

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: "SMC" NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER**

**ITA No.6322/Del/2025  
Assessment Year: 2016-17**

Jeanne Lee cantrill, American Embassy School, Chanakyapur, South West Delhi, Delhi-110021	<b>Vs.</b>	DCIT, Circle-67(1), Civic Centre, New Delhi-110002
<b>PAN: BGPPC1642C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	Ms. Preeti Goel, AR
<b>Department by</b>	Sh. Manoj Kumar, Sr. DR

<b>Date of hearing</b>	26.11.2025
<b>Date of pronouncement</b>	26.11.2025

**ORDER**

This assessee's appeal for assessment year 2016-17, arises against the CIT(A)/NFAC, Delhi's DIN & order No . ITBA/NFAC/S/250/2025-26/1079390369(1) dated 07.08 .2025, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused

2. It emerges during the course of hearing that the assessee/appellant; who is stated to be an american national and working with American Embassy School in New Delhi, is aggrieved against both the lower authorities' action assessing her

pension amount of Rs,28,37,342/-, as taxable in India; in assessment order dated 13.12.2018 upheld in the lower appellate discussion.

3. That being the case, the tribunal's attention is first invited to page 20 of the paper book wherein the assessee is stated to be a pensioner in United States of America i.e. Public Employees' Retirement Association,1301 Pennsylvania ST, Denever CO 80203; with an amount of 43042.20 \$ in US. There is further no dispute between the parties that the very amount comes to Rs.28,37,342/- when converted to indian currency at that point of time. The Revenue's case in this factual background is that once the assessee has received the impugned sum in India, the same is very much taxable in India as well.

4. This Tribunal finds no merit in the Revenue's foregoing submissions. This is for the precise reason that India USA Double Taxation Avoidance Agreement "DTAA" in Article-19(2) itself exempts such a pension from being assessed in the other "contracting" state as under:-

ARTICLE 19

**REMUNERATION AND PENSIONS IN RESPECT OF  
GOVERNMENT SERVICE**

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services

rendered to that State or sub-division or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who :

- (i) is a national of that State ; or
- (ii) did not become a resident of that State solely purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 16 (Dependent Personal Services), 17 (Directors' Fees), 18 (Income Earned by Entertainers and Athletes) and 20 (Private Pensions, Annuities, Alimony and Child Support) shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.”

5. This tribunal therefore finds merit in the assessee's instant sole substantive grievance in light of section 90(2) of the Act to conclude that once the above DTAA's provisions are more beneficial to her which would prevail over the normal provisions in very terms. The impugned addition of Rs.28,37,342/- in very terms. Ordered accordingly.

6. The assessee's appeal is allowed.

***Order pronounced in the open court on 26<sup>th</sup> November, 2025.***

**Sd/-  
(SATBEER SINGH GODARA)  
JUDICIAL MEMBER**

Dated: 26<sup>th</sup> November, 2025.

*Shekhar*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi