



HYD ITAT: Severance Compensation Constitutes ‘Profits In Lieu Of Salary’, Not Capital Receipts, Under Amended Section 17(3)(Iii)

Facts and Issue:

The assessee was employed as Operations Lead with Monsanto Holdings Pvt. Ltd. Upon cessation of employment due to corporate restructuring, she received ₹26,97,912 as severance compensation. In her return, the assessee treated the amount as capital receipt and excluded it from taxable salary.

During assessment, the AO noticed a mismatch between salary reported in Form 24Q and income declared in the return and added the severance amount as profits in lieu of salary u/s 17(3). The addition was upheld by CIT(A), leading to appeal before ITAT.

Contentions of the Assessee

Assessee submitted that severance compensation was paid due to loss of employment and source of income, not for services rendered. Such compensation falls in the category of capital receipt and is not taxable.

In support of her contention assessee relied on decision in the case of *Arunbhai R. Naik v. ITO* (Gujarat HC) and ITAT Ahmedabad decisions in *Sudhakar Ratan Shanker* and *Samik Pankajbhai Parikh* wherein severance compensation was held as capital receipt.

Contentions of the Revenue

Department representative submitted that section 17(3)(iii) expressly taxes any amount received after cessation of employment, irrespective of nomenclature or voluntariness. Payment was made in connection with employment, reported as salary, and subjected to TDS.

Case laws relied upon by the assessee pertain to pre-01.04.2002 period and are inapplicable post statutory amendment

Reasoning and decision of the Tribunal

The ITAT held that the insertion of section 17(3)(iii) with effect from 01.04.2002 substantially broadened the scope of “profits in lieu of salary”. Consequently, *any* amount received at or after termination of employment is taxable unless specifically exempt u/s 10.

The case law cited by the assessee either pertained to pre-amendment periods or concerns voluntary payments not linked to cessation of employment and therefore lacks relevance under the current statutory framework.

The CIT(A)’s finding that the payment was not voluntary and was made in connection with services rendered remained uncontroverted. No evidence was furnished by the assessee to demonstrate that the amount was gratuitous or capital in nature.

Citation

Supriya Nagendra [TS-1565-ITAT-2025(HYD)]

Comments

The ruling reaffirms that, post-2002, termination payments are taxable irrespective of their label, and older precedents treating severance pay as capital receipts have limited relevance under the current law.