

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[DELHI BENCH "SMC-1": NEW DELHI]**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AS S.M.C.  
(Through Video Conferencing)**

ITA. No. 7484/Del/2019  
(Assessment Year : 2013-14)

Shri Satbir, H. No. 390, Near Main Bus Stand, Peepal Chowk, Manesar, Gurgaon, Haryana – 122 050. <b>PAN: CZOPS9745K</b>	Vs.	Income Tax Officer,  Ward : 2 (3),  Faridabad.
(Appellant)		(Respondent)

Assessee by :	N o n e;
Department by :	Shri Anil Kumar Sharma, Sr.DR;
Date of Hearing :	15/02/2022
Date of pronouncement :	18/02/2022

**ORDER**

01. This appeal by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-1, Gurgaon [hereinafter referred to as CIT (Appeals)] dated 24.06.2019 pertaining to the assessment year 2013-14.
02. The assessee has raised the following grounds of appeal:-
  - “1. The Ld. CIT (A) has erred in law and facts in confirming the action of the Assessing Officer in charging the tax @ 50% of Interest amounting to Rs. 21,78,440/- which is totally exempt from Income Tax ignoring the fact that the same is being part of compensation against the acquisition of agriculture land and therefore not chargeable to Income tax.
  2. That the CIT (A) has ignored the well settled principal of law that the interest being part of the compensation of acquisition of agriculture land. Therefore, not chargeable to Income tax.

3. That the Ld. CIT (A) has grossly erred in law and fact in confirming the penalty which was initiated in the assessment order on the grounds of “furnishing inaccurate particulars of income” but ultimately imposed vaguely on “concealment of income or furnishing inaccurate particulars of income” which is entirely unjust and in violation of established precedent and the principles of natural justice.
4. That each of the above mentioned grounds are substantial questions of law, are without prejudice to one another and the appellant craves leave to add/amend to the grounds at any time during the appeal in the interests of justice. “
03. Ground Nos. 1 and 2 of the assessee’s appeal are inter-connected and are against charging of tax on the interest amounting to Rs.21,78,440/-. The facts giving rise to these grounds are that the Assessing Officer while framing assessment under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the Act) noticed that the assessee had shown income from other sources of Rs.4,19,360/- and agricultural income of Rs.47,76,240/-. It was stated before the Assessing Officer that in fact the sum of Rs.47,76,240/- was not agricultural income, but it was the interest earned from enhanced compensation amounting to Rs.51,95,600/-. Therefore, the Assessing Officer treating the interest taxable under Section 56/158 added a sum of Rs.21,78,440/-.
04. Now the assessee is in appeal before the Tribunal. At the time of hearing, no one appeared on behalf of the assessee, but it is seen from the record that the assessee had not appeared on earlier hearings also as the notices sent are returned back by the postal authorities. Therefore, the appeal of the assessee was taken up for hearing in the absence of assessee and is disposed of on the basis of the material on record.
05. In respect of ground Nos. 1 & 2 the contention of the assessee was that the interest income was part and parcel of the compensation and the land was compulsorily acquired. It was stated before the Id. CIT (Appeals) that the interest of Rs.47,76,240/- was claimed as exempt. It was stated that the interest which was received that was accrued

interest paid on excess compensation under Section 28 of the Act was to be treated as part of the compensation under Section 45(5) of the Act. Such amount cannot be treated from other sources and no tax can be deducted at source by considering the interest received under Section 58(5) of the Act. The Id. CIT (Appeals) decided the issue by observing as under:-

“3. Ground No. 1 to 3: - These grounds are against addition of Rs.21,78,564/-made by the Assessing Officer on account of interest on enhanced compensation.

3.1 Brief facts are that return declaring income of Rs.3,19,360 and agricultural income of Rs.47,76,240 was filed on 1.1.2015. With regard to the issue of agricultural income the appellant submitted that he had in fact received interest on enhanced compensation during the year under consideration amounting to Rs.51,95,600 and TDS was deducted on the same. The appellants submitted that out of this, interest amounting to Rs.4,19,360 was shown as interest under the head income from other sources and the balance amount of Rs.47,76,240 was shown as agricultural income. The AO referred to the provisions of section 56 and held that 50% of the interest received on enhanced compensation was taxable after allowing deduction under section 57(iv) of the IT act. As the appellant had himself declared interest income of Rs.419,360, the Assessing Officer added the balance amount of Rs.21,78,440 to the total income of the appellant. “

06. From the above findings it is clear that the Id. CIT (Appeals) sustained the addition on the basis that it was not clear whether the interest received by the assessee under Section 28 or Section 34 of the Land Acquisition Act, 1894. However, the case of the assessee has been throughout that the interest was received under Section 28 of the Land Acquisition Act, 1894.
07. The Id. DR supported the orders of the authorities below.
08. I have heard the Id. DR and perused the material available on record. Therefore, considering the totality of the facts and the material placed before me, I am of the considered view that in the light of the judgement of the Hon'ble Supreme Court in the case of CIT Vs. Ghanshyam (HUF)

(2009) 315 ITR 1 (SC) a clear finding is to be given by the assessing authority whether the amount is being charged for tax was not part of the enhanced compensation. Therefore, the issue is restored to the file of the Assessing Officer to be decided afresh after verifying whether the amount received by the assessee was in the nature of enhanced compensation or simplicitor interest. The Assessing Officer would decide this issue afresh. Ground Nos. 1 and 2 of the appeal of the assessee are allowed, for statistical purposes.

09. Ground No. 3 is against confirming the penalty and this ground of appeal is not sustainable as the assessee should have filed a separate appeal, hence this ground is dismissed, as not maintainable.
10. Ground No. 4 is general in nature and needs no comments.
11. In the result, the appeal of the assessee is partly allowed, for statistical purposes.

Order pronounced in the open court on : 18/02/2022.

**Sd/-  
( KUL BHARAT )  
JUDICIAL MEMBER**

Dated : 18/02/2022.

\*MEHTA\*

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

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	16.02.2022
Date on which the typed draft is placed before the dictating member	16.02.2022
Date on which the typed draft is placed before the other member	18.02.2022
Date on which the approved draft comes to the Sr. PS/ PS	18.02.2022
Date on which the fair order is placed before the dictating member for pronouncement	18.02.2022
Date on which the fair order comes back to the Sr. PS/ PS	18.02.2022
Date on which the final order is uploaded on the website of ITAT	18.02.2022
date on which the file goes to the Bench Clerk	18.02.2022
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	