IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI

BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

ITA No.2394/DEL/2026
(Assessment Year: 2018-19)

Akhilesh Bansal, 47, Raj Niwas, Sector 5, Gurgaon - 122 001 (Haryana).	vs.	ITO, Ward 1 (1), Gurgaon.
(PAN : AHFPB1275J)		
(APPELLANT)		(RESPONDENT)

ASSESSEE BY : Shri R.S. Singhvi, CA
Shri Satyajeet Goyal, CA
REVENUE BY : Shri G.P. Singh, Sr. DR

Date of Hearing : 01.07.2026
Date of Pronouncement : 27.07.2026

ORDER

PER S.RIFAUR RAHMAN,AM:

1. This appeal is filed by the assessee against the order passed by the ld. Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC) dated 02.01.2026 for the AY 2018-19.

2. Brief facts of the case are, in the year under consideration, the assessee received enhanced compensation amounting to Rs.2,15,77,773/- together with interest of Rs.2,23,78,473/- consequent to compulsory acquisition of land situated in Village Badha, Tehsil Manesar, District Gurugram by

HUDA. The land was originally purchased in the year 2007. The assessee claimed the enhanced compensation and damages in the form of interest u/s 28 of the Land Acquisition Act as exempt on the ground that the land acquired was rural agricultural land situated beyond the prescribed municipal limits and, therefore, did not constitute a "capital asset" within the meaning of section 2(14)(iii) of the Income-tax Act, 1961 (for short 'the Act'). The Assessing Officer, however, rejected the claim and treated the enhanced compensation as taxable under section 45(5) and the interest as taxable under the head "Income from Other Sources".

3. Aggrieved with the above order, assessee preferred an appeal before thee ld. CIT (A) and filed written submissions. After going through the written submissions, the ld. CIT(A) confirmed the action of the Assessing Officer.

4. Aggrieved against the above order, the assessee is in appeal before us raising following grounds:

> "1.1 That on the facts and in the circumstances of the case, the CIT(A) has erred in confirming the addition of Rs. 2,15,77,773/- made by the Assessing Officer by treating the enhanced compensation received on compulsory acquisition of agricultural land as taxable income without correctly appreciating the correct facts of the case and the settled legal position.
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> 1.2 That the land acquired by the Haryana Urban Development Authority being an agricultural land situated beyond the prescribed municipal limits did not fall within the definition of "capital asset" as defined u/s 2(14) of the Income Tax Act 1961 and therefore, the

addition made by the Assessing Officer is illegal and unsustainable in law.

1.3 That the land acquired being not a capital asset within the meaning of section 2(14) of the Act, the action of the A.O. in invoking the provisions of section 45(5) of the Act is erroneous in law.

2.1 That on the facts and circumstances of the case, the CIT(A) has erred in confirming the addition of Rs. 2,23,78,473/- made by the Assessing Officer under the head "Income from Other Sources" on account of interest received on enhanced compensation.

2.2 That the CIT(A) has failed to appreciate that the interest awarded u/s 28 of the Land Acquisition Act forms an integral part of compensation and forms part of the character of enhanced compensation and therefore, cannot be taxed as income from other sources.

2.3 That the authorities below have erred in treating the said receipt as taxable income by ignoring the settled judicial position that interest awarded u/s 28 of the Land Acquisition Act is compensatory in nature and constitutes part of the compensation itself.

3 That the addition made in the orders passed by the lower authorities are not sustainable of facts and bad-in-law."

5. At the time of hearing, ld. AR of the assessee submitted that the authorities below grossly erred in treating the land acquired by HUDA as a capital asset without appreciating the overwhelming documentary evidence establishing that the land was rural agricultural land situated beyond the prescribed aerial distance of eight kilometres from the municipal limits of Gurugram. It was contended that the assessee had produced the registered sale deed, Jamabandi, Khasra Girdawari, mutation records and other revenue documents evidencing that the land

continued to be agricultural till the date of compulsory acquisition. The Ld. AR drew our attention to the certificate issued by the Tehsildar placed at PB Pg 5 to 6, who, after recording that the Revenue Department lacked technical equipment for measuring aerial distance, had obtained a scientific survey from M/s Vision Engineering Consultants and, on the basis of such expert report, certified that the land was situated at an aerial distance of 9.1 kilometres from the municipal limits. It was argued that the said official certificate, being based on an expert technical report obtained by a statutory authority, could not be rejected in the absence of any contrary technical evidence. The Ld. AR further submitted that the Assessing Officer had proceeded merely on assumptions that since the land was acquired by HUDA, it necessarily became urban land and had also erroneously construed the pleadings before the Land Acquisition Court as inconsistent with the claim under the Act. According to the ld. AR, the submissions made before the Land Acquisition Court regarding development potential were only for determination of fair market value and enhanced compensation and did not alter the agricultural character of the land for the purposes of section 2(14)(iii) of the Act. It was, therefore, submitted that once the land itself was not a capital asset, the enhanced compensation could not be subjected to tax in terms of section 10(37) of the Act particularly when the original/initial compensation was considered as exempt on the ground that the land was rural agricultural land in terms of section 2(14) of the Act. As regards the interest awarded under section 28 of the Land Acquisition Act, the ld. AR relied heavily upon the decision of the Coordinate Bench of the Tribunal in Satender Kumar vs. ITO (ITA No. 229/Del/2026, order dated 10.02.2026) and the judgment of the Hon'ble Supreme Court in CIT vs. Ghanshyam (HUF) to contend that such interest forms an integral part of the compensation itself and consequently, where the compensation is not taxable, the interest also cannot be brought to tax.

6. On the other hand, ld. DR of the Revenue supported the orders of the Assessing Officer and the ld. CIT(A). It was submitted that the land was acquired by the Haryana Urban Development Authority for urban development and, therefore, possessed all the attributes of urban land and as such the AO and ld. CIT(A) has rightly taxed the compensation u/s 45 of the Act. With regard to the interest received under section 28 of the Land Acquisition Act, it was argued that in view of the provisions of sections 56(2)(viii), 57(iv) and 145A of the Act, the interest constituted taxable income chargeable under the head "Income from Other Sources" and the ld. CIT(A) had rightly sustained taxation after granting the statutory deduction under section 57(iv). The learned DR accordingly prayed that the order of the CIT(A) be upheld.

7. Considered the rival submissions and material placed on record. The principal controversy arising for our consideration is whether the land compulsorily acquired by the Haryana Urban Development Authority (HUDA) constituted a "capital asset" within the meaning of section 2(14)(iii) of the Act and, consequently, whether the enhanced compensation and the interest awarded under section 28 of the Land Acquisition Act are liable to tax.

8. The foundation of the additions made by the Assessing Officer rests on the assumption that the land acquired by HUDA was an urban land and consequently a capital asset. However, on a careful examination of the evidence placed on record, we find that the assumption of the Revenue is completely misplaced and unsupported by any material evidence.

9. The assessee has produced the registered sale deed, Jamabandi, Khasra Girdawari and mutation records, all of which consistently describe the land as agricultural land and further establish that agricultural operations were being carried out thereon till the date of acquisition. These contemporaneous revenue records issued by the statutory revenue authorities have neither been disputed nor rebutted by the Revenue.

10. The more crucial issue pertains to the distance of the land from the municipal limits. In this regard, we find that the assessee had approached the Tehsildar for issuance of a certificate regarding the nature of the land

and its distance from the municipal limits. The record reveals that the Tehsildar himself categorically recorded that the Revenue Department did not possess the requisite technical equipment for measuring aerial distance. Consequently, in discharge of his official duties, the Tehsildar obtained a technical survey from M/s Vision Engineering Consultants, an expert agency authorized for such measurements which is placed at paperbook Page 7. The said expert submitted its technical report certifying that the subject land was situated at an aerial distance of 9.1 kilometres from the municipal limits of Gurugram. It is only on the basis of this technical report that the Tehsildar issued the official certificate certifying the land to be rural agricultural land situated beyond the prescribed municipal limits.

11. In our considered opinion, the evidentiary value of the aforesaid certificate cannot be lightly brushed aside on the absence of any contrary evidence. The certificate is not a private document procured by the assessee and rather, it is an official certificate issued by a statutory Revenue Authority in the course of discharge of official functions and is based upon a scientific measurement carried out by an expert technical agency engaged by the Tehsildar himself. Once such an official certificate supported by an expert report is placed on record, the burden

shifts upon the Revenue to demonstrate its incorrectness by producing cogent evidence to the contrary.

12. We find that neither the Assessing Officer nor the ld. CIT(A) has undertaken any exercise whatsoever to dislodge the said evidence and no independent measurement has been carried out by the Revenue. Further, no report of any technical expert has been brought on record to controvert the certificate issued by the Tehsildar. In our considered view, the AO and ld. CIT(A) have rejected the official certificate merely on assumptions and conjectures without bringing any rebuttal evidence on record and such an approach is legally unsustainable. It is a settled proposition that suspicion, however strong, cannot substitute legal evidence and in absence of any material contradicting the report of the expert or the certificate issued by the Tehsildar, we have no hesitation in accepting the same as conclusive proof of the location of the land. We draw strength from the ratio laid down by the Hon'ble Apex Court in the case of CIT V. Dhakeshwari Cotton Mills Ltd V. CIT: 26 ITR 775.

13. The reasoning adopted by the Assessing Officer that since the land was acquired by the Haryana Urban Development Authority, it automatically became urban land is equally fallacious. The character of the land is to be determined strictly in accordance with section 2(14)(iii) of the Act and not from the identity or nomenclature of the acquiring authority. HUDA

acquires both rural and urban lands for planned development and the acquisition by HUDA does not alter the legal character of the land as it existed on the date of acquisition. Further, the action of the AO is contrary to the fact that claim of exemption at the time of receipt of initial compensation was never in dispute.

14. We also find no merit in the observation of the authorities below that the assessee adopted inconsistent stands before the Land Acquisition Court and the Income-tax Authorities. It is noted that before the Land Acquisition Court, the assessee relied upon the surrounding development and future potential of the land only for determination of fair market value and enhancement of compensation under the provisions of the Land Acquisition Act, however, we find that such considerations are wholly relevant while determining compensation. However, for the purposes of the Act, the issue is governed exclusively by section 2(14)(iii), which requires examination of the actual nature of the land and its distance from the municipal limits and future development potential or market value cannot alter the existing legal character of agricultural land vis-à-vis the Income Tax Act, 1961. The two proceedings operate in different statutory fields and, therefore, there is no inconsistency in the stand of the assessee.

15. Accordingly, we hold that the land acquired from the assessee was rural agricultural land situated beyond the prescribed aerial distance of eight

kilometres from the municipal limits and, therefore, did not constitute a capital asset within the meaning of section 2(14)(iii) of the Act. Once the very asset transferred falls outside the definition of "capital asset", the charging provisions contained in Chapter IV fail at the threshold and the provisions of section 45(5) have no application. The enhanced compensation received by the assessee, therefore, cannot be subjected to tax and as such the action of the assessing officer and ld. CIT(A) in taxing the enhanced compensation is hereby rejected and as the assessee is found to be eligible for claim of exemption u/s 10(37) of the Act. Accordingly, the addition is directed to be deleted.

16. Having held so, we now proceed to examine the taxability of the interest received under section 28 of the Land Acquisition Act.

17. The Assessing Officer treated the interest u/s 28 as income from other sources, whereas the ld. CIT(A) sustained taxation of fifty per cent thereof after allowing deduction under section 57(iv). In our considered opinion, the approach adopted by both the authorities is contrary to the settled legal position as the interest on enhanced compensation u/s 28 of the Land Acquisition Act, 1984 is to be treated as part of compensation thus falling outside the scope of section 56.

18. An identical issue recently came up for consideration before the Coordinate Bench of this Tribunal in Satender Kumar vs. ITO (ITA No.

229/Del/2026, order dated 10.02.2026). After an elaborate consideration of the decisions of the Hon'ble Supreme Court in CIT v. Ghanshyam (HUF) and the legislative amendments introduced by the Finance (No.2) Act, 2009, the Coordinate Bench after placing reliance upon another decision of Coordinate bench in the case of Pawan Kumar v. PCIT (2024) 159 taxmann.com 61 (Del.-Trib), held that interest awarded under section 28 of the Land Acquisition Act is not an independent receipt but is an accretion to the value of the land and forms an integral part of the enhanced compensation itself.

19. We respectfully concur with the aforesaid view as once the interest awarded under section 28 forms part and parcel of the compensation itself, its taxability necessarily follows the taxability of the compensation. Moreover, where the underlying compensation is not chargeable to tax because the land itself is not a capital asset, the interest under section 28 cannot be artificially segregated and subjected to tax under the head "Income from Other Sources". The character of the interest cannot be dissected from the character of the compensation to which it is inextricably attached.

20. In the present case, we have already held that the land acquired was rural agricultural land falling outside the ambit of section 2(14)(iii) of the Act and consequently the enhanced compensation itself is not exigible to tax.

Therefore, applying the ratio laid down by the Coordinate Bench in Satender Kumar vs. ITO (supra), we hold that the interest awarded under section 28 of the Land Acquisition Act, being an integral component of such compensation, is likewise not chargeable to tax.

21. Accordingly, the addition made towards enhanced compensation as well as the addition sustained in respect of interest under section 28 of the Land Acquisition Act are directed to be deleted in entirety. The assessee succeeds on all the substantive grounds of appeal.

22. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 27th day of July, 2026.

Sd/-	**sd/-**
(SUNIL KUMAR SINGH) **JUDICIAL MEMBER**	**(S. RIFAUR RAHMAN)** **ACCOUNTANT MEMBER**

Dated: 27.07.2026
TS
Copy forwarded to:

1. assessee
2. Respondent
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT, NEW DELHI