

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

**BEFORE,
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.7466/Del/2018
(ASSESSMENT YEAR 2013-14)**

Late Sh. Hari Ram Gupta Through Sh. Bhupesh Gupta, Legal Heir H-4, Majnuka Tila Delhi PAN-AGPPG 6153M (Appellant)	Vs.	Income Tax Officer Ward-(42) 5 New Delhi (Respondent)
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Appellant by	Ms. Garima Jindal, Adv.
Respondent by	Ms. Princy Singla, Senior Departmental Representative ("Sr. DR" for short)

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-14, New Delhi ["Ld. CIT(A)", for short], dated 18/09/2018 for Assessment Year 2013-14.

Grounds taken in this appeal are as under:

"1. That the Respondent has erred in passing the impugned order dated 18.09.2018 by observing that the decision of the Hon'ble Supreme

Court of India in the matter of HSIDC Ltd. Vs. Savitri Devi & Ors., Civil Appeal No. 15094 of 2017 merely said that the decision of the Hon'ble Supreme Court of India in the matter of CIT, Faridabad Vs. Ghanshyam (HUF), Civil Appeal No. 4401 of 2009 is to be followed and there is no finding by the Hon'ble Supreme Court of India that interest on enhanced compensation would not be taxable. A copy of impugned judgment dated 18.09.2018 passed by the Respondent in Appeal No. 01/IT/DEL/2018-19 is annexed hereto as ANNEXURE-A

It is submitted that the Hon'ble Supreme Court of India by order dated 15.09.2017 has decided the question of law in the matter of UOI Vs. Hari Singh, Civil Appeal 15041 of 2017 alongwith other connected appeals including HSIDC Ltd. Vs. Savitri Devi & Ors., Civil Appeal No. 15094 of 2017. Relying upon the judgment of the Hon'ble Supreme Court of India in the matter of CIT, Faridabad Vs. Ghanshyam (HUF), Civil Appeal No. 4401 of 2009, it has been held that interest awarded u/s 28 of 1894 Act is not assessable to tax

2. It is submitted that this Ld. Tribunal in judgment dated 21.04.2017 in the case of DCIT Vs. Dinesh Sharma, ITA No. 226/Del/2016 has followed the ratio of Judgment dated 16.07.2009 passed by the Hon'ble Supreme Court of India in the matter of CIT, Faridabad Vs. Ghanshyam (HUF), Civil Appeal No. 4401 of 2009. It is clearly held that the interest income received u/s 28 of the Land Acquisition Act is exempt from Tax.

3. It is submitted that after a detailed hearing the Respondent as per order dated 09.09.2016 allowed only 50% deduction due to pendency of question of law in the Hon'ble Supreme Court of India in the matter of HSIDC Ltd. Vs. Savitri Devi & Ors., Civil Appeal No. 15094 of 2017. If the earlier CIT has given the said finding then the present CIT is estopped from observing otherwise.

4. That the Respondent has erred in passing the impugned order by observing that the decision of the Hon'ble Supreme Court of India in the matter of HSIDC Ltd. Vs. Savitri Devi & Ors., Civil Appeal No. 15094 of 2017 applies to agricultural land and does not apply to the facts of the present case as the land of the Appellant is urban land. It is submitted that this observation is prima facie incorrect as the record clearly depicts that the Appellant's land acquired was agricultural land."

(A.1) In the course of appellate proceedings in Income Tax Appellate Tribunal ('ITAT' for short), paper books was filed from the assessee's side in two volumes consisting of the following documents:

1.	An application for permission to tile additional documents on behalf of the Appellant alongwith Affidavit.
2.	Copy of award dated 26.03.2012 m favour ol Sh. Hari Ram for Enhanced cost by HSIIDC.
3.	Copy of jamabandi stating the name of Sh. Hun Ram with regard to land acquired.
4.	Copy of judgement and order dated 16.12.2009 passed by Ld. Additional District judge Gurgaon in LAC Case No. 473 of 2014.
5.	Copy of cheque no.868183 dated 24.12.2003 for Rs.13,89,065/- issued by Land Acquisition Collector in favour of the Appellant.
6.	Copy of Notification issued by Land Acquisition Collector, Gurgaon under Section - 9 of LA Act, 1894.
7.	Copy of cheque No.419711 dated 17.05.2012 for Rs.62,31,923/- issued by Land Acquisition Collector in favor of the Appellant.
8.	Copy of fixed deposit for Rs. 63,19,157/- with Oriental Bank of Commerce.
9.	Copy of Form No. 16A filed by Land Acquisition Collector of the Appellant.
10.	Copy of cheque no. 480065 dated 04.02.2014 for Rs. 56,26,624 - issued by Land Acquisition Collector in favour of the Appellant.
11.	Copy of 1TR of the Appellant for the A.Y. 2013-2014.
12.	Copy of ITR of the Appellant for the A.Y. 2014-2015.
13.	Copy of revised ITR of the Appellant for the A.Y. 2013-2014.
14.	Copy of cheque no. 511104 dated 26.06.2015 for Rs.3,53,589/- issued by Land Acquisition Collector in favour of the Appellant.
15.	Copy of order u/s 250, 143(3) dated 25.10.2016 issued by Respondent.

16.	Copy of calculation made by Land Acquisition Collector in respect of Appellant's land.
17.	Copy of letter dated 18.01.2014 sent by HSS1DC to Land Acquisition Collector.
18.	Copy of case status of Civil Appeal No. 15094 of 2017 from the website of Hon'ble Supreme Court of India.
19.	Copy of judgement and order dated 15.09.2017 in passed by the Hon'ble Supreme Court of India in Civil Appeal No. 15041 of 2017.
20.	Copy of judgement and order dated 16.07.2009 in passed by the Hon'ble Supreme Court of India in Civil Appeal No.4401 of 2009.
21.	Copy of judgement and order dated 21.04.2017 passed by this Hon'ble Tribunal in ITA No. 226 /DEL/2013.
22.	Copy of judgement and order dated 31.01.2019 passed by this Hon'ble Tribunal in ITA No. 1823 /DEL. 2016.
23.	Copy of judgement and order dated 16.10.2019 passed by this Hon'ble Tribunal in ITA No. 5986 /DEL. 2016.
24.	Copy of award dated 26.03.2012 in favour of Sh. Hari Ram for Enhanced cost by HSIIDC.
25.	Copy of judgment and order dated 16.12.2009 passed by Ld. Additional District Judge Gurgaon in LAC Case No.473 of 2014.
26.	Copy of case status of Civil Appeal No.15094 of 2017 from the website of Hon'ble Supreme Court of India.
27.	Copy of judgment and order dated 15.09.2015 in passed by the Hon'ble Supreme Court of India in Civil Appeal NO.15041 of 2017.
28.	Copy of judgment and order dated 16.07.2009 in passed by the Hon'ble Supreme Court of India in Civil Appeal No.4401 of 2009.
29.	Copy of judgment and order dated 21.04.2017 passed by this Hon'ble Tribunal in ITA No.226/Del/2013.
30.	Copy of judgment and order dated 31.01.2019 passed by this Hon'ble Tribunal in ITA No.1823/Del/2016.
31.	Copy of judgment and order dated 16.10.2019 passed by this Hon'ble Tribunal in ITA No.5986/Del/2016.

(A.2) The aforesaid paper book filed from the assessee's side in two volumes, contained additional evidences, as under:

1.	Copy of award dated 26.03.2012 in favour of Sh. Hari Ram for Enhanced cost by HSIIDC.
2.	Copy of jamabandi stating the name of Sh. Hun Ram with regard to land acquired.
3.	Copy of judgement and order dated 16.12.2009 passed by Ld. Additional District judge Gurgaon in LAC Case No. 473 of 2014.
4.	Copy of cheque no.868183 dated 24.12.2003 for Rs.13,89,065/- issued by Land Acquisition Collector in favour of the Appellant.
5.	Copy of Notification issued by Land Acquisition Collector, Gurgaon under Section - 9 of LA Act, 1894.
6.	Copy of cheque no. 480065 dated 04.02.2014 for Rs. 56,26,624 - issued by Land Acquisition Collector in favour of the Appellant.
7.	Copy of cheque no. 511104 dated 26.06.2015 for Rs.3,53,589/- issued by Land Acquisition Collector in favour of the Appellant.
8.	Copy of calculation made by Land Acquisition Collector in respect of Appellant's land.
9.	Copy of letter dated 18.01.2014 sent by HSSIIDC to Land Acquisition Collector.

(A.2.1) The appellant requested for admission of the aforesaid additional evidences through written submissions, and also by way of oral submissions made by the Ld. Counsel for the assessee at the time of hearing before us: which were not opposed by the learned Sr. DR for Revenue. At the time of hearing before us, representatives of both sides, the learned Counsel for the assessee and the learned Sr. DR for Revenue, both were in agreement that

the additional evidences may be admitted, and that all the issues in dispute in the present appeal may be set aside to the file of the Assessing Officer for passing *de novo* order in accordance with law after providing reasonable opportunity to the assessee. In view of the foregoing, in the specific facts and circumstances of this case, and as representatives of both sides are in agreement with this, we admit the aforesaid additional evidences, and we set aside all the issues in dispute in the present appeal, to the file of the Assessing Officer with the direction to pass fresh order in accordance with law after providing reasonable opportunity to the assessee. The Assessing Officer is further directed to give due consideration to the additional evidences which have been admitted as aforesaid, in accordance with law. We expressly clarify that all legal remedies and recourse will be available to Revenue as well as to the assessee as a result of our aforesaid directions.

(B) All the grounds of appeal are treated as disposed of in accordance with aforesaid directions. For statistical purposes, the appeal is treated as partly allowed.

This order was already pronounced orally on 27th October, 2022 in Open Court, in the presence of representatives of both sides, after conclusion of the hearing. Now this order in writing is signed today on 31/10/2022.

Sd/-

**(CHANDRA MOHAN GARG)
JUDICIAL MEMBER**

Dated: 31/10/2022

Pk

Copy forwarded to:

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

Sd/-

**(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR
ITAT NEW, DELHI