provisions.
- Instalment-wise taxation does not alter the exempt nature of compensation.

7. Our advice:

Compensation received by PSU/CPSE employees under Government-approved VRS schemes, which are in effect retrenchment schemes, is fully exempt under Section 10(10B). Tax authorities should not restrict exemption merely due to nomenclature, voluntariness, or staged payment.

8. Applicability of section 119(2)(b)

CBDT, under section 119(2)(b), is empowered to authorize condonation of delay to avoid genuine hardship by Income Tax authorities where:

- the claim is **legally admissible**;
- the delay is **unintentional and bona fide**; and
- the application is made **within five years from the end of the relevant assessment year**.

9. Present Issue: How to go for rectification and Claim Exemption ?

CBDT Circular no 11/2024 Dt 1.10.2024 have empowered the Income tax Authorities at various levels of Commissionerate of Income Taxes, for condonation of delay in filing Returns, claiming refunds and Returns claiming carry forward of loss etc. under section 119(2) (b) of Income Tax Act. With such discretionary powers, the authorities can consider condonation of delay on satisfaction of following grounds.

- **Genuine Hardship:** Relief is granted only if the taxpayer can prove "genuine hardship" or circumstances beyond their control that prevented timely filing (e.g., serious illness, technical glitches, or natural calamities).
- **Condonation of Delay:** It acts as a "lifeline" for taxpayers to preserve their rights when strict adherence to deadlines would be unfair.
- **No Interest on Delayed Refunds:** If a late refund claim is accepted under this section, the taxpayer is generally not entitled to interest on that refund for the period of delay.

Regd. Office: Plot no 267, Kharvela Nagar, Bhubaneswar 751001, +91-9238000131

Corp. Office: Mumbai Hind Tej building, room no.1, Dada saheb Phalke Road, Dadar Mumbai, +91-9124655093

Regional Offices: Hyderabad, New Delhi, Korba, Duliajan, Vindhyanagar, Lucknow, Vadodara, Bangalore

Branch Offices: Angul, Damanjodi, Talcher, Kaniha, Paradeep, Jharsuguda, Jajpur Town, Ahmedabad, Raipur, Farakka, Kolkata, Chennai, Jaipur

10. Monetary Limits (Updated for 2025)

Under the latest guidelines (Circular No. 11/2024), the authority empowered to approve Assessee request depends on the claim amount per assessment year:

Up to ₹1 Crore: Principal Commissioner (Pr. CIT) or Commissioner of Income Tax (CIT).

₹1 Crore to ₹3 Crores: Chief Commissioner of Income Tax (CCIT).

Exceeding ₹3 Crores: Principal Chief Commissioner of Income Tax (Pr. CCIT).

Special Cases: The CBDT itself handles exceptionally high-value or specific complex cases.

11. Time Limits for Application

General Limit: Applications must typically be submitted within **five years from the end of the relevant assessment year (AY)**.

Court Orders: If the refund arises from a court order, the period, the case was pending is excluded. One must file the application within six months from the end of the month the order was issued.

Disposal Time: Authorities are expected to process and pass an order on these applications within six months from the end of the month in which they were received.

12. How to Apply:

Preparation: Draft a detailed application explaining the "**reasonable cause**" for delay and attach all supporting documents (medical certificates, portal error logs, etc.).

Submission: While some features are on the Income Tax e-Filing Portal, taxpayers often need to submit a manual application (offline) to the jurisdictional Principal Commissioner. Taking a prior approval. paves out a lot of problems like further demands at a later stage, on wrong rectifications.

Order: If approved, you will receive a Condonation Order with a Document Identification Number (DIN). You then file your ITR selecting the option "u/s 139(9A) - After Condonation of delay u/s 119(2)(b)" using the offline utility.

N.B: People who retired in FY 2019-20, relevant Assessment year is 2020-21, ending on 31.3.2021. So condonation period ends on 31.3.2026, unless it is proposed to be filed as an outcome of court order.

Since the contents of Application for condonation of delay and facts & figures are employee specific, retirees can avail our support in designing and filing such Application for condonation of delay and filing the revised return for refund and we assure our full support and guidance by our competent Tax Consultants.

As a matter of our organisation policy, our Taxation advisory team shall help and guide you for the procedural matters and you can avail these services through our respective branches or head office on your personal visits with required documents.

Trinath Lenka
Managing Director.
Wallet4wealth Group

Regd. Office: Plot no 267, Kharvela Nagar, Bhubaneswar 751001, +91-9238000131

Corp. Office: Mumbai Hind Tej building, room no.1, Dada saheb Phalke Road, Dadar Mumbai, +91-9124655093

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