

Assessee becoming resident as per FEMA not entitled to exemption under section 10(4)

Summary – The Chennai ITAT in a recent case of Baba Shankar Rajesh, (the Assessee) held that in case an assessee becomes resident as per FEMA not entitled to exemption under section 10(4)

Facts

- The assessee had an NRE account in India and claimed exemption under section 10(4)(ii) on the interest income earned from NRE FD account.
- The claim was rejected by the Assessing Officer on the grounds that the assessee became a person resident in India during the current year as per section 2(v) of the FEMA Act, 1999.
- On appeal, the Commissioner (Appeals) upheld the order of the Assessing Officer.
- On the assessee's appeal before the Tribunal:

Held

- The Commissioner (Appeals) held that the assessee qualifies as a 'person resident in India' as per clause (v) of section 2 of FEMA since he came back to India in the financial year for the purpose of taking up employment in India. Hence he is not eligible for exemption under section 10(4)(ii) as he does not fulfil the condition required.
- Therefore, the ITAT dismissed the appeal and found no reason to interfere with the order of the Commissioner (Appeals).