

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ "जी", नई दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

सुश्री सुषमा चव्वाल, उपाध्यक्ष एवम् डॉ. बी आर आर कुमार, लक्ष्य सदस्य कसमक्ष

**BEFORE MS. SUSHMA CHOWLA, VICE PRESIDENT
&**

DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.5777/Del/2016
निर्धारण वर्ष / Assessment Year 2013-14

Sh. Ummed Singh,
S/o-Deep Chand,
YPS Rana & Associates,
205-208, Deep Plaza,
Near Civil Court,
Gurgaon, Haryana
PAN-BDRPS8667Q

.....अपीलार्थी / Appellant

vs

ITO,
Ward-4(4),
Gurgaon

..... प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.5774/Del/2016
निर्धारण वर्ष / Assessment Year 2013-14

Sh. Sardar Singh,
S/o-Deep Chand,
YPS Rana & Associates,
205-208, Deep Plaza,
Near Civil Court,
Gurgaon, Haryana
PAN-BRRPS9656R

.....अपीलार्थी / Appellant

vs

ITO,
Ward-4(4),
Gurgaon

..... प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.5775/Del/2016
निर्धारण वर्ष / Assessment Year 2013-14

Sh. Sanjay,
S/o-Mohar Singh,
YPS Rana & Associates,
205-208, Deep Plaza,
Near Civil Court,
Gurgaon, Haryana
PAN-BEFPS2691R

.....अपीलार्थी/Appellant

vs

ITO,
Ward-4(4),
Gurgaon

..... प्रत्यर्थी / Respondent

And

आयकर अपील सं. / ITA No.5776/Del/2016
निर्धारण वर्ष / Assessment Year 2013-14

Sh. Gulvinder,
L/H of Late Sh. Mahender Singh,
YPS Rana & Associates,
205-208, Deep Plaza,
Near Civil Court,
Gurgaon, Haryana
PAN-DARPS0741C

.....अपीलार्थी/Appellant

vs

ITO,
Ward-4(4),
Gurgaon

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Sh. Reena N. Singh, Advocate
प्रत्यर्थी की ओर से / Respondent by : Sh. H.K. Choudhary, CIT-DR.

सुनवाई की तारीख / Date of Hearing : 27.01.2020	घोषणा की तारीख / Date of Pronouncement: 30.01.2020
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आदेश / ORDER

PER SUSHMA CHOWLA, VP

This bunch of four appeals filed by the different assesseees are against separate orders of CIT(A)-1, Gurgaon, all dated 24/06/2016 relating to assessment year 2013-14.

2. This bunch of appeals relating to connected assessee on similar issue were heard together and are being disposed off by this consolidated order for the sake of convenience. We proceed to decide the bunch of appeals by referring to the facts and issue in ITA No.5777/Del/2016.

3. Briefly in the facts of the case, the assessee had furnished the return of income declaring total income of Rs.1,16,750/-. The Assessing Officer selected the case for scrutiny. A show-cause notice was issued to the assessee in respect of interest of Rs.1,03,19,292/- received from DRO-cum-LAC, Government of Haryana, which was claimed as exempt. The Assessing Officer asked the assessee to explain as to why the said interest received on compensation or enhanced compensation should not be taxed as income from other sources and also intimated that deduction of sum equal to 50% was allowable under section 57(iv) of the Income Tax Act, 1961 (in short "the Act"). The assessee filed explanation in this regard. The Assessing Officer was of the view that where the tax has also been deducted at source and in view of the decision of the Hon'ble Punjab & Haryana High Court, the interest received on compensation or enhanced compensation shall be deemed to be income of the assessee in the year of receipt, subject to deduction of 50% under section

57(iv) of the Act. Accordingly, sum of Rs.51,59,646/- was added to the income of the assessee.

4. The Ld. CIT(A) upheld the order of the Assessing Officer, against which the assessee is in appeal before us.

5. The Ld. AR for the assessee, at the outset, pointed out that the interest received on compensation by the assessee was under section 28 of the Land Acquisition Act, which is to be considered as part of compensation and not interest for late payments. It was further pointed out by the Ld. AR for the assessee that this issue was settled in favour of the assessee by the Hon'ble Supreme Court in Union of India and Ors. Vs Hari Singh and Ors. in Civil Appeal no.15041 of 2017 & Ors. The Ld. AR for the assessee also pointed out that the assessee also became a party to the said petition by way of Writ Petition (C) No.590/2016 and the Hon'ble Supreme Court has directed to take into consideration the provisions of section 28 of the Land Acquisition Act and the law laid down by this Court in Commissioner of Income Tax, Faridabad vs Ghanshyam (HUF) [2009] (8) SCC 412] in order to ascertain whether the interest given under the said provision amounts to compensation or not.

6. The Ld. DR for the Revenue on the other hand, strongly relied on the order of the Hon'ble Punjab & Haryana High Court in the case of Manjet Singh (HUF) Karta Manjeet Singh vs Union of India and Others in CWP No.15506 of 2013, order dated 14/01/2014 and stated that after the decision of the Hon'ble Apex Court in Ghanshyam (HUF) had held that element of

interest awarded under section 28 of the Land Acquisition Act is to be taxed as income from other sources under section 56 of the Act in the year of receipt. It was pointed out to the Ld. DR for the Revenue that vide para 19, the Hon'ble High Court have concluded by holding as under:-

“19. It may also be noticed that as regards the claim of the assessee based on provisions of section 10(37) and 57(iv) of the Act is concerned, the issue requires examination based on factual matrix and therefore, the petitioners have alternative remedy to plead and claim the benefit thereof before the Assessing Officer in accordance with law.”

7. The Ld. AR for the assessee stressed that the Hon'ble Punjab & Haryana High Court in Manjet Singh (HUF) case has not decided the issue but has kept the same open, whereas in the case of the assessee, the Hon'ble Supreme Court in the lead case of Hari Singh & Ors (supra) has decided the issue otherwise.

8. We have heard rival contention and perused the record. The issue arising in the present appeal is in relation to the assessability of interest received on compensation/enhanced compensation awarded under the Land Acquisition Act. The case of the assessee before us is that the aforesaid interest which has been received by him is under section 28 of Land Acquisition Act and the same is in the nature of compensation and not in the nature of interest to be assessed under section 56 of the Act. However, the case of the Revenue is that the interest received by the assessee on compensation/enhanced compensation is assessable under section 56 of the Act, subject to the deduction allowable under section 57(iv) of the Act.

9. The assessee before us had agitated this issue before the Hon'ble Supreme Court by way of Writ Petition (supra) which was clubbed with series of cases pending before the Hon'ble Supreme Court with lead case in Union of India and Ors vs Hari Singh and Ors. (supra) The Hon'ble Apex Court while deciding this issue has held as under:-

“(2) while determining as to whether the compensation paid was for agricultural land or not, the Assessing Officer(s) will keep in mind the provisions of section 28 of the Land Acquisition Act and the law laid down by this Court in “Commissioner of Income Tax, Faridabad vs Ghanshyam (HUF) [2009 (8) SCC 412] in order to ascertain whether the interest given under the said provision amounts to compensation or not.”

10. The Hon'ble Supreme Court in its earlier decision in Ghanshyam (HUF)(supra) had held that the interest received under section 28 of the Land Acquisition Act is part of compensation and the interest received under section 34 of the Land Acquisition Act is to be assessed as other interest in the hands of the recipients. The assessee before us has placed the evidence to the effect that the interest has been received under section 28 of the Land Acquisition Act. The Hon'ble Supreme Court had laid down that the ratio in Ghanshyam (HUF) case is to be applied in order to ascertain whether the interest received by the assessee under the said provision amounts to compensation or not. In view thereof, we direct the Assessing Officer to verify the claim of the assessee that interest had been received under section 28 of the Land Acquisition Act and if that be so, then the same has to be treated as compensation in the hands of the assessee and is not taxable as interest under section 56 of the Act. Accordingly, ground of appeal raised by the assessee is decided in favour of the assessee.

11. The facts and issues in ITA No.5774/Del/2016, ITA No.5775/Del/2016 and ITA No.5776/Del/2016 are similar to the facts and issue in ITA No.5777/Del/2016 and following the same parity of reasoning, we allow the claim of the assessee in entirety.

12. In the result, all the appeals filed by different assessees are allowed.

Order pronounced in the open court on 30th January 2020.

Sd/-
(B.R.R.KUMAR)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(SUSHMA CHOWLA)
उपाध्यक्ष /VICE PRESIDENT

दिल्ली /दिनांक Dated: 30th January, 2020
Shekhar, Sr. P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त (पील) / The CIT(A)
4. मुख्य आयकर आयुक्त / The Pr. CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, दिल्ली / DR, ITAT, Delhi
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक रजिस्ट्रार, आयकर अपीलीय अधिकरण ,दिल्ली
Assistant Registrar, ITAT, Delhi