IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

Before Shri G.S. Pannu, Accountant Member
and Ms. Sushma Chowla, Judicial Member.

ITA.No.2058/PN/2013
(Asstt. Year : 2006-07)

Dattatray Rajaram Sapre,
Sadicch Bunglow,
At Post : Devrukh,
Tal : Sangameshwar,
Ratnagiri-418504
PAN No.ACTPS1975R .. Appellant

Vs.

Dy.CIT, Ratnagiri Circle,
Ratnagiri .. Respondent

Assessee by	:	Shri Dattatray Rajaram Sapre
Respondent by	:	Shri P.S. Naik
Date of Hearing	:	01-01-2015
Date of Pronouncement	:	18-02-2015

ORDER

PER G.S. PANNU, AM:

This appeal by the assessee is against the order of the CIT(A), Kolhapur dated 11-09-2013 which in turn has arisen from the order passed by the Assessing Officer u/s.143(3) of the Act dated 29-12-2010 pertaining to A.Y. 2006-07.

2. In brief, the facts are that the assessee was an employee of State Bank of India and derives income from salary. He filed his original return of income on 31-07-2006 declaring total income of Rs.6,25,020/-. He filed revised return of income on 31-03-2008 declaring total income of Rs.3,16,170/- and has claimed exemption of Rs.3,15,600/- under section 10(10C) of the I.T. Act. The assessee relied on the CDBT Circular F.No.200/34/2009-ITA-1, dated 06-10-2009 and also the decision of Hon'ble Bombay High Court in the case of CIT Vs. Koodathil Kallyatan Ambujakshan 39 ITR 113. Rejecting the explanation of the assessee and

relying on the decision of Hon'ble Madras High Court in the case of CIT Vs. M. Challadurai and Others (21009) 317 ITR 370, the Assessing Officer held that assessee did not comply with the conditions prescribed in Rule 2BA referred to the provisions of section 10(10C) and Rule 2BA of the Exit Option Scheme of State Bank of India and disallowed the claim of the assessee. However, the Ld.CIT(A) upheld the order of the Assessing Officer.

3. After going through the rival submissions and material on record, we find the issue is squarely covered by the decision of the Coordinate Bench of the Tribunal in the case of Mrs. Kalika Ravindra Mogare Vs. ITO in ITA No.2106/PN/2013 order 30-10-2014. The relevant discussion of the Tribunal is as under :

> *"3. We have heard the parties and perused the record. The Ld. Counsel submits that issue stands squarely covered in favour of the assessee by the decision of this Tribunal in the case of other Employees of SBI as well as the decision of the jurisdictional High Court in the case of Koodathil Kallyatan Ambujakshan (Supra).*
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> *4. Per Contra the Ld. Departmental Representative submits that it is specifically pointed out by the Assessing Officer as well as the Ld.CIT(A) that the conditions laid down in Rule 2BA are not fulfilled. He pleaded for confirming the order of the Ld. Commissioner.*
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> *5. We find that this issue stands squarely covered in favour of the assessee in respect of the another employees of the State Bank of India who had opted for the Voluntary Retirement under the 'Exit Option Scheme' floated by the SBI in the case of ITO, Ward-2(2), Kolhapur Vs. Shri Vijay Ganpatrao Patil vide ITA No.1045/PN/2011 order dated 29-08-2012. In the case cited (Supra), he was also an employee of the SBI opted for the Voluntary Retirement as per the Exit Option Scheme (EOS) declared by the Bank-Employer. In the said case, the Ld.CIT(A) has allowed the claim of the assessee by following the decision in the case of Koodathil Kallyatan Ambujakshan (Supra). So far as present assessee is concerned, we find that the CIT(A) Kolhapur has adopted different approach eventhough the assessee is the employee of the SBI and opted for the Voluntary Retirement under the EOS. In our opinion, the assessee's case is squarely covered by the decision of the jurisdictional High Court in the case of Koodathil Kallyatan Ambujakshan (Supra) which has been approved by the Hon'ble Supreme Court in the case of Chandra Ranganatha (Supra). In the case of Koodathil Kallyatan Ambujakshan (Supra), the respective assessee was the employee of the RBI. So far as the SBI is concerned, to our understanding, the Exit Option Scheme is analogous to that of the RBI. Moreover, in our opinion, the 'Exit Option Scheme' of the SBI comply with all the conditions laid down in Rule 2BA of the I.T. Rules. We, therefore allow the ground taken by the assessee and direct the Assessing Officer to allow the basic exemption u/s.10(10C) of the Act.*

6. In the result, assessee's appeal is allowed."

4. Following the aforesaid precedent, we set aside the order of the CIT(A)and direct the Assessing Officer to delete the addition of Rs.3,15,600/-

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

Order pronounced on 18th February, 2015.

Sd/-	Sd/-
(SUSHMA CHOWLA)	**(G.S.PANNU)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

satish/sujeet
Pune, dated 18th February, 2015

Copy of the order is forwarded to:

1. The Assessee
2. The Department
3. The CIT(A), Kolhapur.
4. The CIT, Kolhapur.
5. The DR "A" Bench, Pune.
6. Guard File

By Order

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Assistant Registrar,
ITAT, Pune Benches, Pune