

Krishna Gopal Tiwary and Another v. Union of India and Others

Civil Appeal No. 4744 of 2021 / Arising from SLP (Civil) No. 10622 of 2017

[2021] 8 SCR 422 | 2021-08-13

Whether the 2010 statutory increase in the gratuity ceiling could be treated as effective from 1 January 2007 so that enhanced gratuity already paid under an earlier office memorandum would receive the corresponding section 10(10)(ii) exemption.

10(10)(ii)

Two-judge bench | Hemant Gupta, J. | A.S. Bopanna, J.

Assessment years: See the source-scope notes; no year inferred.

01 FACTS OF THE CASE

The appellants were Coal India employees who received enhanced gratuity under the Government's office memorandum of 26 November 2008. That memorandum raised the relevant executive and non-unionised-supervisor employment benefit to ₹10 lakh with effect from 1 January 2007. Their payments preceded commencement of the later statutory amendment, and tax had been deducted at source (paragraphs 2-5).

The Payment of Gratuity (Amendment) Act, 2010 received assent on 17 May 2010. It replaced the statutory ₹3.5 lakh ceiling with ₹10 lakh and empowered the Central Government to appoint the commencement date. The notification appointed 24 May 2010. The appellants unsuccessfully asked the Jharkhand High Court to make that change effective from 1 January 2007 and then appealed, seeking the related income-tax consequence (paragraphs 1-5).

Source: [reported judgment / paragraphs 1-6 / PDF pages 3, 4, 5 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 4(5) of the Gratuity Act preserves an employee's right to better terms under an award, agreement or employer contract. The enhanced payments under the office memorandum fell within that protection. Entitlement to receive that greater employment benefit was, however, distinct from the exemption prescribed by section 10(10)(ii). The latter referred specifically to the statutory calculation under section 4(2) and the ceiling under section 4(3) (paragraphs 6 and 12-13).

The appellants relied on Vatika's discussion of beneficial legislation and D.S. Nakara's treatment of pension cut-off dates. The Court distinguished a recurring pension entitlement from gratuity ordinarily paid once on retirement. The authorities on gratuity recognised that an already crystallised and completed payment is not automatically revised by a later change unless retrospectivity is provided. The existence of a beneficial increase did not itself move the statutory commencement back to the employer memorandum's date (paragraphs 7-14).

The Court also relied on the validity of legislative delegation to select a commencement date and on the recognition that a gratuity-benefit cut-off is not inherently arbitrary. For these payments, the statutory ₹10 lakh limit operated only from 24 May 2010. The earlier employer-policy benefit could not enlarge the specific income-tax exemption by making the later statutory change retrospective (paragraphs 13-17).

Source: [reported judgment / paragraphs 7-11 / PDF pages 5, 6, 7 / judgment](#); [reported judgment / paragraphs 12-17 / PDF pages 8, 9 / judgment](#)

03 JUDICIAL DECISION

The Court declined to treat the statutory commencement as retrospective and rejected the claim to the enhanced section 10(10)(ii) exemption for the earlier office-memorandum payments. It found no error in the High Court order and dismissed the appeal (paragraphs 17-18). This did not cancel the employees' right to receive their better contractual gratuity, or hold that the portion independently exempt under the applicable earlier statutory calculation was taxable. No individual recomputation, refund, remand or separate costs direction was made.

Source: [reported judgment / paragraphs 17-18 / PDF pages 9, 10 / judgment](#); [official signed judgment / paragraphs 17-18 / PDF pages 9, 10 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union/respondents on commencement and the claimed enhanced tax exemption

Employees' appeal dismissed; High Court order maintained

Historical retrospectivity and section 10(10)(ii) exemption claim decided

The case rejects use of the later ₹10 lakh statutory ceiling for the earlier payments; it does not abolish all gratuity exemption or certify the present ceiling.

Source: [official signed judgment / paragraphs 18 / PDF pages 10 / judgment](#)

05 AKHB REVIEW POINT

Separate the source of the employee's payment entitlement from the source of its tax exemption. Obtain the applicable service memorandum or contract, retirement and payment records, the relevant statutory calculation and ceiling, and the commencement notification. A higher employer benefit under section 4(5) does not alone increase the section 10(10)(ii) limit.

Apply the dates and statutory branch actually governing the employee; do not turn the quoted historical ₹10 lakh limit into a current ceiling, or import rules for another class of gratuity recipient. A beneficial change is not automatically retrospective. This note does not determine an individual tax computation or later refund route, and supplies no automatic Income-tax Act, 2025 mapping or current-law certificate.

Source: [reported judgment / paragraphs 6:12-17 / PDF pages 4, 5, 8, 9 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

113; 132

PROVISION-SPECIFIC SCOPE

1.

Act: Income-tax Act, 1961

Section: 10(10)(ii)

Role: principal exemption provision applied

Basis: Exemption depends on the amount calculated under section 4(2)-(3) of the Payment of Gratuity Act, not merely a more generous employer benefit.

2.

Act: Income-tax Act, 1961

Section: 113; 132

Role: quoted Vatika precedent context

Basis: Historical surcharge/search provisions appear in counsel's retrospectivity authority; no separate ruling under them.

3.

Act: Payment of Gratuity Act, 1972

Section: 4(2); 4(3); 4(5)

Role: incorporated calculation/ceiling and better contractual benefits

Basis: Statutory exemption ceiling distinguished from protected better employment terms.

4.

Act: Payment of Gratuity (Amendment) Act, 2010

Section: 1(2); 2

Role: commencement and historical ceiling amendment

Basis: Delegated commencement fixed at 24 May 2010; increase from ₹3.5 lakh to ₹10 lakh not retrospectively effective from 1 January 2007.

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Hemant Gupta, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(official signed judgment\)](#)

Identified source rendition: 10 PDF pages; SHA-256 49c7fd77e350795d26f495ce25c66aac64638c73dbeaffb930fb7f22a66a8fab. Original bytes preserved. One reportable judgment, paragraphs 1-18, physical pages 1-10; signed date and disposition on page 10. Official identity, opening facts, paragraphs 16-18 and signed outcome checked against completely read reported judicial text. No independent full rereading of every official page is claimed.

[Open cited source rendition](#)

The tax claim concerns the enhanced benefit paid before 24 May 2010. The note does not imply that all gratuity was taxable or that better contractual payment terms were invalid.

The ₹3.5 lakh and ₹10 lakh figures are historical; the judgment expressly describes the Gratuity Act text before the 2018 amendment. No current limit is supplied.

Sections 113 and 132 occur only in the discussion of Vatika; no separate search, surcharge or withholding-section holding is inferred.

Individual payment dates, retirement dates, assessment years and numerical tax liabilities are not provided and are not invented.

Reported citation verified on source cover; no unprinted neutral citation is inferred.

The judgment gives the relevant policy and statutory dates but does not identify individual assessment years or each appellant's payment date.

STATUTORY SCOPE

Historical 2008 employment memorandum, 2010 amendment/commencement and section 10(10)(ii) as discussed in the judgment.

No present gratuity ceiling or automatic 2025 Act mapping certified.

LATER TREATMENT

Source checked 2026-10-04. Later statutory ceilings, amendments, individual assessment results and subsequent judicial treatment have not been comprehensively verified. The monetary limits discussed are historical.

IDENTIFIED SOURCE LINKS

[official signed judgment - PDF pages: 10](#)

SHA-256: 49c7fd77e350795d26f495ce25c66aac64638c73dbeaffb930fb7f22a66a8fab

[reported judgment - PDF pages: 10](#)

SHA-256: 33bcaab63c0378a1c43d15f79fd332652525d797d1c85f41b4a6bc99a941a18c

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