

PF balance accumulated post-retirement of employee not eligible for tax exemption: ITAT

Summary – The Bangalore ITAT in a recent case of Dilip Ranjrekar, (the Assessee) held that Exemption under section 10(12) is limited to accumulated balance due and payable to an employee up to date of retirement/end of employment; if employee does not withdraw accumulated balance just after retirement, accumulated interest post-retirement of assessee is not eligible for exemption under section 10(12)

Facts

- The assessee was an employee of a company and retired from the company on 1-4-2002.
- As on the date of retirement there was certain accumulated provident fund balance of contributions plus interest. The assessee did not withdraw the same immediately after retirement, but withdrew the accumulated balance from the EPF account on 11-4-2011, which comprised of the balance on the date of retirement plus interest on the accumulated balance from 1-4-2002 (the date of assessee's retirement) up to 11-4-2011, the date of withdrawal.
- These details were not disclosed by the assessee but were ascertained by the Assessing Officer in the course of assessment proceedings when he required the assessee to explain the credit said amount to his capital account. At this juncture, the assessee claimed that the aforesaid amount so withdrawn was exempt under section 10(12).
- The Assessing Officer held that since the claim for exemption under section 10(12) was not made by the assessee in the return of income, the assessee's claim could not be considered in assessment proceedings in view of the decision of *Goetze (India) Ltd. v. CIT* [2006] 157 Taxman/284 ITR 323 (SC). On appeal, the Commissioner (Appeals) deleted the addition.
- On revenue's appeal:

Held

- A perusal of the provision of section 10(12) and the definition of 'Accumulated Balance' in Part A of 4th Schedule clearly indicates that the exemption under section 10(12) is available only to a person who being an employee withdraws the accumulated fund from the PF account as on the date of retirement or termination of employment.
- On facts the withdrawal to the extent of the accumulated balance (*viz.*, contributions plus interest) up to the retirement of the assessee's was eligible for exemption under section 10(12).
- The revenue placed reliance on the decision of the Apex court in the case of *Goetze (India) Ltd. (supra)* for denial of the assessee's claim, since it was not put forth before the Assessing Officer in the return of income filed. This argument put forth by revenue could not be accepted. The decision of the Apex Court in *Goetze (India) Ltd., (supra)* is in respect of the claims before the Assessing Officer and does not place fetters on the appellate authorities to entertain fresh claims put forth by

the assessee which are part of the record and/or are a material for the purpose of assessing the correct tax liability in accordance with law.

- Therefore, it was incumbent on the Commissioner (Appeals) to examine the assessee's claim which was admittedly put forward before the Assessing Officer in the course of assessment proceedings.
- However, in respect of the accrued interest from 1-4-2002 to 11-4-2011 on the accumulated balance as on 1-4-2002, the same has accrued to the assessee after he retired from the company, and it cannot be said that such accrual of the interest was qua an employee. The exemption under section 10(12) is limited to the accumulated balance due and payable to an employee upto the date of retirement/end of employment. In this view of the matter, the accumulated interest post-retirement of the assessee was not eligible for exemption under section 10(12).
- However, since the assessee is following mercantile system of accounting to bring to tax the correct income in the assessee's hands in relevant period of accrual, the Assessing Officer is directed to bring this amount of accrued interest on P.F balance for the period 1-4-2002 to 11-4-2011 to tax in the assessee's hands in the respective assessment year in which the interest accrued.