आयकर अपीलीय अधिकरण “बी” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2177/PUN/2025
निर्धारण वर्ष / Assessment Year : 2019-20

Ram Dattatray Kaldate, Vijay Kasnale, Plot No. RM 103, Bajajnagar MIDC Waluj, Aurangabad-431136 PAN : ASUPK0994M	**Vs.**	ITO, Ward-1(1), Aurangabad
अपीलार्थी / Appellant		**प्रत्यर्थी / Respondent**

Assessee by :	Shri Nikhil S Pathak & Archana Shetty
Department by :	Shri Sandip Pawar
Date of hearing :	08-04-2026
Date of Pronouncement :	09-06-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 24.07.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi **[“CIT(A)/NFAC”]** pertaining to Assessment Year **(“AY”)** 2019-20.

2. Briefly stated facts of the case are that the assessee is an individual and ex-employee of M/s. Pfizer Healthcare India Pvt. Ltd., Aurangabad **(“Pfizer India”)**. For AY 2019-20, the assessee filed his return of income on 29.07.2019 declaring income of Rs.60,34,360/- and claiming relief of Rs.18,28,958/- u/s 89 of the Income Tax Act, 1961 (**the “Act”**). The case of the assessee was selected for scrutiny under CASS for issues relating to refund claim and relief for arrear salary or advance salary. During the AY 2019-20, the assessee received Rs.54,64,480/- as a full and final settlement on account of his voluntary retirement from his employment with Pfizer India pursuant to Pfizer Healthcare India Private Limited Finance Scheme for employees at Aurangabad, 2019 **(“Scheme”)** which was framed by the company and offered to the assessee due to closure of its plant at Aurangabad. The assessee claimed the said amount as

advance salary for the remaining service period and sought relief u/s 89 of the Act. The Ld. Assessing Officer **("AO")** noted that the payment was made under a Voluntary Retirement Scheme (VRS), which is ineligible for claiming relief u/s 89 of the Act. The Ld. AO further observed certain errors in the assessee's tax computation in Form 10E, where no tax was calculated for the future years. After recomputing, the Ld. AO restricted the relief claimed u/s 89 of the Act to Rs.12,82,510/- as against Rs.18,28,958/- claimed by the assessee in his return of income for AY 2019-20 and accordingly completed the assessment vide his order dated 20.09.2021 passed u/s 143(3) r.w.s. 144B of the Act.

3. Aggrieved, the assessee filed an appeal before the Ld. CIT(A)/NFAC. During the appellate proceedings, the assessee submitted that during the assessment proceedings he withdrew his claim of relief made u/s 89 of the Act and alternatively claimed the said receipts of ex-gratia and other incentives as capital receipts. However, the Ld. AO has not considered the same while passing the impugned assessment order. After considering the submission(s) of the assessee and various contentions raised therein along with judicial precedents in support thereof, the Ld. CIT(A)/NFAC dismissed the appeal of the assessee holding that the amount of Rs.53,52,77/- received by the assessee is chargeable to tax as income under the head 'income from other sources' as per the provisions of section 56(2)(xi) of the Act and also upheld the disallowance of relief claimed u/s 89 of the Act of Rs.12,82,510/- made by the Ld. AO. The relevant observations and findings of the Ld. CIT(A)/NFAC are reproduced below :

> *"6. Decision:*
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> *6.1 The appellant has raised various grounds and it is seen that all are related to the sole issue of taxability of compensation/amounts received of Rs.54,64,480/- (Rs.53,52,775/-) in terms of Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019 on account of the appellant opting to voluntarily retire from the employment with the said Company.*
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> *6.2 The appellant was an employee of Pfizer Healthcare India Pvt. Ltd., Aurangabad and the said company decided to cease manufacturing in its plant due to significant long-term loss of product demand. The said company therefore provided a beneficial settlement to all permanent employees of the Plant by offering a financial scheme which was voluntary with option given to employee to opt for the same or not. The appellant opted for the above financial scheme offered by the said company and received an amount of Rs.54,64,480/- (Rs.53,52,775/-) during FY 2018-19 as full and final settlement as per the above financial scheme of the said company.*
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> *6.2.1 In the return of income filed for the impugned AY 2019-20 the appellant has shown the total income at Rs.64,34,360/- and after computing tax has*

claimed relief u/s 89 of the Act of Rs.18,25,958/- During the course of assessment proceedings the appellant has stated that he has claimed relief u/s 89 of the Act read with Rule 21A of the Income Tax Rules, 1962 on the proposition that the amount of Rs.54,64,480/- received is salary in advance. The Assessing Officer (AO) observed that full and final settlement amount received as Ex-Gratia (Severance Pay) of Rs.54,64,480/- (Rs.53,52,775/-) is advance salary in respect of the balance period of service. However, the Assessing, Officer recomputed the relief claimed by the appellant u/s 89 of the Act at Rs. 12,82,510/- based on his observation that basic exemption limit and deduction u/s VIA cannot be allowed twice in computing relief u/s 89 of the Act. Accordingly, in the assessment order passed u/s 143(3) r.w.s. 1448 of the Income Tax Act, 1961 dated 20/09/2021 the total income of the appellant as returned was accepted and relief or Rs. 12,82,510/- was allowed u/s 89 of the Act.

6.3 During the course of appellate proceedings in initial submission made the appellant has stated that during assessment proceedings he has withdrawn the claim of relief u/s 89 of the Act made in ITR & computation and alternatively requested the AO to treat/consider the amount received as Ex-Gratia (Severance Pay) of Rs. 54,64,480/- (Rs. 53,52,775/-) as Capital Receipts. The appellant has stated that the amounts received in terms of the Financial Scheme of the Company were paid de hors any contract of employment and thus were voluntary payments & was not paid on termination of his employment. The appellant has relied on decision of Jurisdiction Hon'ble Pune ITAT in case of Mahadev Dhangekar, 149 Taxmann.com 170 and various other judicial pronouncements of Hon'ble High Courts in support of his claim of Capital Receipts. The appellant has also relied on the judgment of Hon'ble Bombay High Court in the case of Balmukund Acharya, 310 ITR 310 to claim that if the assessee under a mistake/misconception is over assessed then the Authorities should assist him and ensure that only legitimate taxes due are collected.

6.3.1 In further submissions made during appellate proceedings the appellant has furnished copies of the orders passed u/s 250 of the Act in the case of employees of the Colgate Palmolive, Aurangabad and claimed that the amounts receive by the appellant are Capital Receipts and not 'Profit in lieu of Salary' as held in the above orders passed u/s 250 of the Act. The appellant in submissions made has relied on the judgments given by Hon'ble Pune ITAT in case of Mahadev Dhangekar, Hon'ble Mumbai ITAT in the case of Ajay Ghose and by Hon'ble Ahmedabad ITAT in the case of Shamik P. Parikh by stating that the facts of these cases are similar to the facts of the appellant's case. The appellant on the issue of claim of Capital Receipts not made in return but made before the AO based on various judicial pronouncements stated that the appellant is entitled to make any claim before the assessment is completed and also powers of appellate authorities to entertain a valid, lawful & meritorious claim during appellate proceedings.

6.3.2 The appellant during the course of appeal proceedings has also furnished the details of assessment orders passed in about 84 cases and has claimed that in these 84 cases are of similar employees working in the same Company and in the reopened assessment completed in these cases the claim of Capital Receipts has been accepted. The appellant has also furnished order passed by CIT(A)'s in the cases of Nilesh B Thorwe, Navanath E. Londhe, Devidas S.Chandapure, Rafique K.Sayyad and Arjun Bapurao Kale wherein the claim of Capital Receipts has been accepted. The appellant has also relied on the judgments of the jurisdictional Hon'ble Pune ITAT in the cases of Ashok Raghunathrao Kulkarni in 117/PUN/2024 dated 12.08.2024, Prasad Vijaykumar Kulkarni in 850/PUN/2024 dated 17/09/2024 and Atul Shashikant Garbhe in 863/PUN/2024 dated 17/09/2024 which are cases of Co-employees and the Hon'ble ITAT has accepted the claim of Capital receipts and instructed the AO to delete the additions made u/s 17(3) of the Act.

6.3.3 The appellant was given hearing notice on 25/06/2025 for enhancement of income by proposing to bring to tax the amount of compensation received of Rs. 54,64,480/- (Rs. 53,52,775/-) under the head 'Income from Other Sources' as per provisions of section 56(2)(xi) of the Income Tax Act, 1961. In reply to the above the appellant has submitted that as per the terms of the Settlement Scheme of the Company there is no termination of employment of the appellant and therefore the provisions of section 56(2)(xi) of the Act are not applicable. The appellant has also again stated that the claim of Capital Receipts has been accepted by various ITAT & High Courts and cited the judgments in the case of ITO vs. Avirook Sen Delhi ITAT - 161 Taxmann.com 462, Mahadev Dhangekar - Pune ITAT 149 Taxmann.com 170, Shamik Pankajbhai Parikh Vs. ITO Ahmedabad ITAT No.659/Ahd/2023, Ajay Ghose vs DCIT Mumbai ITAT No.1720/Mum/2021, CIT vs. Deepak Verma - Delhi High Court - 339 ITR 475 and Arunbhai Naik vs. ITO - Gujarat High Court-379 ITR 511.

6.4 I have perused the assessment order passed, the statement of facts, the submissions made by the appellant and the various judicial pronouncement cited by the appellant during the appeal proceedings. The undisputed facts in the case of the appellant are as under.

1. The appellant was an employee of the company Pfizer Healthcare India Private Limited.

2. The appellant has opted to retire voluntarily from his employment with the sald Company in accordance with the Scheme called the Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019.

3. The appellant has received an amount of Rs. 53,52,775/- [Ex-gratia (Severance pay) Rs. 38,76,521.75+ Other Payments (Early Bid and Group participation Incentives) Rs. 12,00,000/- + Notice Period Payout (3 months x monthly gross considered for scheme calculation) Rs. 2,76,252.60] as per the above Financial Scheme during the financial year 2018-19.

4. The appellant in the return of income and computation has not made a claim that the amounts of Rs. 53,52,775/- received as per the Financial Scheme is a Capital Receipt but has claimed relief u/s 89 of the Act.

6.4.1 The appellant during appeal proceedings have stated that he has made a claim during assessment proceedings that the amount of Rs. 53,52,775/- received as per the Financial Scheme is a Capital Receipt. From the perusal of reply furnished by the appellant during assessment proceedings it transpires that a passing reference was made by the appellant about the amount received as Ex-gratia (Severance Pay) being Capital Receipts but no formal claim for the same was made. Nevertheless, the appellant during the appellate proceedings has made a claim that the amount of Rs. 53,52,775/- received as per the Financial Scheme should be treated as a Capital Receipt and not profit in lieu of salary and has relied on various judicial pronouncements in support of the claim made.

6.4.2 In the various submissions made during appellate proceedings it has been emphasized by the appellant that the amount received as per the Financial Scheme is not a compensation to fall under the definition of 'profits in lieu of salary' as it is a voluntary payment by the Company and has been received on resignation and therefore does not constitute refrenchment or termination of employment. The appellant has relied on a plethora of judicial pronouncements in support of the above claim made. From the analysis of the judicial pronouncements relied upon by the appellant it is seen that in those cases the Hon'ble Courts and ITATS have held that any voluntary payment made by a company as ex-gratia and received by a person on termination owing to closure of department/company would be a 'Capital Receipt'. However, it is also important to note that all these judicial pronouncements relied upon by the appellant (except in some cases) are *related to the A.Y. 2016-17, 2017-18 and 2018-19 or to an assessment year earlier to A.Y. 2019- 20.*

6.4.3 By way of the Finance Act, 2018 a new Clause (xi) was inserted in sub section (2) of Section 56 of the Income Tax Act, 1961 w.e.f. 01.04.2019. The provisions of Section 56(1) of the Income Tax Act, 1961 provides that income of every kind which is not chargeable under any of the heads specified in section '14, items A to E shall be chargeable to income tax under the head "Income from Other Sources'. Further, clause (xi) of section 56(2) of the Act provided that any compensation or other payment received by any person in connection with the termination of his employment will be chargeable to tax under head 'Income from Other Sources'. In view of above provisions of section 56(2)(xi) of the Income Tax Act, 1961 which was applicable for the impugned AY 2019-20 the appellant was issued a notice for enhancement of income as per provisions of section 251(2) of the Income Tax Act, 1961 during the course of appellate proceedings.

6.4.4 In response to the above notice the appellant has furnished his submissions on 03.07.2025 and has stated that there is no termination of employment of the appellant by the Company and therefore the provisions of section 56(2)(xi) of the Income Tax Act, 1961 is not attracted to the amount paid in connection with the settlement scheme. The appellant has relied on Clause (viii) of the Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019 and stated that as per the said clause no compensation of any kind has been paid and there is no termination of employment by the Company. The appellant has based his submissions on the arguments that he has not been paid any compensation and there has been no termination of employment therefore the amount received by him in connection with the settlement scheme would neither be taxable u/s 17(3)(1) of the Act nor u/s 56(2)(xi) of the Act as it is a capital receipt.

6.5 The argument of the appellant that amount received under the Financial Scheme is not compensation is taken up first for adjudication. The receipt of amounts on account of cessation of employment whether constitutes compensation has been a subject matter of litigation before the various Hon'ble High Courts. The Hon'ble High Court of Madras in the case of G.N. Badami Vs CIT as reported in [1999] 240 ITR 263 (Madras)/[1998] 144 CTR 289 (Madras) has in the case of the assessee who has received special payment under a voluntary programme to leave the company has held that the Tribunal had come to the correct conclusion that there was a termination of the assessee's employment and the termination of the employment may be either at the instance of the assessee or at the instance of the employer but the words, in connection with' found in sub-clause (i) of clause (3) of section 17 are wide enough to include any compensation received in connection with the termination of the employment of the assessee. Therefore, the Tribunal had come to the correct conclusion in holding that the compensation received by the assessee in connection with the termination of his employment was a profit in lieu of salary within the meaning of sub-clause (1) of clause (3) of section 17.

6.5.1 Similarly, the Hon'ble, High Court of Madras in another case of P. Arunachalam Vs CIT as reported in [2001] 117 Taxman 342 (Madras)/[2000] 241 ITR 827 (Madras) has in the case of an assessee who's services were terminated under a scheme called 'Voluntary Separation Scheme' and assessee was paid certain sum has held that the provisions of section 17(3)(1) are clear that any compensation received at or in connection with the termination of the employment by its employer, is liable to be treated as profit in lieu of salary. It is not disputed that the amount received is compensation and it was received by the assessee from his employer in connection with the termination of his employment. The conditions prescribed under section 17(3)(1) are fully satisfied in this case and the amount of compensation received by the assessee is liable to be treated as salary and, therefore, we are of the view that there is no error in the order of the Tribunal *in holding that the amount received by the assessee is taxable as salary and, accordingly, we answer the question of law referred to us in the affirmative, against the assessee and in favour of the revenue.*

6.5.2 However, the Hon'ble Gujarat High Court in the case of Arunbhai Naik Vs ITO as reported in [2015] 64 taxmann.com 216/[2016] 236 Taxman 190 (Guj has held that where ex gratia compensation paid to assessee on his discharge from services was voluntary in nature, it would not amount to compensation in terms of section 17(3)(i) of the Act. The Calcutta High Court in the case of CIT v. Ajit Kumar Bose [1987] 165 ITR 90/[1986] 26 Taxman 510 (Cal), held that the true nature and character of, the payment was ex-gratia, that is to say, totally voluntary; it was not compensation which implies some sort of an obligation to pay. The amount in question was not "profits in lieu of salary" within the meaning of clause (3) of section 17 of the Act and was not taxable as such. Further, the Delhi High Court in the case of CIT v. Deepak Verma [2010] 339 ITR 475/194 Taxman 265/7 taxmann.com 53 (Delhi) observed that the word "compensation" when received, the employee should have a right to receive such payment. If the employee has no right, it cannot be treated as "compensation". The court held that it is for this reason that if the payment is made ex-gratia or voluntary by an employer out of his own sweet will and not conditioned by any legal duty or legal obligation, whether on sympathetic reasons or otherwise, such payment is not to be treated as "profits in lieu of salary" under clause (i).

6.5.3 In view of the contradictory decisions on the various Hon'ble High Courts as discussed above and in order to address the issue of taxation of amounts on received by any person in connection with termination of his employment by way of the Finance Act, 2018 a new Clause (xi) was inserted in sub section (2) of Section 56 of the Income Tax Act, 1961 w.e.f. 01.04.2019. The provisions of Clause (xi) of Section 56(2) of the Income Tax Act, 1961 is reproduced below for clarity:

"(xi) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto;"

The provisions of clause (xi) of section 56(2) of the Act therefore provides that any compensation or other payment received by any person in connection with the termination of his employment will be chargeable to tax under head 'Income from Other Sources' and is applicable for the AY 2019-20.

6.5.4 It will be relevant to point out that the provisions of section 56(2)(xi) of the Act are similar to the provisions of section 17(3)(i) of the Act and the only difference is that it is not restricted only to the compensation but also includes other payments. Thus, the provisions of clause (xi) of section 56(2) of the Act covers not only compensation but also 'Other Payment received by a person in connection with termination of his employment. In view of above, the argument of the appellant that the amounts received of Rs. Rs. 53,52,775/- does not constitute compensation losses significance as the said amount if not compensation will be covered under "Other Payments'. Therefore, the amount of Rs. 53,52,775/- received by the appellant in connection with termination of his employment falls within the ambit of provisions of (xi) of section 56(2) of the Act as income under the head 'Income from Other Sources'.

6.6 Now in order to evaluate the other argument taken by the appellant that the said amount Rs. 53,52,775/- has not been received on termination of employment it would be relevant to perceive what is meaning of the term 'termination of employment'. The appellant has relied on the terms of the Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019 particularly clause (viii) of 'Other terms & conditions' as per the Scheme document. The said clause (viii) is reproduced below for clarity:

"(viii) All Employees who opt for voluntary retirement under the Scheme will not be entitled to any compensation or notice pay under the provisions of the Industrial Disputes Act, 1947 as their cessation from the employment constitutes "resignation" and does not constitute "retrenchment" or "termination of employment by the Company.

6.6.1 Under the 'Industrial Disputes Act, 1947' termination of employment, including dismissal, retrenchment, or other forms of termination, is considered an industrial dispute, even if it involves a single employee. It thus transpires that above clause (viii) of 'Other terms & conditions' in the Finance Scheme has been incorporated by the Company in order to protect itself from any legal/industrial disputes which could arise under the 'Industrial Disputes Act, 1947' by stating that the cessation from employment would not constitute termination of employment. Accordingly, the mention by the Company that the resignation would not constitute termination of employment is clearly in relation to compensation or notice pay required to be paid under the 'Industrial Disputes Act, 1947'. In view of above the mentioning by the Company that the opting of voluntary retirement would not constitute 'termination of employment' is with reference to the 'Industrial Disputes Act, 1947'.

6.6.2 It will be pertinent to mention here the next clause (ix) of 'Other terms & conditions of the Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019. The said clause (ix) is reproduced below for clarity:

"(ix) Employees opting for the Scheme shall not raise any dispute whatsoever about their separation from the services of the Company, since such separation arises consequent upon their resignation submitted voluntarily under the Scheme."

The above terms in clause (ix) clearly specifies that the separation from the Company is consequent upon resignation submitted voluntarily under the Scheme and the employees opting for the Scheme shall not raise any dispute whatsoever about their separation.

6.6.3 Further, from the application form given by the appellant opting for the Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019 it is seen that the appellant has voluntarily resigned from his employment with Pfizer Healthcare India Private Limited with effect from February 8, 2019. It can thus be seen that the separation of the appellant from the employment with the Company has occurred on the basis of voluntary resignation given consequent to which, the appellant has received the amount of Rs. 53,52,775/-as per the said Financial Scheme. It would therefore be appropriate to ascertain whether the term 'termination of employment' implies or includes cases of voluntary retirement.

6.6.4 In the case of G.N. Badami Vs Commissioner of Income Tax, before the Hon'ble High Court of Madras, the assessee was employed with I.B.M. World Tade Corporation, a multinational company offered an opportunity to all its employees who had served more than one year of service to receive a special payment subject to a condition that they should leave the company. It is a voluntary programme so that the employees, if they wish to follow other pursuits or start new careers may have the chance to do so with the assistance of the company. The Hon'ble High Court of Madras after analysing the above facts gave its decision on 21/10/1997 as reported in [1999] 240 ITR 263 (Madras)/[1998] 144 CTR 289 (Madras) observing that admittedly, in the instant case, the assessee exercised the right of option to leave the service of the company and on the acceptance of the offer of the employer by the assessee, the services of the assessee to the company were terminated. Therefore, it is a case of termination of employment within the meaning of sub- clause (i) of clause (3) of section 17 of the Act.

6.6.5 The Hon'ble High Court of Madras in the case of CIT Vs J. Visalakshi as reported in [1994] 74 Taxman 532 (Madras)/[1994] 206 ITR 531 (Madras) has interpreted the words 'termination of his employment and observed that termination of service can take place either by resignation or by dismissal or by compulsory retirement or on attaining superannuation. As such there is no justification to confine the meaning of the word 'termination' only to the case of either voluntary retirement or superannuation. Further, the Hon'ble High Court of Kerala in the case of State Bank of Travancore Vs CBDT in its decision dated 08/12/2005 as reported in [2006] 151 Taxman 133 (Kerala) has held that the word 'termination' of service includes all categories of cases, such as voluntary retirement, superannuation, compulsory retirement, resignation, dismissal and so on.

6.6.6 In view of the judicial pronouncements cited above the voluntary retirement taken by the appellant in terms of the Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019 clearly tantamount to termination of employment. Accordingly, the receipt of amount of Rs. 53,52,775/- as per the said Financial Scheme is held to be received in connection with the termination of employment of the appellant with the said Company.

6.7 In addition to the claims made regarding compensation and termination of employment the appellant has relied on various case laws to further claim that the amount received under the said Financial Scheme of Rs. 53,52,775/- Is a capital receipt. It would therefore be appropriate to examine the said case laws cited by the appellant to see whether they are applicable in the case of the appellant.

6.7.1 The appellant has relied on the decision of ITO vs. Avirook Sen - Delhi ITAT 0-161-Taxmann.com 462. In the case before Hon'ble Delhi ITAT there was no agreement between assessee and his employer and the amount was received on account of out of court settlement. On such facts and circumstances, it was held by Hon'ble Delhi ITAT that payment of ex-gratia compensation was voluntary in nature without there being any obligation on the part of the employer to pay further amount to assessee in terms of any service rule and it would not amount to compensation in terms of section 17(3) (i) of the Act. It is therefore seen that the facts of the appellant's case are totally different from the case before Hon'ble Delhi ITAT and the Assessment Year involved was 2009-10.

6.7.2 The appellant has relied on the decision of Mahadev Dhangekar - Pune ITAT 149 Taxmann.com 170. In the case before the Hon'ble Pune ITAT the assessee received Rs. 47.21 lakhs from the company as Ex gratia and from this amount claimed Rs. 5 lakhs under section 10(10C) VRS compensation/ Termination of service and balance remaining amount of Rs. 42.21 lakhs from Ex gratia was taken as capital receipt. The Hon'ble ITAT observed that the amount was received by the assessee after cessation of his employment with the employer company. In the normal course, section 17(3)(iii) would apply and the payment would be covered within the definition of profit in lieu of salary as brought out by the department. However, in this case, the letter which has been issued by the employer clearly stated that the payment of the amount has been made voluntarily to the assessee and is not the compensation. The letter of the employer dated 16.02.2021, referred to above that ex gratia of Rs.42,21,154/- was paid voluntarily and this payment was made by them out of their own sweet will as an appreciation to him for his quality of integrity and commitment in performance of his duties for the entire tenure of his service with the company. It is therefore seen that the facts of the appellant's case are totally different from the case before Hon'ble Pune ITAT and the Assessment Year involved was 2018-19.

6.7.3 The appellant has relied on the decision of CIT vs. Deepak Verma - Delhi High Court-339 ITR 475 (2010). In the case before the Hon'ble Delhi High Court all dues which were admissible to the assessee on his *resignation are, otherwise, paid by the employer to him. Therefore, whatever terminal dues including earned salary etc., which were payable to the assessee in terms of contract or otherwise were paid to him. In addition, the employer agreed to pay "in its discretion" Rs. 35 lakhs as an "exceptionable" and "one off ex gratia payment". It is very clearly stated in the letter that management had agreed to pay this amount in its discretion. It was not compelled by any obligation to pay this amount which would assume the nature of any 'compensation'. The amount is also described as not only exceptionable but ex gratia. It, therefore, clearly partakes the character of voluntary payment and cannot be termed as payment by way of 'compensation'. It is therefore seen that the facts of the appellant's case are totally different from the case before the Hon'ble Delhi High Court and the Assessment Year involved was 2001-02.*

6.7.4 The appellant has relied on the decision of Arunbhal Naik vs. ITO - Gujarat High Court-379 ITR 511 (2015). In the case before the Hon'ble Gujarat High Court the assessee was paid only in terms of the settlement, without there being any obligation on the part of the employer to pay any further amount to the assessee in terms of the services rules. The employer, voluntarily at its discretion, agreed to pay the amount in question to the assessee with a view to bring an end to the litigation. There was no obligation cast upon the employer to make such payment and, therefore, the same would not take the colour of compensation as envisaged under section 17(3)(i). The amount in question would, therefore, not fall within the ambit of the expression 'profits in lieu of salary as contemplated under section 17(3)(i). It is therefore seen that tyhe facts of the appellant's case are totally different from the case before the Hon'ble Gujarat High Court and the Assessment Year involved was 1994-95.

6.7.5 The appellant has relied on the decisions in the cases of ShamikPankajbhai Parikh Vs. ITO - Ahmedabad ITAT - ITA No. 659/Ahd/2023&Ajay Ghose vs DCIT-Mumbai ITAT - ITA No.1720/Mum/2021. The facts of the appellant's case are seen to be similar to the case before Hon'ble Ahmedabad ITAT wherein it is observed that the severance compensation received by the assessee on voluntary basistowards termination of employment from his employers is a "capital receipt" and, hence, not taxable in the hands of the assessee. The above decision of the Hon'ble Ahmedabad ITAT is based on the decision of Hon'ble ITAT Mumbai in the case of Ajay B. Ghose vs. DCIT -CPC in ITA No.1720/Mum/2021wherein it has been observed that the receipt of severance pay though the nomenclature is not mentioned as ex-gratia but takes the character of a capital receipt and the payment was made voluntary by the employer for loss of employment, and such capital receipt is not taxable in the hands of the assessee. However, it is seen that in both the above decisions the Assessment Year involved was 2017-18.

6.8 From the analysis of the case laws relied upon by the appellant as given above It can be seen that in most of the cases the facts are different from the case of the appellant. Even in cases where the facts of the cases before the Hon'ble Tribunals are similar to case of appellant as given in para 6.7.5 above wherein It has been held that the severance pay or 'ex-gratia' payment takes the character of a capital receipt the assessment year involved was 2017-18. As discussed earlier the provisions of clause (xi) of section 56(2) of the Act inserted by Finance Act, 2018 w.e.f. 1.4.2019 provides that any compensation or other payment received by any person in connection with the termination of his employment will be chargeable to tax under head 'Income from Other Sources' and is applicable for the AY 2019-20.

6.8.1 The intention of the legislation in inserting the said clause (xi) in section 56(2) of the Act is explained in the Memorandum issued explaining the provision of the Finance Act, 2018.In the Memorandum explaining the provision of the Finance Act, 2018 the intention of inserting said clause (xi) in section 56(2) of the Act is explained as under:

Taxability of compensation in connection to business or employment

Under the existing provisions of the Act, certain types of compensation receipts are taxable as business income under section28. However, the existing provisions of clause (ii) of section 28 is restrictive in its scope as far as taxation of compensation is concerned; a large segment of compensation receipts in connection with business and employment is out of the purview of taxation leading to base erosion and revenue loss.

Therefore, it is proposed to amend section 28 of the Act to provide that any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income. It is further proposed that any compensation received or receivable, whether in the nature of revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its employment shall be taxable under section 56 of the Act.

These amendments will take effect from 1st April, 2019 and will, accordingly, apply in relation to assessment year 2019-20 and subsequent assessment years.

6.8.2 The explanation given in the above memorandum clearly lays down the intention of the legislation of insertion of clause (xi) in section 56(2) of the Act which is to bring into purview of taxation the compensation receipts in connection with business and employment that were leading to base erosion and revenue loss. Further, any compensation received whether in the nature of revenue or capital in connection with termination of employment shall be taxable u/s 56 of the Act from the assessment year 2019-20 and subsequent assessment years. Thus, even if it is considered that the amount received under the Finance Scheme by the appellant are capital receipt, as the same have been received during FY 2018-19 relevant to assessment year 2019-20, the same are taxable as per provisions of section 56(2)(xi) of the Income Tax Act, 1961.

6.9 Most of the case laws and decisions relied upon by the appellant in support of the claim made that the amounts received on termination of employment are capital receipts are found to be related to the A.Y. 2016-17, 2017-18 and 2018-19 or to assessment years prior to A.Y. 2019-20 i.e. before the insertion of clause (xi) in section 56(2) of the Act and therefore render these case laws and decisions redundant. However, it is seen that the decisions given by the Hon'ble Income Tax Appellate Tribunal, Pune 'A' Bench, Pune in the cases of Ashok Raghunathrao Kulkarni, Prasad Vijaykumar Kulkami and Atul Shashikant Garbhe are related to AY 2019-20. Further it is seen that the decisions given by Hon'ble ITAT in cases of Prasad Vijaykumar Kulkarni and Atul Shashikant Garbhe is based on the decision given in the case of Ashok Raghunathrao Kulkarni in ITA No. 117/PUN/2024 dated 12/08/2024 for AY 2019-20.

6.9.1 The Hon'ble Income Tax Appellate Tribunal, Pune 'A' Bench, Pune in the case of Ashok Raghunathrao Kulkarni in its decision in ITA No. 117/PUN/2024 dated 12/08/2024 for AY 2019-20 has observed that that the payment of ex- gratiacompensation received by the assessee was voluntary in nature without therebeing any obligation on the part of the employer to pay further amounts to the assessee in terms of any service rule and therefore, such compensation received was capital in nature and not falling u/s 17(3) of the Act. However, from the contents of the said order of the Hon'ble Income Tax Appellate Tribunal, Pune 'A' Bench, Pune it is seen that the provisions of section 56(2)(xi) of the Income Tax Act, 1961 which were applicable for the impugned AY 2019-20, were neither brought to the notice of the Hon'ble ITAT during the appellate proceedings nor have been considered by the Hon'ble ITAT before adjudicating the issue in appeal.

6.9.2 In view of above, the observations of the Hon'ble Income Tax Appellate Tribunal, Pune 'A' Bench, Pune in the case of Ashok Raghunathrao Kulkarni dated 12/08/2024 is considered but respectfully inferred that the ratio case of the said decision cannot be applied to the case of the appellant, as it has been rendered without taking into consideration the provisions of section 56(2)(xi) of the Income Tax Act, 1961 which were applicable for AY 2019-20. Similarly, the reliance of the appellant on the decision of CIT(A) in order u/s 250 of the Act dated 20/05/2024 given in the case of Navanath Eknath Londhe for AY 2019-20 is misplaced as the same has been given without considering the provisions of section 56(2)(xi) of the Income Tax Act, 1961.

6.10 In view of the foregoing discussion made, the amount received of Rs. 53,52,775/-under the Finance Scheme by the appellant on opting to voluntary retire as per the terms of Pfizer Healthcare India Private Limited Finance Scheme for Employees at Aurangabad, 2019 during financial year 2018-19, are held to be compensation or other payments received in connection with the termination of employment. Further as the amount of Rs. 53,52,775/- has been claimed by the appellant to be not chargeable to income tax under the head "Salaries" (item A in Section 14) the said amount of Rs. 53,52,775/- is held to be chargeable to tax under the head "Income from Other Sources" as per provisions of section 56(2)(xi) of the Income Tax Act, 1961 for the impugned AY 2019-20.

6.11 Accordingly, the income shown by the appellant in return of income filed for the impugned AY 2019-20 under the head 'Salaries' of Rs. 61,84,356/- is bifurcated and the Assessing Officer is directed to adopt the income of the appellant under the head "Salaries" at Rs. 8,31,581/- (Rs. 61,84,356 less Rs. 53,52,775) and the amount of Rs. 53,52,775/- as income under the head "Income from Other Sources as per provisions of section 56(2)(xi) of the Act. Further, the Assessing Officer is directed to withdraw the relief allowed of Rs. 12,82,510/- u/s 89 of the Income Tax Act, 1961 in the assessment order passed u/s 143(3) r.w.s. 144B of the Income Tax Act, 1961 dated 20/09/2021.

7.0 In the result, the appeal of the appellant is dismissed."

4. Dissatisfied, the assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. The Learned CIT(A) has erred in bringing altogether new provision of sec. 56(2)(xi) under pretext of Enhancement of Income, the provision of sec. 56(2)(xi) was not invoked by the AO in assessment proceedings. Thus CIT(A) has erred in law & has no powers to bring in a new provision which was not a subject matter of original disallowance.

2. The Learned CIT(A) has erred in applying the provisions of Sec. 56(2)(xi) which are conditioned with Termination of employee & he has failed to appreciate the fact that the Appellant was not terminated.

3. The Learned CIT(A) has erred by not following & applying the Jurisdictional Judgments of various Co-employees whereby the Hon'ble Pune ITAT has held that all such amounts are not Profits in lieu of Salary & are Capital Receipts.

4. The Learned CIT(A) has erred in interpreting the definition of Termination as per the Industrial Dispute Act 1947.

5. The Learned CIT(A) has erred in following the AO who had erred in not considering and understanding the Financial Scheme Document and failed to arrive at the correct interpretation and the underlying

> *intentions of the Co. towards the appellant and the need for evolving the said scheme of pre-mature retirement of all employees permanently.*
>
> *6. The Learned CIT(A) has erred by not accepting the Appellant's stand that the said amount received being Capital Receipts in nature, irrespective of the same being obligatory or not on part of the Co. and has erred in not considering that the payments were made de hors any contract of employment & was paid voluntarily & towards loss of source of income for premature termination of Appellant employment & the Appellant was legally entitled to change the nature of his claim form Profits in lieu of Salary to the same being Capital Receipts in the course of assessment proceedings.*
>
> *7. The Appellant Craves Leave to add, Alter, or amend any of the Grounds of the Appeal, before or during hearing of the Appeal."*

5. The Ld. AR, at the outset, submitted that the Ld. CIT(A)/NFAC has erred in not accepting the claim of the assessee that the impugned amount received by the assessee is capital receipt not chargeable to tax. The Ld. AR submitted that the impugned issue is no longer res-integra and covered in favour of the assessee by catena of decisions of the Co-ordinate Bench of the Pune Tribunal wherein the Tribunal under the identical facts and circumstances has held that the amount/ex-gratia received by the assessee being capital in nature cannot be added to the taxable income of the assessee and hence would not be taxable under the provisions of section 17(3)(i) of the Act as profit in lieu of salary. The Ld. AR placed a legal compilation on record containing various order(s) of Co-ordinate Bench of Pune Tribunal in support of his claim as under :

i. Subramanian Kathirsen Vs. ITO in ITA No. 765/Chny/2025, dated 02.09.2025;
ii. Parna Vasudevaiah Vs. ITO in ITA No. 456/PUN/2024, dated 22.05.2025;
iii. Godavari Vijay Kulkarni Vs. ITO in ITA No. 1159/PUN/2023, dated 03.04.2025;
iv. Ashok Raghunathrao Kulkarni Vs. ITO in ITA No. 117/PUN/2024, dated 12.08.2024;
v. Prasad Vijaykumar Kulkarni Vs. ITO in ITA No. 850/PUN/2024, dated 17.09.2024;
vi. Atul Shashikant Garbhe Vs. ITO in ITA No. 863/PUN/2024, dated 17.09.2024;
vii. Shri Parvez Mukhtar Khan Vs. ITO in ITA No. 1111/PUN/2024, dated 27.09.2024;

viii. Shrikant Anantrao Zori Vs. ITO in ITA No. 798/PUN/2024, dated 28.01.2025 and

ix. Mahadev Vasant Dhangekar Vs. ACIT, (2023) 149 taxmann.com 170 (Pune-Trib.).

5.1 So far as the invocation of section 56(2)(xi) of the Act by the Ld. CIT(A)/NFAC is concerned, the Ld. AR submitted that the Ld. AO did not apply this section at all at the time of assessment proceedings and thus the Ld. CIT(A)/NFAC has not power to bring in a new provision during the appellate proceedings before him. Without prejudice, the Ld. AR submitted that as per section 56(2)(xi) of the Act, any compensation or other payment received by the assessee in connection with termination of his employment or the modification of the term and condition relating thereto is taxable as income from other sources. In the instant case in hand, the assessee has voluntarily retired as per the term of settlement entered with the employer i.e. Pfizer India and accordingly it is the case of voluntarily resignation and not termination of employment. The Ld. AR submitted that termination of employment is at the behest of the employer wherein the employer terminates the services of the employee, however, retirement is voluntarily in nature. The Ld. AR submitted that since the assessee has voluntarily retired, provisions of section 56(2)(xi) are not applicable to the facts of the present case.

5.2 Referring to sub-clause 8 of clause 11 of the Financial Scheme for Employees of Aurangabad 2019, dated 09.01.2019 **("Scheme")**, the Ld. AR submitted that it is specifically provided therein that the retirement of the employees under the Scheme does not amount to retrenchment or termination of employment by the company. Thus, as per the Scheme there is no termination of employment of the assessee.

5.3 The Ld. AR further submitted that the provisions of section 56(2)(xi) are applicable on termination of employment. Termination of employment and voluntarily retirement are two different concepts. In support thereof, the Ld. AR drew our attention to the provisions of section 10(10C) of the Act whereby it has been clarified that any amount received from various person as provided therein by the employer *"on his voluntarily retirement or termination of his services……"* Similarly section 80JJAA(2)(iii)(b) provides therein that *"any lump sum payment paid or payable to employee at the* *time of termination of his service or superannuation or voluntarily retirement.....”* He therefore submitted that the legislature has specifically used the term voluntarily retirement and termination separately. He accordingly submitted that termination does not include voluntarily retirement and both the terms are to be understood and applied differently. In the instant case, the employment of the assessee has not been terminated but he has voluntarily retired under the Scheme and thus invocation of provisions of section 56(2)(xi) by the Ld. CIT(A)/NFAC is not justified.

5.4 Referring to the decision of this Bench of the Tribunal in the case of Ashok Raghunathrao Kulkarni Vs. ITO in ITA No. 117/PUN/2024 for AY 2019-20, dated 12.08.2024, the Ld. AR submitted that the facts of the assessee’s case in the present appeal are identical to the facts in the case of Ashok Raghunathrao Kulkarni Case (supra) and the assessee’s in both the cases are the ex-employees of Pfizer India are covered by the same Scheme of the company. Referring to para 13 and 28 of the order of the Tribunal in Ashok Raghunathrao Kulkarni’s Case (supra), the Ld. AR submitted that the Tribunal has held that the amount received by the assessee was voluntarily in nature without there being any obligation to pay on the part of the company.

5.5 In view of his above submission, the Ld. AR argued that the assessee has received the impugned amount from Pfizer India on his voluntary retirement from the company under the voluntary Scheme of the company and not on account of termination of his employment and hence the decision of the Tribunal in the case of Ashok Raghunathrao Kulkarni (supra) which has been followed in many subsequent orders of the Tribunal still holds good.

5.6 The Ld. AR, thereafter, brought to the attention of the Bench the assessment orders passed in the case of other assessee employees of Pfizer India where they have also received similar amount from the company and the respective Assessing Officer in the reopening assessment for AY 2019-20 had show caused the assessee for making addition u/s 56(2)(xi) of the Act, however, the said amount has not been added and assessment has been completed by the respective AO treating the same as capital in nature. In view of this, he argued that in the instant case, the amount received by the assessee from Pfizer India on his voluntarily retirement under the Scheme should therefore be treated as capital receipt and addition made by the Ld. AO and confirmed by Ld. CIT(A)/NFAC should be deleted.

6. The Ld. DR, on the other hand, strongly supported the order of the Ld. AO and the Ld. CIT(A)/NFAC.

7. We have heard the Ld. Representatives of the parties and perused the material available on record as well as the paper book(s) filed by the Ld. AR on behalf of the assessee. We have also perused various judicial precedents cited by the Ld. AR. We find that the Ld. AO has rejected the assessee's claim of relief u/s 89 of the Act amounting to Rs.12,82,510/-. The assessee received an amount of Rs.53,52,775/- during the relevant AY 2019-20 as per the Scheme which has been added to the income of the assessee for the relevant AY 2019-20 under the provisions of section 56(2)(xi) of the Act by the Ld. CIT(A)/NFAC during the appellate proceedings before him rejecting the claim of the assessee that such receipts are capital in nature.

8. We find that the identical issue had come up before the Tribunal in the case of other employees of M/s. Pfizer Healthcare India Pvt. Ltd. and the Tribunal has consistently decided the impugned issue in favour of the assessee holding that the impugned amount received by the assessee under the Scheme is a capital receipt not chargeable to tax in the hands of the assessee. We find that the Tribunal in the case of Ashok Raghunathrao Kulkarni (supra) for AY 2019-20 order dated 12.08.2024, has decided the identical issue by observing as under :

> *"23. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed by both the sides. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case rejected the claim of relief u/s 89 of the Act of Rs.18,74,899/- on income of Rs.57,12,674/- treating the same as income u/s 17(3) of the Act. We find the CIT(A) / NFAC upheld the action of the Assessing Officer, reasons of which are already reproduced in the preceding paragraphs. The CIT(A) / NFAC also rejected the alternate claim of the assessee that such amount being a capital receipt cannot be brought to tax. It is the submission of the Ld. Counsel for the assessee that in case of various other employees who have received similar compensation, the same has been accepted as capital receipt by the respective AOs in re-assessment proceedings and no addition has been made. Further, various Co-ordinate Benches of the Tribunal in similarly*

placed employees have also treated such compensation received on termination of service as capital in nature and not falling u/s 17(3) of the Act.

24. We find the Assessing Officer in the case of Sharad D. Magar, who also resigned voluntarily from service of Pfizer Healthcare India Pvt. Ltd., Aurangabad has accepted the compensation received at Rs.30,49,176/- as capital in nature by observing as under:

> *"Brief facts of the case:*
>
> *The assessee, Shri Sharad Daulatrao Magar, having PAN: ASHPM1986C, an salaried individual, had filed ITR-1 u/s. 139(1) for AY 2019-20 on 29.07.2019 declaring total income of Rs.32,03,150/-. Further, Rs.35,54,140/- was shown as Gross Salary. The assessee was employee of M/s Pfizer Healthcare India Pvt Ltd, Aurangabad during FY2018-19. The company launched VRS beneficial to the employees on planned closure of its unit. The assessee voluntarily resigned from service w.e.f 08.02.2019 and received compensation and out of that compensation he claimed Rs.30,49,176/- being salary claimed in Advance as exempt u/s 89 from taxation in his ITR u/s 139(1) of the Act.*
>
> *........*
>
> *14. The submissions made by the assessee have been examined. As the assessee has submitted corroborative and binding judicial pronouncements in support of his claim that the amount of Rs.30,49,176/- received by him from his employer at the time of cessation of his employment due to closure of the manufacturing unit was a capital receipt, not subject to tax. The assessee has also placed reliance on various case laws, in support of his above claim, and court has held as under "The amounts received were due to loss of employment & not recurring in nature & are not paid in lieu of any salary hence it does not come under the preview of sec. 17(3)(i) as amount of compensation. The said amounts have not been paid against any services of the assessee. Hence the same is not compensation as contemplated under the provisions of sec. 17(3)(i)." As the various courts have allowed the claim that the amount received at the time of cessation of his employment due to closure of the manufacturing unit as capital receipt during assessment proceedings in the cases referred by the assessee, the AO's has duly accepted the above claims of the respective assessee, which are very similar cases as that of the assessee's instant case. Hence, the reopened assessment proceedings in the case of the assessee, is hereby proposed to be completed by accepting the income returned by the assessee in response to 148."*

25. In the remaining cases also, the respective AOs have treated such compensation as capital in nature. We, therefore, find merit in the arguments of the Ld. Counsel for the assessee that when the concerned AOs after reopening of the assessment have treated such compensation as capital in nature and the Revenue has not challenged the same and which has attained finality since no 263 proceedings have been initiated, therefore, the assessee's case being identical to the facts of the other employees of Pfizer Healthcare India Pvt. Ltd., the CIT(A) / NFAC is not justified in sustaining the addition made by the Assessing Officer.

26. We further find the Hon'ble Calcutta High Court in the case of CIT vs. Ajit Kumar Bose (supra) has observed as under:

> *"4. The amount in question was received by the assessee from his employer. It was received by him in connection with the termination of his service. But the question still remains whether it was compensation. Since it was received by the assessee in connection*

with the termination of his employment, the term "compensation" would be referable to that event. In other words, it is to be seen whether the amount was paid as compensation for the termination or in lieu of the termination of the employment.

5. The letter issued by the employer dated July 3, 1969, stated that the amount was being paid ex gratia. There is nothing to indicate that the assessee was entitled to continue in the employment of the company up to any particular age. Under the conditions of service, his services were liable to be terminated on giving three months' notice without assigning any reason. Under the circumstances, it cannot be said that the assessee was entitled to remain in service for any period longer after the requisite notice has been given or that the employer was under any obligation to pay anything to the assessee in connection with the termination of his employment other than the salary for the period of notice. Under the circumstances, in its true nature and character, the payment was ex gratia, that is to say, totally voluntary; it was not compensation which implies some sort of an obligation to pay.

6. In this view, it cannot be said that the amount in question was profits in lieu of salary within the meaning of Clause (3) of Section 17. It was not taxable as such. The finding of the Tribunal that the amount was a capital receipt or that it was payment of a casual and non-recurring nature was in the circumstances not necessary. We, hence, do not express any opinion on it.

7. The question of law referred to us in this case, namely :

> *"Whether, on the facts and in the circumstances of the case, the amount of Rs. 24,933 received by the assessee could be treated as income under the charging section or under the section dealing with the computation of income of the assessee ?"*

8. is answered in the negative, in favour of the assessee and against the Department."

27. We find the Delhi Bench of the Tribunal in the case of ITO vs. Avirook Sen (supra) at para 12 of the order has observed as under:

> *"12. As the payment of ex-gratia compensation was voluntary in nature without there being any obligation on the part of employer to pay further amount to assessee in terms of any service rule. it would not amount to compensation in terms of section 17(3)(i) of the Act. The impugned addition was rightly deleted by the Ld. CIT(A). The aforesaid point is accordingly determined against the revenue department. The appeal is accordingly not sustainable as we don't find any error of law or fact in the impugned order passed by Ld. CIT(A). The department appeal is liable to be dismissed."*

28. The various other decisions relied on by the Ld. Counsel for the assessee placed in the paper book support his case to the proposition that the payment of ex-gratia compensation received by the assessee was voluntary in nature without there being any obligation on the part of the employer to pay further amounts to the assessee in terms of any service rule and therefore, would not amount to compensation in terms of section 17(3) of the Act. We, therefore, set aside the order of the CIT(A) / NFAC and direct the Assessing Officer to delete the addition. The grounds raised by the assessee are accordingly allowed."

9. Similar view has been taken by the Tribunal in various other cases involving the similar set of facts by following the decision in the case of Ashok Raghunathrao Kulkarni (supra). Reliance may be placed on the decision of the Tribunal in the case of Shrikant Anantrao Zori Vs. ITO in ITA No. 798/PUN/2024 for AY 2020-21, dated 28.01.2025, Atul Shashikant Garbhe Vs. ITO in ITA No. 863/PUN/2024n for AY 2019-20, dated 17.09.2024, Prasad Vijaykumar Kulkarni Vs. ITO in ITA No. 850/PUN/2024 for AY 2019-20, dated 17.09.2024 and Parna Vasudevaiah Vs. ITO in ITA No. 456/PUN/2024 for AY 2019-20, dated 22.05.2025.

10. As regards invocation of provisions of section 56(2)(xi) of the Act, we find some force in the arguments advanced by the Ld. AR that the provisions of section 56(2)(xi) of the Act would not be applicable in the instant case since as per the Scheme pursuant to which the assessee has received the impugned amount, there is no termination of employment and the assessee has voluntarily retired/resigned from the company.

11. Section 56(2)(xi) of the Act reads as under:

> *"2...[(xi) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto.]...."*

12. Now coming to relevant clause of the Scheme i.e. clause 11 (viii) (placed on page 195 of the paper book) which reads as under:

> *"(viii) All Employees who opt for voluntary retirement under the Scheme will not be entitled to any compensation or notice pay under the provisions of the Industrial Dispute Act, 1947 as their cessation from the employment constitutes "resignation" and does not constitute "retrenchment" or "termination of employment" by the Company".*

13. From the conjoint reading of the relevant clause of the Scheme and the provisions of section 56(2)(xi) of the Act, we find some force in the argument advance by the Ld. AR that the retirement of the employees under the Scheme does not amount to retrenchment or termination of employment by the company but the assessee in the present case has voluntarily retired as per the terms of settlement entered with Pfizer India. Accordingly, as per the Scheme, there is no termination of employment and the assessee has voluntarily retired/resigned from the company. We also find some force in the contention of Ld. AR that the Act has specifically

provided for a scheme of taxation in the case of voluntarily retirement vis-à-vis termination of employment separately which is emanating from the provisions of section 10(10C) and section 80JJAA(2)(iii)(b) of the Act as argued by the Ld. AR. It is not disputed that the employment of the assessee has not been terminated by Pfizer India but the assessee opted for voluntarily retirement under the Scheme which was voluntarily offered to the assessee.

14. The above contention of the assessee finds support from the order of the Co-ordinate Bench of the Tribunal in the case of Ashok Raghunathrao Kulkarni (supra) (page 37-52 of the Legal Compilation refers) wherein the Tribunal in para 13 and 28 thereof, under the similar set of facts as that of the assessee in the present appeal, observed and held as under:

> *"13. Referring to other terms and conditions as per clause (11), the Ld. Counsel for the assessee drew the attention of the Bench to the sub-clause (viii) of the same, which reads as under: "(viii) All Employees who opt for voluntary retirement under the Scheme will not be entitled to any compensation or notice pay under the provisions of the Industrial Dispute Act, 1947 as their cessation from the employment constitutes "resignation" and does not constitute "retrenchment" or "termination of employment" by the Company".*
>
> *28. ....the paper book support his case to the proposition that the payment of ex-gratia compensation received by the assessee was voluntary in nature without there being any obligation on the part of the employer to pay further amounts to the assessee in terms of any service rule and therefore, would not amount to compensation in terms of section 17(3) of the Act. We, therefore, set aside the order of the CIT(A) / NFAC and direct the Assessing Officer to delete the addition. The grounds raised by the assessee are accordingly allowed."*

15. We further find that in case of various other employees of Pfizer India who have received similar compensation from the company, the amount received by the assessee's as per the Scheme have been accepted as capital receipt by the respective Assessing Officer(s) in reassessment proceedings and no addition has been made in the hands of the concerned assessee's (pages 1-123 of paper book II refers). Further various Co-ordinate Bench(es) of the Tribunal in the cases referred to in Para 5 of this order (supra) in similarly placed employees have also treated such amount received by the assessee as capital in nature not chargeable to tax. Thus, in our view, both the lower authorities have failed to follow the principle of consistency and the binding precedence on the impugned issue and hence the impugned addition by the Ld. CIT(A)/NFAC is unjustified and deserves to be deleted.

16. In view of the factual matrix of the case and legal position set out above and in the absence of any contrary material/decision brought on record by the Revenue, we set aside the order of the Ld. CIT(A)/NFAC and direct the Ld. AO to modify the assessment accordingly. Accordingly, the effective grounds raised by the assessee are allowed.

17. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 09th June, 2026.

Sd/-	Sd/-
(R.K. Panda)	(Astha Chandra)
VICE PRESIDENT	**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 09th June, 2026.
रवि

Ravi Kumar
Digitally signed by Ravi Kumar
Date: 2026.06.10 16:52:42 +05'30'

<u>आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :</u>

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune