

**UNITED FORUM OF BSNL EXECUTIVES' ASSOCIATIONS(CHQ)
NEW DELHI**

No. UF/CHQ/PERQ/2007-08

Dated 29-11-2007

To
Shri Kuldeep Goyal
Chairman-cum-Managing Director,
BSNL,
New Delhi 110 001

**Subject: - Valuation of Perquisites of Accommodation in respect of BSNL
Employees in occupation of staff quarters for the purpose of I.Tax – Reg.**

Ref :- BSNL CO letter no.1001-06/2005/Taxation/BSNL/SAL-IT/ACC.PERQ/ 847
dated 27-11-2007.

Sir,

We are constrained to bring to your kind notice that in the above cited reference and subject mentioned, BSNL CO has conveyed the final decision to deduct the value of perquisites towards the accommodation provided to its employees on 27.11.07. In this connection this Association has earlier made several communications but ignoring the facts, the above arbitrarily order has been issued which has caused serious frustration and resentment amongst the BSNL Employees.

The 15% Income Tax on account of perquisite for residential quarter, as decided by Govt. of India should not be deducted from the salary of the executives, who are working in BSNL and residing in quarters provided by BSNL. The following are further submitted for kind consideration:

1. That the argument on which recoveries propose treating quarters as concessional one has been demolished due to declaration of quarters as non-concessional by concerned Building Work Division of BSNL Corporate Office. vide letter Number 1001-06/2005/Taxation/BSNL/SAL-IT/ACC-perq/424 dated 14-03-2007 BSNL CO has already clarified that there is no concession in the matter of accommodation provided by the BSNL to its employees and accommodation provided to the employees by the BSNL is purely on commercial interest of BSNL. Hence they do not come under the preview of Income Tax on account of such accommodation.

2. BSNL employees have not been provided furnished accommodation and are strictly at par with Central Govt./State Govt. employees in so far as the allotment procedure, schedule of accommodation, license fee etc. are concerned. Most of the BSNL employees are residing in the same Central Govt./P&T accommodation which they were occupying prior to their absorption in BSNL on 01-10-2000. Such employees are being forced to deposit the tax liability on accommodation for past 7 years immediately and even in installments by March 2008. The employees are not in a position to bear this huge liability and will land up in financial mess by forcing them to take loan to pay this liability for no fault on their part.
3. BSNL employees who have been provided with accommodation are paying standard rent by way of deduction of HRA as per entitlement and additional license fee at par with Central/State Govt. employees. It was confirmed by BSNL vide its notification No. No.1001-06/2005/Taxation/BSNL/SAL-IT/ACC.PERQ/424 dated 14-03-2007 that accommodation provided to BSNL employees is not "confessional in the matter of rent" as such not taxable.
4. BSNL employees were not intimated of the liability on account of perquisites towards occupation of the quarters when they were absorbed in the BSNL during 2004 only or when they were allotted the accommodation. The recovery of TDS on account of perquisite was for the first time confirmed and intimated vide BSNL (HQ) No.1001-06/ 2005/ Taxation/ BSNL/SAL-IT/ACC.PERQ/641 dated 16-07-2007 i.e. in F.Y.2007-08 and detailed clarifications from CBDT were notified on 27.11.07 only. Hence any tax liability on this account prior to F.Y.2007-08 lies with BSNL.
5. It is understood that title of land in which the erstwhile P&T Quarters have been constructed as per Central Govt. norms has not yet been transferred to BSNL
6. Consequent upon amendment in I.T. Act, the tax liability of Govt. P.S.U. employee has been made at par with Private Sector employees to whom furnished accommodation is provided as perk. It is understood that the Lump sum Salary Package of Private Sector employee includes the element of House Rent Allowance. As such the private sector employees are drawing HRA along with the facility of rented/ leased/ company owned accommodation. But in case of an employee of Govt. P.S.U. HRA is not admissible as per Govt. rules. As the Salary Structure of Govt. P.S.U. and Private Sector is not at par, the tax liability cannot logically be equated
7. It is also not out of context to mention that the Central Govt. employees while opting for absorption in BSNL would have surely taken into account the future benefits. Application of any rule with retrospective effect is bound to upset the calculations and the absorbed employees will be put to great hardship which is not at all justified. Had this fact been made known before hand, many of the Govt. employees would have not opted for BSNL. BSNL and Govt. is duty bound to save the interest of employees who have sacrificed their Govt. status to join BSNL.
8. The PSU employee is treated at par with private sector on applicability of relevant Income Tax Rules, the discrimination with respect to relative entitlement towards the benefits accrued is not considered by the Govt.

We would therefore, request you to kindly intervene in the matter urgently so that the matter is again taken up with C.B.D.T. against the discrimination in applicability of Income tax towards perquisite of BSNL employees and the employees of private sector. And no Income Tax recovery should be made on account of perquisite since A.Y. 2002-03 (F.Y. 2001-02) from BSNL employees till a final decision is obtained from CBDT on above stated reference. However, in case the deduction of tax is not stopped as requested as above. it is further requested at least not to recover the past arrears of Income Tax up to F.Y.2006-07, if any, towards valuation of perquisites of accommodation in respect of BSNL employees. Any recovery from the retrospective date will be a great injustice as they have been denied a fare chance of choosing the option of hiring a private accommodation or PSU/Govt. accommodation. There was every likelihood that if the gross sum payable in form of forgoing HRA, payment of licence fee and income tax been more than the prevalent rent for private accommodation, the employees might have gone for private one and not PSU/Govt. accommodation. Having agreed that there is no concession in the matter of rent, the arrear for the past years will be a big drain on paying capacity of the employees; hence the company should bear the tax liability on this account.

With kind regards

Yours sincerely

(Prahlad Rai)
G.S.AIBSNLEA

(G.L.Jogi)
G.S.SNEA(I)

Copy to:-1. Director (Finance) C.O. BSNL New Delhi
2. DDG (Taxation) C.O. BSNL New Delhi
3. DDG (CA), C.O. BSNL New Delhi