



MTNL EXECUTIVES' ASSOCIATION

Central Headquarters, New Delhi

(Registered under the Trade Union Act 1926, reg no-ALC/Karyasan-17/9715)
[Affiliated to National Confederation of Officers' Associations (NCOA)]

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President

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V.K.TOMAR
General Secretary MEA
Secretary General NCOA
President AIPCO

Ref. No.: MEA/CHQ/CMO

DATE : 02-07-19

To

Shri P K Purwar
Chairman and Managing Director,
MTNL, New Delhi.

Sub: Wrong deduction of Perquisite Tax from the salary of MTNL employees, allotted MTNL Quarters. MTNL also can save huge payment towards Perquisite Tax:

It is learnt that Perquisite Tax is being deducted from the salary of the employees having MTNL accommodation. In this respect, the following facts are submitted which establishes that MTNL employees allotted quarters need not pay Perquisite Tax as per rules.

1. Under section 17(2) of IT Act, Perquisites includes value of rent free accommodation provided to the employees by his employer. Value of any concession in the matter of rent in respect of any accommodation provided to the assessee by his employer (**copy enclosed**).
2. Further Hon IT Tribunal, Indore vide its order dated 25.10.2010 in ITA Nos 260 to 266/Ind/2010 in the matter of BSNL Vs ACTT (TDS) (**copy enclosed**) has held that:

"----- We also find that the assessee BSNL has not provided any concession on rent to its employees as perquisites is actually not a payment but a benefit in terms of money the assessee was not required to deduct tax for accommodation provided to their employees as there was no concession and rule 3 has no applicability. License Fee was fixed for each type of accommodation allotted to the category of employees and there was no concession in the matter of rent i/r/o any accommodation provided by the assessee to its employees. In these circumstances provision of Rule 3 would not be applicable and in such circumstances as held by certain decisions that residential facility provided by the employer to the employee is not a "perquisite" within the meaning of Income Tax laws -----."

3. In another case pertains to M/s HMT Ltd, another PSU, Pr Chief Commissioner of Income Tax, Karnataka, Goa at Bangalore issued a letter which states that:

"Since, the company has not provided the quarters to their employees at rent free or at concessional rent basis as per section 17(2) of the Income Tax Act and is deducting standard rent from their salary and no HRA is being paid. I am directed to inform that no perquisites on accommodation need to be added to the salary of the employees for the purpose of calculating Income Tax on those who are staying in quarters provided by the company after paying standard rent fixed by the company and HRA not being drawn by them". (Copy of Income Tax department letter No. ITO/PR/CLFN/2016-17 dated 21/02/2017 enclosed).

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Further, besides deduction of full HRA, the employees are paying Licence Fee /Rent, water and electricity charges, etc.

Since i) no rent free accommodation or concession is provided to the employees, ii) the employees paid the License Fee as required for each quarters and iii) no furnished accommodation is provided to the employees, the employees and MTNL is not liable to pay Perquisites Tax under section 17(2) of the Income Tax Act and Hon Court order.

In view of the above, it is requested to take necessary action to stop deduction of Perquisites Tax and get refund from Income Tax Department, the Perquisites Tax already paid by the employees and MTNL.

With kind regards,

Yours sincerely



(V K Tomar)

Copy to :

1. Director (HR) for n/a pl
2. Drector (Fin) for n/a pl
3. Director (Tech) for n/a pl