

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI R. K. PANDA ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 1393/DEL/2017 (A.Y 2011-12)
(THROUGH VIDEO CONFERENCING)**

Paramjeeet Singh Parvesh Kumar Sharma 493-L-Model Town Karnal CTNPS5383Q (APPELLANT)	Vs	ACIT Circle Karnal New Delhi (RESPONDENT)
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Appellant by	Sh. Rakesh Gupta, Adv & Sh. Somil Agarwal, Adv
Respondent by	Sh. Mahesh Thakur, Sr. DR

Date of Hearing	01.04.2021
Date of Pronouncement	16.04.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against order dated 06/01/2017 passed by CIT(A)-Karnal, for assessment year 2011-12.

2. The grounds of appeal are as under:-

"1. That order of Ld.CIT(A) is arbitrary, illegal and against the facts.

2. That the Ld.CIT(A) erred in law in confirming the orders of ACIT treating the interest received on enhanced Compensation as Income of the assessee where as the Apex Court in the case of CIT(A) Vs. Govind Bhai Mamaiya has clearly held that Interest received on compensation is not Income.

3. The assessee is agriculturist his land was acquired by the Government and he received total compensation of Rs. 2,56,29,932/- from land acquisition

officer Panchkula which includes interest on enhanced compensation of Rs. 1,08,62,416/-. The assessee filed his Income Tax Return on 31-03-2012 declaring Income of Rs.1,50,000/- claiming refund of Rs. 1,08,62,416/- The Return so filed has been processed as such under section 143(1) of the Income Tax Act. The proceedings were initiated u/s 147 of the Act and notice u/s 148 was issued as the assessee claimed interest of Rs. 1,08,62,416/- received on enhanced compensation exempt u/s 10(37) of the Income Tax Act. The Id Assessing officer while making the assessment disallowed 50% of the Interest received on enhanced compensation and accordingly added Rs. 54,31,208/- to the Income of the assessee u/s 143(3) 148 of the Income Tax Act.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that Hon'ble Supreme Court in case of CIT vs. Ghansyam HUF (supra) held that interest awarded u/s 28 of the Land Acquisition Act is capital receipt and is nothing but an accretion to the value of compensation. Thus, it is part and parcel of the compensation, hence is not taxable. The Ld. AR further submitted that no order has been passed on objection raised for re-opening of assessment u/s 147 of the Act. The Ld. AR also relied upon the decision in case of Union of India Vs. Hari Singh (Civil Appeal No. 15041/2017 order dated 15th September 2017). Thus, the Ld. AR submitted that the additions made by the Assessing Officer is not valid and are not sustainable.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. It is pertinent to note that the assessee's land was acquired by the Government and he received total compensation of Rs. 2,56,29,932/- from land acquisition officer Panchkula which include interest on enhanced

compensation of Rs. 1,08,62,416/- and assessee claimed this interest received on enhanced compensation exempt under Section 10(37) of the Income Tax Act, 1961. From the perusal of the order of the CIT(A), it can be seen that the CIT(A) has not given a separate finding as to why the Assessing Officer is justified in making an addition. The capital receipt unless specifically taxable u/s 45 under the head capital gain, in principle, is outside the scope of income chargeable to tax and cannot be taxed as income unless it is in the nature of Revenue receipt or specifically brought within the ambit of income by way of specific provision of the Income Tax Act. Thus, the interest received on compensation/enhanced compensation to the assessee is nothing but a capital receipt and the addition is against the law. This issue has been decided by the Hon'ble Apex Court in case of Union of India Vs. Hari Singh (Civil Appeal No. 15041/2017 order dated 15th September 2017) wherein it is held that on agricultural Land no tax is payable when the compensation/enhanced compensation is received by the assessee as the land was agricultural land. The compensation was received in respect of agricultural land belonging to the assessee which had been acquired by the government. The CIT(A) has not taken cognizance of the decision of the Apex Court in case of Hari Singh (supra). The ratio of the said decision is applicable in the present case. Thus, the appeal of the assessee is allowed.

8. In result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on this 16th Day of April, 2021.

**Sd/-
(R. K. PANDA)
ACCOUNTANT MEMBER**

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated : 16/04/2021

*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	01.04.2021
Date on which the typed draft is placed before the dictating Member	01.04.2021
Date on which the typed draft is placed before the Other Member	16.04.2021
Date on which the approved draft comes to the Sr. PS/PS	16.04.2021
Date on which the fair order is placed before the Dictating Member for pronouncement	16.04.2021
Date on which the fair order comes back to the Sr. PS/PS	16.04.2021
Date on which the final order is uploaded on the website of ITAT	16.04.2021
Date on which the file goes to the Bench Clerk	16.04.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	