

आयकर अपीलीय अधिकरण, दिल्ली न्यायपीठ “एफ”, नई दिल्ली में

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH ‘F’, NEW DELHI**

सुश्री सुषमा चावला, उपाध्यक्ष एवं श्री अनिल चतुर्वेदी, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, VP & SH. ANIL CHATURVEDI, AM

[THROUGH VIDEO CONFERENCING]

आयकर अपील सं. / ITA No.6254/Del/2016

निर्धारण वर्ष / Assessment Year: 2013-14

Rameshwar Dayal,
House No.369, VPO Manesar,
Gurgaon.
PAN-AVSPD0656Q

.....अपीलार्थी/Appellant

vs

The ITO,
Ward-3(4), Gurgaon.

..... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by:
प्रत्यर्थी की ओर से / Respondent by:

Sh. Ashwani Kumar, CA
Sh. Amit Kumar Jain, Sr.DR

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| सुनवाई की तारीख / Date of Hearing : 21.09.2020 | घोषणा की तारीख / Date of Pronouncement: 30.09.2020 |
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आदेश / ORDER

PER SUSHMA CHOWLA, VP

The present appeal is filed against the order of CIT(A)-1, Gurgaon dated 19.09.2016 relating to assessment year 2013-14 against the order passed under section 143(3) of the Income-tax Act, 1961 (in short ‘the Act’).

2. The assessee has raised following grounds in this appeal:-

1. “That order passed u/s 250(6) of the Income Tax Act, 1961 is against law and facts on the file in as much as the Ld. Commissioner of Income tax (Appeals)

was not justified to arbitrarily uphold addition amounting to Rs.63,57,390/- on account of interest on compensation/enhanced Compensation.

2. *That the Ld. Commissioner of Income tax (Appeals) was not justified to arbitrarily uphold and misinterpreted of the amendments in section 56(viii) read with section 145A of the Act, which is against the intent and spirit of the law."*

3. The issue raised in the present appeal is against the chargeability of interest received on compensation receipt on agricultural land acquired by the State authorities.

4. The Ld.AR for the assessee points out that the issue stands covered in favour of the assessee by the decision of the Hon'ble Apex Court in CIT vs Ghanshyam (HUF) 315 ITR 1 (SC). The Ld.AR for the assessee also pointed out that the interest has been received u/s 28 of the Land Acquisition Act (in short "LAC Act").

5. The Ld. DR for the Revenue placed reliance on the orders of the authorities below and pointed out that it is not clear as to whether interest is received under section 28 or under section 34 of the LAC Act.

6. We have heard the rival contentions and perused the record. The land owned by the assessee was acquired by the State authorities against which the assessee was entitled to receive compensation. In addition to the compensation, the assessee also received interest under the LAC Act. The case of the assessee before us is that the interest has been received u/s 28 of the LAC Act; hence same is not taxable in line ratio laid down by the Hon'ble Apex Court in CIT vs Ghanshyam (HUF) (supra). However, the Ld.AR for the assessee during the course of hearing was asked to establish the claim of

receipt of interest u/s 28 of LAC Act. The Ld.AR for the assessee pointed out that the said issue is not in dispute.

7. The Hon'ble Apex Court in CIT vs Ghanshyam (HUF) (supra) has laid down that under the LAC Act in addition to compensation, interest is also received by the persons. It has further laid down that interest received u/s 28 of the LAC Act is part of compensation and hence, is the capital receipt. However, interest received u/s 34 of the LAC Act is taxable in the hands of the assessee.

8. In the present set of facts, the claim of the assessee is that interest has been received u/s 28 of the LAC Act. However, the necessary certificate in this regard is not available on record. Accordingly, we deem it fit to restore the limited issue of verification of stand of the assessee that it has received interest on compensation u/s 28 of the LAC Act, back to the file of Assessing Officer, who shall verify the same and if it is so, the same is to be treated as capital receipt in the hands of the assessee. The issue raised in the present appeal is thus decided in favour of the assessee. Grounds of appeal raised by the assessee in this appeal are thus allowed.

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

Order pronounced in the open court on 30th September, 2020.

Sd/-
(ANIL CHATURVEDI)
लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(SUSHMA CHOWLA)
उपाध्यक्ष / VICE PRESIDENT

दिल्ली / दिनांक Dated : 30th September, 2020

* Amit Kumar *

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त (अपील)/ 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,

सत्यापित प्रति //True Copy//

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