

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 541/Asr/2019**  
Assessment Year: 2016-17

Sh. Kewal Krishan  
S/o Kapoor Chand Dhawan  
R/o Gurdwara Street, Ward  
No. 6 Makhu Tehsil Zira,  
Distt. Ferozepur-142044

[PAN: AKRPK 0782A]

**(Appellant)**

Vs. Income Tax Officer,  
Ward-Zira, Ferozepur

**(Respondent)**

Appellant by : Sh. Kuldip Singh Sra, CA

Respondent by: Sh. Manpreet Singh Duggal, Sr. DR

Date of Hearing: 29.06.2022

Date of Pronouncement: 11.08.2022

**ORDER**

**Per Dr. M. L. Meena, A.M.:**

The appeal has been filed by the assessee against the impugned order dated 03.05.2019 passed by the Ld. Commissioner of Income Tax (Appeals), Bathinda in respect of the Assessment Year 2016-17

2. The assessee has challenged the order of the Id. CIT(A) in confirming the addition of Rs.9,90,030/- u/s 57(iv) of the Income Tax Act read with sub-clause (viii) of section 56(2) of the Income Tax Act, 1961 on account of 12% of the compensation claimed as additional compensation by treating not as interest on award against land acquisition by Central Government through NHAI.

3. At the outset, the counsel of the assessee had submitted that the appellant assessee has received a sum of Rs. 1,52,75,192/- as compensation on compulsory acquisition of his agricultural land at Village Talwandi Nipalan Tehsil Zira Distt. Ferozepur in Aug. 2015 which included 30% solatium under section 28(2) of the Land Acquisition Act, 1894 and 12% additional compensation from the date of notification (05.07.2013) to the date of award, i.e., 30.09.2014 of Rs.19,80,064/- u/s 23(1A) of the Land Acquisition Act, 1894. The appellant assessee has filed return of income on 30.09.2016 claiming the compensation of agriculture land of Rs.1,52,75,192/- as exempted income u/s 10(37) of the Income Tax Act, 1961 including additional 12% compensation amount of Rs.19,80,064/- during the course of assessment proceedings u/s 143(3) of the Income Tax Act. The AO has observed that the received interest on compensation amount and it is to be taken as income in the year in which it has been

received, irrespective of the method of accounting followed by the assessee subject to deduction of 50% u/s 57(iv) of the Act of such interest income referred to in clause (viii) of the sub-section (2) of section 56 of the Income Tax Act. Accordingly, the AO has taxed 50% of the interest amount received which worked out to Rs.9,90,030/- and added the same to the return amount of the assessee.

4. In appeal, the Id. CIT(A) has confirmed the findings of the AO by observing as under:

*"6. The disputed issue in the instant case is whether the amount of Rs.19,80,064/- 'interest' or 'additional compensation'. For adjudication of this disputed issue, it would be apposite to see the relevant portion of the Award dated 07/10/2014:*

*"In the Price Fixation meeting held on 11.08.2014 a copy of the letter No. NHAI/PIU/CHD/11085/K-K/CA/615 dated 3<sup>rd</sup> Sep, 2012 issued by Project Director National Highways Authority of India Panchkula and stated that as mentioned in above letter Hon'ble Punjab & Haryana High Court Chandigarh has decide vide Civil Writ Petition No. 3259/2012, CWP 496/2012 & CWP 2589/2012 dated 13<sup>th</sup> March, 2012 that on all the acquisitions being made under National Highway Act 1956, Compensation and Interest is be paid under the provision Land Acquisition Act, 1894. As mentioned in above letter, this matter has been considered in 109<sup>th</sup> meeting of National Highway Authority of India and it was decided by the Executive Committee that Compensation & Interest is to be paid as per decision of Hon'ble Punjab & Haryana High Court Chandigarh. It was also brought to the notice that Punjab & Haryana High Court in CWP No. 11461 of 2005 dated 28.03.2008 has directed that all acquisition after 28.03.2008 under National Highway Act, 1956 would necessarily have to grant Solatium and Interest. Keeping the above in View it was decided that the land owners are further entitled to Solatium @30% and Interest @12% of the determined basic market rate from the date of notification u/s 3A(1)*

*i.e. 05.07.2013 to the date of announcement of award. The decisions/orders regarding any additional compensation on the basic rates from competent courts if any, shall also be binding on the Ministry of Roads Transport Highways."*

*7. From the aforesaid, it is evident that what was calculated @ 12% of the determined basic market rate from the date of Notification under section 3A (1) i.e. 05/07/2013 to the date of Announcement of Award i.e. 30/09/2014 [453 days] was interest and not enhanced compensation or solatium, even though the words used in the award "additional compensation". Now, since the amount of Rs.19,80,064/- was interest, even TDS of Rs.4,07,893/- was effected on the said amount @ 20%+3% CESS.*

*8. In terms of the provisions of sub section (iv) of section 57, read with sub- clause (viii) of section 56(2) of the Income Tax Act, 1961, the taxability of 50% of such interest cannot be escaped by the appellant. The action of the AO in making the impugned addition of Rs.9,90,030/- to the returned income, thus, cannot be faulted. The impugned addition is, thus, hereby, confirmed. It is ordered accordingly."*

5. The Id. counsel for the assessee submitted that the Id. CIT(A) has dismissed the appeal of the assessee and confirmed the addition without appreciating the facts of the case regarding acquisition of agricultural land under the Land Acquisition Act, 1894 and ignoring the various judgment of the Hon'ble Courts. The Id. counsel has submitted that under the Land Acquisition Act, 1894, it was additional compensation @ of 12% and not interest at 12% on the award received by the appellant as the Hon'ble Competent Authority of land acquisition has written as an additional

compensation on the last page of the award when the compensation has been determined. The copy of the awarded is filed on the record.

6. The Id. AR stands by the impugned order of the Id. CIT(A).

7. We have heard the rival contention and perused the material available on record. The basic question before us is whether the appellant assessee has received additional compensation or interest for the delayed period of disbursement of the award being paid under the provisions of the Land Acquisition Act, 1894 in the instances of the agricultural land acquisition by the Central Government through NHAI. The basic question is whether the amount of Rs.19,80,064/- received was interest or 'additional compensation' and it is to be determined in the light of the award dated 07.10.2014 with conjoint reading with the minutes of meeting of NHAI Executive committee who passed award in pursuance to the decision of Hon'ble Punjab & Haryana High Court, Chandigarh as discussed by the Id. CIT(A), in para 6 of the impugned order besides geographical location of the agricultural land based on revenue record being acquired through NHAI, subject to additional compensation in lieu of the award claimed by the appellant. The Id, counsel has filed a document of all the subject land acquired by the NHAI in Punjabi version (vernacular) which were required to be filed in translated English version. Since, he failed to file the

translated copy of the Punjabi documents of the subject acquired land forming part of the land being acquired under the award dated 07.10.2014 and the nature of the amount particularly whether it was additional compensation or interest paid to the appellant assessee by the NHAI. In view of the matter, we are of the considered opinion that it is a fit case to be restored back to the file of the Id. AO to pass a de novo assessment order by deciding the issue afresh. The AO is directed to examine denomination of the amount whether it was interest or 'additional compensation', in the light of the award dated 07.10.2014 with conjoint reading with the minutes of meeting of NHAI Executive committee, in pursuance to the decision of Hon'ble Punjab & Haryana High Court, Chandigarh as above. Accordingly, the AO shall determine the claim of the appellant assessee, the land owner, entitlement to solatium at 30% and interest/additional compensation @ of 12% as claimed by the appellant assessee from the date of notification u/s 3A(1), i.e., 05.07.2013 to the date of announcement of award. The AO is further directed to examine the claim of exemption u/s 10(37) of the Act, after considering the documentary evidences, in the light of the Land Acquisition Award announced dated 07.10.2014, after granting adequate opportunity of being heard. No doubt, the assessee shall

cooperate in the fresh proceedings before the AO. In view of the above, the matter is remanded back to the Assessing Officer.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

*Order pronounced in the open court on 11.08.2022.*

**Sd/-  
(Anikesh Banerjee)  
Judicial Member**

**Sd/-  
(Dr. M. L. Meena)  
Accountant Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T.

True Copy  
By Order