



**ALL INDIA  
BHARAT SANCHAR NIGAM LIMITED  
EXECUTIVES' ASSOCIATION  
CENTRAL HEADQUARTERS  
NEW DELHI**

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No. AIBSNLEA/CHQ/CMD/Perquisite /2007-08/

Dated: 22.02.2008

To,

**The CMD  
BSNL,  
New Delhi**

**Sub :-Genuine hardship caused to BSNL employees residing in BSNL accommodation due to introduction of amendment through Finance Bill 2007 effective from. 01-04-2001**

Sir,

It is submitted that while formation of BSNL as Public Sector Enterprises w.e.f. 01-10-2000, the employees were assured that the allottees of BSNL quarters will continue to occupy the same on "as is where is basis". Accordingly, all Rules/ Regulations/ Procedures pertaining to allotment of quarter, schedule of accommodation and recovery of License fee as applicable for Central Govt. employees are strictly being followed in BSNL.

(ii) BSNL employees occupying BSNL accommodation are foregoing the House Rent Allowance and paying standard license fee at par with Central Govt. employees, but **no deduction in value of perquisite on account of forgoing the HRA** is being allowed either as "rent recoverable from" or "rent payable by". **It is a vital fact that forgone amount of HRA (i. e. notional HRA, not being drawn) may be deemed to have been treated a part and parcel of cost of standard license fee being paid by the employee to its employer. BSNL is paying rent to Central Government for BSNL employees staying in Central Pool accommodation. This proves HRA not being drawn be treated as part of license fee being paid by employee to employer.** Had this deduction of said notional value of HRA in total value of perquisite been allowed fairly, the tax liability would have been reduced to a bearable extent. Hence, direction for allowing deduction of the notional HRA "as rent recoverable from the assessee" in terms of section 17 (2) are solicited from your worthy.

(iii) An employee who is not residing in BSNL accommodation and producing a rent receipt is being allowed deduction in total taxable income up to the limit he is entitled for HRA whereas no such deduction in the value of perquisite is being allowed treating the forgone element of HRA when an employee occupies BSNL accommodation (which is not concessional). **This is a two way treatment between an employee who is residing in private accommodation on rent basis and, another employee who is residing in BSNL accommodation on rent basis.** And this is against the law of natural justice as has been envisaged in Hon'ble Supreme court judgment in case of S L Kapoor vs. Jagmohan (copy enclosed for ready reference).

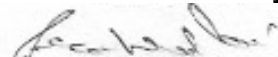
(iv) The title of the land in which BSNL quarters have been constructed is yet to be transferred to BSNL. Moreover the notional amount of HRA foregone by allottees is a profit before Tax (PBT) to BSNL. The BSNL is paying various Taxes to the tune of 40% on this notional income. Thus, the total income of BSNL is being inflated to that extent wrongly and no benefit of the same is being extended to employees. Even the entire amount of Taxes on Perquisites are paid by BSNL from its own pocket (like NTPC & others PSUs) (as per section 3.2 of 10 CC of IT act 1961), there would be reduction in the net profit as well as in Total Tax Liability of BSNL to that extent.

(v) Consequent upon introduction of amendment in Section 17(2) of Income Tax Act 1961, with retrospective effect w.e.f. 01-04-2001, BSNL employees are in great hardship due to huge recovery of Income Tax on perquisite to the tune of more than Rs.1 lakh approx. per employee towards past 7 years' arrears to be paid latest by 31-03-2008.

In view of above and in the spirit of natural justice and fairness, it is appropriate that **BSNL may bear entire TAX liabilities since 1.04.2001 on this account** and arrange to refund the deductions made for F. Y. 2007-08.

We would therefore request you to kindly consider the above grievance of employees to provide appropriate relief to uphold fairness and natural justice.

**Yours Sincerely,**



**(Prahlad Rai)**

**General Secretary**

**Copy to: -** Sh. S. D. Saxena, Director (Finance) BSNL, New Delhi