

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH, NEW DELHI  
BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER, AND SHRI  
NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 2695/DEL/2024 [A.Y 2015-16]

Kanta Rani Yadav  
H-35/IA, H Block,  
DLF Phase-II Sector 26,  
Gurgaon, Haryana

Vs.

The P.C.I.T  
Faridabad

PAN: AAUPR 0861 J

(Applicant)

(Respondent)

Assessee By : None

Department By: Shri Dayainder Singh Sidhu, CIT-DR

Date of Hearing : 03.01.2025

Date of Pronouncement : 22.01.2025

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the Id. PCIT,  
Faridabad u/s 263 of the Income Tax Act dated 21.03.2024 pertaining to  
A.Y 2015-16.

2. The assessee has been issued several notices on the address given in the Form 36. There has been no response from the assessee compelling us to decide the issue ex-parte on the basis of materials on record.

3. The grounds raised by the assessee read as under:

*"1. On the basis of Facts & circumstances of the case there is no legal warrant or valid justification on the part of learned The PCIT to make addition of Rs.17,20,330/- being interest on enhanced compensation on acquisition of agriculture land u/s 28 of Land Acquisition Act, 1894 claimed as exempt in return filled. The action of learned the PCIT is totally unlawful, unjustified and unreasonable. Whereas I had also presented before him the several orders passed by the ITAT, in which clearly written that compensation & enhanced compensation on compulsory acquisition of agriculture land u/s 28 of Land Acquisition Act, 1894 is exempt from tax. The addition of Rs.17,20,330/- (50% of Rs.34,40,660/) made on this account deserves to be deleted.*

*2. On the basis of Facts & circumstances of the case there is no legal warrant or valid justification on the part of learned the PCIT to treat the said interest of Rs.34,40,660/- granted U/s 28 of Land Acquisition Act, 1894 as income from other source U/s 56 of the Act and allow deduction U/s 57 of the Act i.e. 50% of the said amount and not allowing the said amount as exempt u/s 10(37) of the Act as claimed in the return. The claim of the assessee deserve to be allowed."*

4. The Id DR assisted the Bench with the facts of the case. It is submitted that the assessee had not filed any return of income for AY 2015-16. On the basis of AIMS information that the assessee had received interest of Rs 46,27,628/-, the AO issued notice u/s 148 in response to which the assessee filed a return declaring income of Rs 12,06,370/- being income from other sources. The AO also held that a further amount of Rs 51,41,244/- received by the assessee as enhanced compensation for land acquired under LAA, was exempt from tax u/s 10(37) in view of the decision of Supreme Court in the case of *CIT V Ghanshyam (HUF)*.

5. It is against this decision of the AO regarding non-taxability of interest on enhanced compensation, the PCIT invoked his power u/s 263 of the Income Tax Act and held that the order of the AO was erroneous insofar as prejudicial to the interest of the Revenue and set aside the order of the AO directing him to pass a fresh assessment order. Aggrieved by the order of PCIT u/s 263 dated 21.03.2024, the assessee is before us.

6. As per the grounds of appeal, we find that in the present case, the assessee during the year has received interest amounting to Rs. 34,40,660/- granted u/s 28 of the Land Acquisition Act, 1984 (hereinafter LAA) on enhanced compensation for acquisition of agricultural land which the assessee claimed as exempt u/s 10(37). The PCIT invoking the provision of section 263, directed the AO to treat the interest of Rs 34,40,660/- as income from other sources under amended provisions of section 56(viii) r.w. section 145B and allowing 50% deduction u/s 57(iv) of the Income Tax Act.

7. We have heard the submissions of the ld DR and have perused the relevant material on record. In the present case it is not in dispute that the assessee received interest u/s 28 of the Land Acquisition Act, 1984 during the year on enhanced compensation for acquisition of land. The issue for adjudication in the present *lis* is whether the interest received under section 28 of the Land Acquisition Act on enhanced compensation for acquisition of land, is exempt u/s 10(37) or will be exigible to tax under the "income from other sources" in view of amendment w.e.f 01.04.2010 in the provisions of section 56(2)(viii) and 57(iv) of the Act.

8. Before proceeding further, we find it appropriate to deal with the various provisions of the laws that comes under play in the present controversy. The two sections that deals with the interest on compensation in the Land Acquisition Act, 1894 are section 34 and section 28. The section 34 of the Land Acquisition Act provides for payment of interest on delayed payment of compensation and Section 28 of the Land Acquisition Act provides for the interest on enhanced compensation awarded by the Court. The sections 28 and 34 of the Land Acquisition Act read as under: -

*"28. Collector may be directed to pay interest on excess compensation.— If the sum which, in the opinion of the court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into Court."*

*"34. Payment of interest.— When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per centum per annum from the time of so taking possession until it shall have been so paid or deposited."*

*Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part*

*thereof which has not been paid or deposited before the date of such expiry."*

9. The taxability of interest on delayed payment of compensation u/s 34 of LAA was not under dispute. The controversy raised is with regard to the taxability of the interest received on enhanced compensation u/s 28 of LAA. This issue of taxability of interest received on enhanced compensation u/s 28 of LAA came up for consideration, way back in 1964, by a three judge bench of the hon'ble Supreme Court in the case of *Sham Lal Narula (Dr.) v. CIT* [(1964) [53 ITR 151](#)]. The hon'ble Court considered the interest under Section 28 of the Act of 1894 to be analogous to the interest under Section 34 of the Act, and held that the same did not form part of compensation. The relevant extract of the said decision is culled out as under:-

*"9. ---As we have pointed out, earlier, as soon as the Collector has taken possession of the land either before or after the award the title absolutely vests in the Government and thereafter the owner of the land so acquired ceases to have any title or right of possession to the land acquired. Under the award he gets compensation for both the rights. Therefore, the interest awarded under Section 28 of the Act, just like under Section 34 thereof, cannot be a compensation or damages for the loss of the right to retain possession but only compensation payable by the State for keeping back the amount payable to the owner.---*"

10. The decision in *Sham Lal Narula* (supra) was subsequently followed by the Hon'ble Supreme Court in the case of *Bikram Singh v. Land Acquisition Collector* [(1997) 10 SCC 243], wherein, it was held that interest under Section 28 of the Act of 1894 was in the nature of a revenue receipt and hence, the same was considered to be taxable. This position of law has been consistently reiterated by the Supreme Court in the case of *T.N.K. Govindaraju Chetty v. CIT* [(1967) 66 ITR 465 : AIR 1968 SC 129], *Rama Bai v. CIT* [1990 Supp SCC 699 : (1990) 181 ITR 400] and *K.S. Krishna Rao v. CIT* [[1990] 84 CTR 144/181 ITR 408/[1991] 54 Taxman 339 (SC)].

11. It was in 2009 that the Hon'ble Supreme Court in the case of *Ghanshyam HUF* (supra) grappled with issue “whether additional amount received under section 23(1A), solatium under section 23(2), interest paid on excess compensation under section 28 and interest under section 34 of the 1894 Act, could be treated as part of the compensation under **section 45(5) of the 1961 Act?**” The Hon'ble Court answered in affirmative that the “interest under Section 28 unlike interest under Section 34 is an accretion to the value, hence it is a part of enhanced compensation or consideration which is not the case with interest under Section 34 of the 1894 Act. So also additional amount under Section 23(1A) and solatium under Section 23(2) of the 1961 Act

forms part of enhanced compensation under **Section 45(5)(b) of the 1961 Act**”.

12. We are of the considered opinion that the decision of ***Ghanshyam HUF*** was dealing with the taxability of interest on enhanced compensation under section 28 of the Land Acquisition Act under capital gains under section 45(5)(b) of the Act only, before the amendment in the provisions of section 56(2)(viii) and 145B(1) of the I T Act with effect from 01.04.2010. In this case, the hon’ble Supreme Court had no occasion to deal with the issue of taxability of interest received under section 28 of LAA as ‘income from other sources’ especially after the amended provision of section 56(2)(viii) and 145B(1) of the I T Act with effect from 01.04.2010.

13. It was in 2010, to align the law with the legislative intent, the Parliament brought in an amendment into clause (viii) of sub-Section 2 to Section 56 of the Act, vide Finance (No.2) Act, 2009 (with effect from 01.04.2010) and section 145B(1) of the Income Tax Act to bring the interest on compensation or on enhanced compensation as taxable as ‘income from other sources’. The relevant provisions for deciding this case are extracted hereunder:



*"56. Income from other sources: -*

*(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the following incomes shall be chargeable to income tax under the head "Income from other sources", namely: --*

*(viii) income by way of interest received on compensation or on enhanced compensation referred to in [sub-section (1) of Section 145-B]."*

Section 145B of the Act reads as under: -

*"[145B. Taxability of certain income: -*

*(1) Notwithstanding anything to the contrary contained in Section 145, the interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.]*

Section 10(37) of the Act reads as under: -

*"Incomes are not included in total income.*

*10(37) in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where—*

- i. such land is situated in any area referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of section 2;*
- ii. such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;*
- iii. such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India;*
- iv. such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.*

14. From the study of law as it exists today, we are of the considered view that the legal position has undergone a sea change in the present with the amendment brought in the statute in section 56 and 145B. The Delhi High Court in the case of *Inderjit Singh Sodhi (HUF)* reported in [2024] 423 ITR 13 (Delhi), and the Punjab and Haryana High Court in the case of *Mahender Pal Narang* [2021] 415 ITR 215 (P & H) have deliberated on the issue at hand. It was held by both the Delhi High Court and the Punjab and Haryana High Court that the decision of the hon'ble Supreme Court in the case of *CIT Vs. Ghanshyam Dass HUF* (supra) pertained to the law which existed prior to the amendment in section 56(2)(viii) and 145B(1) of the Income Tax Act.

15. The hon'ble Delhi High Court in the case of *Principal Commissioner of Income-tax 10 v. Inderjit Singh Sodhi (HUF)* reported in [2024] 423 ITR 13 (Delhi), deliberated at length on the issue at hand as follows:

*"22. However, vide Finance (No.2) Act, 2009 (with effect from 01.10.2010), Clause (viii) of sub-Section 2 to Section 56 of the Act was inserted and the same is extracted hereunder as:-*

*"56. Income from other sources.-*

*\*\*\**

*(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the following incomes shall be chargeable to income tax under the head "Income from other sources", namely:-*

*\*\*\**

*[(viii) income by way of interest received on compensation or on enhanced compensation referred to in [sub-section (1) of Section 145-B].]"*

**23.** *For the sake of clarity, Section 145-B of the Act is reproduced as under:-*

*"[145-B. Taxability of certain income.-(1) Notwithstanding anything to the contrary contained in Section 145, the interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.*

*(2) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.*

*(3) The income referred to in sub-clause (xviii) of clause (24) of Section 2 shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.]"*

**24.** *A conjoint reading of the aforementioned provisions i.e., Sections 56(2)(viii) and 145-B of the Act vividly stipulate that the income received by way of interest on compensation or on enhanced compensation shall be chargeable to tax under the head 'income from other sources'. Therefore, since the position with respect to the imposition of tax on interest on compensation or enhanced compensation, as it exists today, came into being only in the year 2010, the conclusions drawn from the decision in Ghanshyam (supra), which was passed in the year 2009, are unsustainable in the facts of the present case.*

**25.** *Further, much reliance has been placed by the ITAT upon the decision of the Hon'ble Supreme Court in the case of Ghanshyam (supra) to hold that the interest on enhanced compensation received under Section 28 of the Act of 1894 is exigible to tax on receipt basis. However, a deeper analysis of the decision in Govindbhai Mamaiya (supra) would show that it does not deal with any*

issue pertaining to the change in the taxability, put in place through the concerned amendment of 2010. Therefore, the said decision lacks any applicability in the facts and circumstances of the present case.

26. Notably, a three-Judges Bench of the Hon'ble Supreme Court in the case of *Sham Lal Narula (Dr.) v. CIT* [(1964) [53 ITR 151](#)], while considering the interest under Section 28 of the Act of 1894 to be analogous to the interest under Section 34 of the Act, took the view that the same did not form part of compensation. The relevant extract of the said decision is culled out as under:-

"9. ---

*As we have pointed out, earlier, as soon as the Collector has taken possession of the land either before or after the award the title absolutely vests in the Government and thereafter the owner of the land so acquired ceases to have any title or right of possession to the land acquired. Under the award he gets compensation for both the rights. Therefore, the interest awarded under Section 28 of the Act, just like under Section 34 thereof, cannot be a compensation or damages for the loss of the right to retain possession but only compensation payable by the State for keeping back the amount payable to the owner.*

---"

[Emphasis supplied]

27. The decision in *Sham Lal Narula (supra)* was subsequently followed by the Hon'ble Supreme Court in the case of *Bikram Singh v. Land Acquisition Collector* [(1997) 10 SCC 243], wherein, it was held that interest under Section 28 of the Act of 1894 was in the nature of a revenue receipt and hence, the same was considered to be taxable. The relevant paragraphs of the said decision read as under:-

"8. The controversy is no longer *res integra*. This question was considered elaborately by this Court in *Sham Lal Narula (Dr.) v. CIT* [(1964) [53 ITR 151](#) : AIR 1964 SC 1878]. Therein, K. Subba Rao, J., as he then was, considered the earlier case-law on the concept of "interest" laid down by the Privy Council and all other cases and had held at p. 158 as under:

*"In a case where title passes to the State, the statutory interest provided thereafter can only be regarded either as representing the profit which the owner of the land might have made if he had the use*

*of the money or the loss he suffered because he had not that use. In no sense of the term can it be described as damages or compensation for the owner's right to retain possession, for he has no right to retain possession after possession was taken under Section 16 or Section 17 of the Act. We, therefore, hold that the statutory interest paid under Section 34 of the Act is interest paid for the delayed payment of the compensation amount and, therefore, is a revenue receipt liable to tax under the Income Tax Act."*

*9. This position of law has been consistently reiterated by this Court in the case of T.N.K. Govindaraju Chetty v. CIT [(1967) [66 ITR 465](#) : AIR 1968 SC 129] , Rama Bai v. CIT [1990 Supp SCC 699 : (1990) 181 ITR 400] and K.S. Krishna Rao v. CIT [[\[1990\] 84 CTR 144/181 ITR 408/\[1991\] 54 Taxman 339 \(SC\)](#)] . Thus by a catena of judicial pronouncements, it is settled law that the interest received on delayed payment of the compensation is a revenue receipt exigible to income tax. It is true that in amending the definition of "interest" in Section 2(28-A), interest was defined to mean interest payable in any manner in respect of any money borrowed or debt incurred including a deposit, claim or other similar right or obligation and includes any service, fee or other charges in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised. It is seen that the word "interest" for the purpose of the Act was interpreted by the inclusive definition. A literal construction may lead to the conclusion that the interest received or payable in any manner in respect of any moneys borrowed or a debt incurred or enumerated analogous transaction would be deemed interest. That was explained by the Board in the circular referred to hereinbefore."*

*[Emphasis supplied]*

**28.** *In the case of Puneet Singh (supra), the High Court of Punjab and Haryana, while enunciating the effect of Section 145A(b) and Section 56(2)(viii) of the Act, has held as under:-*

*"19. The cumulative effect of section 145A(b) and section 56(2)(viii) would be that any interest received on compensation or on enhanced compensation shall be taxable under the head "Income from other sources" in the year of receipt.*

*20. However, by section 27 of the 2009 Act, a new clause (iv) in section 57 has been inserted with effect from April 1, 2010 which lays down that in the case of income of the nature referred to in section 56(2)(viii), a deduction of a sum equal to 50 per cent. of such income*

would be allowable thereunder and no deduction would be allowed under any other clause of section 57. The said provision reads thus:

*"57. Deductions.-The income chargeable under the head 'Income from other sources' shall be computed after making the following deductions, namely : . . .*

*(iv) in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent. of such income and no deduction shall be allowed under any other clause of this section."*

*21. The Assessing Officer in I. T. A. No. 132 of 2018 where the assessee had received Rs. 11,30,561 as interest income, held that the interest payment received on compensation/enhanced compensation to the tune of Rs. 5,65,280 (50 per cent. of Rs. 11,30,561) is taxable as income from other sources as per provisions of sections 56(2)(viii) read with 57(iv) and section 145A(b) of the Act for the assessment year 2010-11. The Commissioner of Income-tax (Appeals) and the Tribunal had upheld the order of the Assessing Officer in that regard.*

*22. No illegality or perversity could be pointed out by learned counsel for the assessee in the concurrent findings of fact recorded by the authorities below which may warrant interference by this court. No question of law, much less, substantial question of law arise in these appeals.*

*23. Accordingly, finding no merit in the appeals, the same are hereby dismissed."*

*[Emphasis supplied]*

*29. Considering the foregoing discussion, we affirm the concurrent findings of the AO and CIT(A) and find that the view taken by the ITAT is unsustainable, as the same is based on an incorrect appreciation of law. The 2010 amendment was a conscious departure by the Legislature from the earlier position and the said departure holds good law, as on date. There is no question with respect to the vires of the amendment before us or regarding any ambiguity in the language of the amendment. The only concern is regarding the enunciation of the applicable law and we hold the same to unequivocally mean that interest, whether on compensation or on enhanced compensation, shall be considered as income from other sources and shall be exigible to income tax.*

*30. We, accordingly, answer the substantial question of law which has arisen in the instant appeal in affirmative and in favour of the Revenue. We, thus, hold that the ITAT has erred in relying upon the decision of Ghanshyam (supra), ignoring the changes brought about by Finance (No.2) Act, 2009, which came into effect in the year 2010."*

16. Similarly, the Hon'ble Punjab & Haryana High Court, in the case of ***Mahender Pal Narang*** [2021] 415 ITR 13 (P & H) and ***Puneet Singh*** (2019) 415 ITR 215(P&H), had held categorically that the interest received on compensation or on enhanced compensation is taxable under the head "Income from other sources" in the year of receipt. The decision of ***Puneet Singh*** (supra) has been quoted with approval by the Delhi High Court in the case of ***Inderjit Sodhi***(supra). We also note that the decision in the case of Mahender Pal Narang and Puneet Singh is binding in the case of the assessee as he is assessed in the territorial and subjective jurisdiction of the Hon'ble Punjab & Haryana High Court.

17. In identical facts, the ITAT Delhi Bench in the case of ***Veena Shah*** for A.Y. 2018-19 reported in (2024) 165 taxmann.com 51(Delhi-Trib.), and ITAT Delhi Bench in the case of ***Jagjit Singh Kataria*** for A.Y. 2019-20 in ITA 1245/Del/2024 upheld the jurisdiction of the PCIT u/s 263 for directing the AO to tax the interest on enhanced compensation u/s 56(2)(viii) and 57(iv) of the Act.

18. From the perusal of the facts and circumstances of the case and the position of law as on date, we are of the considered view that the language in section 56(2)(viii) and 145B(1) are plain, simple and unambiguous and that the correct legal position is that the interest of Rs. 1,05,75,310/- received during the year on enhanced compensation under section 28 of the Land Acquisition Act, 1894 is exigible to tax u/s 56(2)(viii) r.w.s 145B(1). The assessee's claim of the same as exempt u/s 10(37) of the Act is unsustainable as the provisions of section 10(37) deals with 'compensation' only and not "interest on compensation or enhanced compensation". Respectfully following the High Court's decisions of Delhi and Punjab & Haryana as cited above, we hold that the ld. PCIT order to recompute the interest on enhanced compensation in accordance with section 56(2)(viii) r.w.s. 145B(1) and allowing deduction u/s 57(iv) needs no interference. Grounds 1 and 2 raised by the assessee are, accordingly, dismissed.



19. In the result, the appeal of the assessee in ITA No. 2695/DEL/2024 is dismissed.

The order is pronounced in the open court on 22.01.2025.

Sd/-

Sd/-

**[CHALLA NAGENDRA PRASAD]  
JUDICIAL MEMBER**

**[NAVEEN CHANDRA]  
ACCOUNTANT MEMBER**

**Dated: 22<sup>nd</sup> JANUARY, 2025.**

**VL/**

**Copy forwarded to:**

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

**Asst. Registrar,  
ITAT, New Delhi**

SI No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order...</i>	<i>03.013.2025</i>
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictating Member</i>	<i>.01.2025</i>
3.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial</i>	
11.	<i>The date on which the file goes to the Assistant Registrar for endorsement of the order</i>	
12.	<i>Date of Despatch of the Order</i>	