

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

**BEFORESHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.1222/Del/2023, A.Y. 2018-19

Veena Shah 198, Model Town, Panipat, Haryana PAN: BJKPS3041P	Vs.	Pr. CIT, Rohtak
(Appellant)		(Respondent)

Appellant by	Shri Satyam Aneja, Advocate
Respondent by	Sh. Dharm Veer Singh, CIT-DR

Date of Hearing	22/04/2024
Date of Pronouncement	28/06/2024

ORDER

PER AVDHESH KUMAR MISHRA, AM

The instant appeal of the Assessment Year [In short, the 'AY'] 2018-19 filed by the assessee is against the order, dated 27.03.2023, under section 263 of the Income Tax Act, 1961 [In short, the 'Act'], passed by the Principal Commissioner of Income Tax, Rohtak [In Short, the 'PCIT']. The impugned order of the PCIT, under challenge, set aside the assessment order dated 11.02.2021 passed under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act by the Assessing

Officer [In short, the 'AO'] and revert the issue of chargeability of interest on enhanced compensation under section 56(2)(viii) of the Act back to the AO for completing the assessment afresh.

2. Following grounds of appeal were taken in the present appeal: -

“1. That the Ld. PCIT Rohtak has erred on facts and in law in directing the assessing officer for a fresh hearing of the assessment already judiciously made, which is again the law and is therefore not tenable.

2. That the Ld. AO after careful considerations in original proceedings u/s 143(3) 143(3A) & 143(3B) of the Income-tax Act, 1961 allowed the assessee claim u/s 28 of the Land Acquisition Act, 1894 and the Ld. PCIT erred in revising the order which is wrong and not warranted by law.

3. That the decision in case of Mahender Pal Narang v. CBDT [2020] by Punjab and Haryana High Court is not applicable.

4. That order of the Ld Pr. CIT is illegal, bad in law and in violation of the contemporary principles of natural justice as well as established judicial pronouncements. No reasonable opportunity was given.

5. That the interest awarded u/s 28 of the Land Acquisition Act, 1894 on account of deprivation of land which amounts to compensation though called interest, would not be taxable.

6. That the appellant craves leave to add, amend, alter, vary and/ or withdraw any or all grounds of appeal at the time of or before the hearing of the appeal.”

Additional grounds of appeal: -

“1. That the Assessing Officer after great enquiries and deep explanation made assessment u/s 143(3A) & 143 (3B) of the IT Act, 1961, vide order dt. 11.02.202 which is neither erroneous nor prejudicial & the interest of revenue and the ld. Pr. CIT has erred in directing the A.O. for making a fresh assessment. Hence, the essential elements of Section 263 are not present in the impugned orders & therefore the order deserves to be annulled.”

3. The relevant facts, in brief, are that the appellant/assessee filed her Income Tax Return [In Short, the 'ITR'], on 10.07.2018 declaring income of Rs.11,01,090/-. The case was picked up for limited scrutiny on the issues of 'income from Other Sources' and 'Refund Claim'. During the relevant year, the appellant/assessee received interest on enhanced compensation of Rs.7,63,50,616/-, on compulsory acquisition of the agricultural land, from the Indian Oil Corporation Ltd. The appellant/assessee had claimed the above-mentioned sum of Rs.7,63,50,616/- as exempt income in her ITR. The sum of Rs.7,63,50,616/- is inclusive of interest under section 28 of the Land Acquisition Act. The appellant/assessee claimed the interest & principal amount as exempt under section 10(37) of the Act. The AO accepted the income declared in the ITR, vide order dated 11.02.2021, passed under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act. Subsequently, the PCIT, exercising powers under section 263 of the Act, held the AO's order as erroneous and

prejudicial to the interest of revenue and therefore, set aside the assessment order passed by the AO as under:

“7. Keeping in view of the facts and circumstances of the case as discussed above, I am of the considered opinion that the AO had passed the order dated 11.02.2021 in a very casual manner without due diligence and without conducting proper enquires and verification which should have been made with respect to amended provisions of the Finance Act, 2015 and binding decisions of Jurisdictional Hon’ble Punjab and Haryana High Court & Hon’ble Apex Court on the taxability of interest on enhanced compensation. Therefore, the assessment completed u/s 143(3) rws 143(3A) & 143(3B) of the Act is erroneous so far as it is prejudicial to the interest of the revenue in terms of Explanation 2 of section 263 of the Act. Accordingly, the assessment order passed by the AO on 11.02.2021 u/s 143(3) rws 143(3A) & 143(3B) of the Act for the AY 2018-19 is set aside with the direction to pass an order afresh, after due consideration of the facts and in accordance with law after making requisite enquiries & proper verification with regard to issue mentioned above. The assessee is at liberty to adduce the facts as relevant before the AO at the time of assessment proceedings in consequence to this order. The AO shall allow the assessee, adequate & reasonable opportunity of being heard & make relevant submissions. It may be ensured that assessment order u/s 143(3) is passed within the prescribed time limit as per the Income Tax Act.”

Aggrieved, the appellant/assessee preferred appeal before the Tribunal.

4. The Ld. Counsel argued that the assessment order was neither erroneous nor prejudicial to the revenue. It was contended by the Ld. Counsel that the AO had not taxed the interest on compensation (enhanced compensation and delayed payment of compensation) after detailed investigation of the case being satisfied with the

appellant/assessee's submission; hence, the PCIT's view on the same issue was due to change in the opinion as there could be two views on this issue. To buttress his arguments, the Ld. Counsel placed reliance on the decision of the Hon'ble Supreme Court in the case of Malabar Industrial Co. Ltd. 243 ITR 83, wherein it has been held that where two views are possible and the AO has taken one with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interests of the revenue unless the view taken by the AO is unsustainable in law. Thus, it was submitted that the essential elements; "Erroneous & Prejudicial to the revenue" to invoke the jurisdiction under section 263 of the Act were not fulfilled in the present case; therefore, the PCIT erred in directing the AO for making afresh assessment. The Ld. Counsel, therefore, prayed for annulment of the impugned order.

4.1 The Ld. Counsel contended that the impugned order based on the decision of the Hon'ble Punjab & Haryana High court in the case of Mahender Pal Narang [2020] 120 taxmann.com 400 whereas the original assessment order dated 11.02.2021 was based on the decision of the Hon'ble Supreme Court in the case of Ghanshyam Das HUF [2009] 182 Taxman 368 as the instant case was squarely covered. Reliance was placed on the decisions in the cases of Synergy

Waste Management (P.) Ltd.[2016] 49 ITR(Tribunal) 8 (Delhi) and Greenworld Corporation [2009] 314 ITR 81 (SC).

4.2 The Ld. Counsel contended that the Ld. PCIT's opinion that the decision in the case of Mahender Pal Narang over rules the decision of the Hon'ble Supreme court in Ghanshyam Das HUF (Supra) was incorrect & amounted to per incuriam. Further, it was argued that the dismissal of SLP in the case of Mahender Pal Narang was not reasoned out (emphasizing the decision of the Hon'ble Supreme Court in the case of V. M. Salgaocar and Bros Pvt. Ltd. 243 ITR 383; therefore, it did not formulate any law of the land and the said dismissal was subsequent to the assessment order. Therefore, it was argued that the decision in the case of Mahender Pal Narang (Supra) was not applicable in this case. To buttress his contention, the Ld. Counsel placed emphasis on the decisions in the case of Pawan Kumar [2024] 159 taxmann.com 61 (Delhi - Trib.) and Saluja Exim Ltd. [2010] 329 ITR 603 (P & H High Court) wherein after considering the above-mentioned case laws had been held that this issue, being debatable; being two views were possible, could not make the assessment order erroneous and prejudicial to the revenue for invoking the provisions of section 263 of the Act.

4.3 The Ld. Counsel submitted that the interest received under section 28 of the Land Acquisition Act had been held to be part of compensation by the Apex Court in the case of Ghanshyam HUF (supra). Thus, the same being exempt under section 10(37) of the Act was not included in the assessee's income in the ITR, which was also accepted by the AO. The Hon'ble Supreme Court affirmed its decision of Ghanshyam HUF in the case of Hari Singh (2018) 91 taxmann.com 20 (SC). Further, the Ld. Counsel submitted that the SLP filed by the Revenue in the case of Hari Singh's had been withdrawn by it. Hence, it was argued this issue had now attained certainty. Thus, it was submitted that the issue of chargeability of interest on enhanced compensation was debatable issue; being two views were possible, and the AO accepted one of the views. Thus, the PCIT was not justified in setting aside the assessment order under section 263 of the Act. In support of his arguments, the Ld. Counsel placed reliance on the decisions in the cases of Chander Kalan v. NEAC, Delhi (ITA No. 1619/Del/2017), Virender Rathee (ITA No. 693/Del/2023) and Govindbhai Mamaiya [2014] 52 taxmann.com 270.

5. The Ld. DR, placing reliance on the decisions in the cases of Mahender Pal Narang (P & H), SLP dismissal in the case of Mahender

Pal Narang, Puneet Singh (2019) 110 Taxmann.com 116 and Inderjit Singh Sodhi (HUF) [2024] 161 taxmann.com 301 (Delhi), prayed for dismissal of the appeal. The Ld. DR submitted that there were various decisions of the Hon'ble Punjab & Haryana High Court, which held that any interest received on compensation or on enhanced compensation should be taxable under the head "Income from other sources" in the year of receipt post 2010 amendment. The Ld. DR, placing emphasis on the following question of law decided by the Hon'ble High Court of Delhi in the case of Inderjit Singh Sodhi (HUF):

"Whether the ITAT has erred in setting aside the concurrent view of the AO and the Commissioner of Income Tax (Appeals) [vide Finance (No.2) Act. 2009 (w.e.f. 01.04.2010), no benefit can be derived by the respondent-assessee from the decision of the Hon'ble Supreme Court in the case of CIT v. Ghanshyam (HUF)"]

submitted that the Hon'ble High court held that "conjoint reading of the provisions of sections 56(2)(viii) and 145-B of the Act vividly stipulate that the income received by way of interest on compensation or on enhanced compensation, after the amendment made vide Finance (No.2) Act, 2009 (with effect from 01.10.2010) by way of inserting of clause (viii) of sub-Section 2 to Section 56 of the

Act, shall be chargeable to tax under the head “income from other sources”.

5.1 The Ld. DR further contended that the position with respect to the imposition of tax on interest on compensation or enhanced compensation changed from the year 2010; therefore, the conclusion drawn from the decision in Ghanshyam (supra), which was passed in the year 2009, were unsustainable in the facts of the present case. Thus, the reliance placed by the ITAT upon the decision of the Hon'ble Supreme Court in the case of Ghanshyam (supra) to hold that the interest on enhanced compensation received under section 28 of the Land Acquisition Act is exigible to tax on receipt basis will not be applicable subsequent to amendment of 2010. Highlighting the following observation of the Hon'ble Delhi High Court in the case of Inderjit Singh Sodhi (HUF):

"The 2010 amendment was a conscious departure by the Legislature from the earlier position and the said departure holds good law, as on date. There is no question with respect to the vires of the amendment before us or regarding any ambiguity in the language of the amendment. The only concern is regarding the enunciation of the applicable law and we hold the same to unequivocally mean that interest, whether on compensation or on enhanced compensation, shall be considered as income from other sources and shall be exigible to income tax."

30. We, accordingly, answer the substantial question of law which has arisen in the instant appeal in affirmative and in favour of the Revenue. We, thus, hold that the ITAT has erred in relying upon the decision of Ghanshyam (supra), ignoring the changes brought about by Finance (No.2) Act, 2009, which came into effect in the year 2010.”

submitted that the Hon'ble High Court of Delhi had categorically held that after 2010 amendment, two differing views or interpretation were not possible with regard to taxability of interest on compensation or enhanced compensation under the provision of the Act.

5.2 Post amendment w.e.f. 2010, position under the law is clear and such interest would be taxable as Income from other Sources. The Hon'ble High Court of Delhi had emphasized that the 2010 amendment was a conscious departure by the Legislature from the earlier position on the issue and it was just enunciating what said amendment meant. The Hon'ble High Court had explained the intent/objective behind the said amendment. It was further pleaded that the substantial question of law framed and finding given thereon by the Hon'ble High Court had explained that the amendment brought into by the Finance Act (No.2) Act, 2009, changed the position of taxation in this regard after the decision in the case of Ghanshayam (HUF).

5.3 The Ld. DR further, submitted that any view contrary to the view expressed by Hon'ble High Court of Delhi in the case of Inderjit Singh Sodhi (HUF) would not only be contrary to the intent and objective behind the amendment made by the Legislature, but also would be contrary to the unambiguous provisions of section 56(2)(viii) and 145A of the Income Tax Act and thus, the same would not be legally permissible. Accordingly, the decision of Hon'ble Tribunal in the cases of Chander Kalan v. NEAC, Delhi, ITA No. 1619/Delhi/2017 and Virender Rathee Vs. ITO ITA No. 693/Del/2023, relied upon by the Ld. Counsel of the appellant/assessee, would be of no help as these decisions were in contradiction with the position of law on the issues involved post 2010 amendment as enunciated by the Hon'ble High Court. The Ld. DR thus contended that the AO had adopted the contrary view to that legally permissible after 2010 and thus the AO's failure to bring interest on enhanced compensation to tax was patently erroneous and prejudicial to the interest of Revenue.

5.4 The Ld. DR drew our attention to the provisions of section 263 of the Act, which reads as under:

“Explanation 2-For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer or the Transfer Pricing Officer, as the case may be shall be

deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, -

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119, or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person."

The Ld. DR submitted that the assessment order dated 11.02.2021, wherein the decisions of the Hon'ble Jurisdictional High Court/Punjab & Haryana High Court in the cases of Mahender Pal Narang (Supra) and Puneet Singh (Supra) not followed was erroneous and prejudicial to the revenue as per the clause (d) of Explanation 2 to section 263 of the Act. Therefore, it was contended that the Ld. PCIT had rightly set aside the assessment under section 263 of the Act. Further, the Ld. DR contended that the case laws relied upon by the Ld.Counsel were distinguishable on facts and thus these were of no help to the appellant/assessee.

6. We have heard both the parties at length and considered the material available on the record. The core issue involved in the case in hands is whether the PCIT was justified in holding the assessment order passed by the AO as erroneous and prejudicial to the interest of revenue if the interest on compensation or enhanced compensation on compulsory acquisition of land received by the appellant/assessee is taxable income from other sources under Section 56(2)(viii) of the Act.

7. At the outset, it is pertinent to refer to various sections of the Act and the Land Acquisition Act in the subsequent paras for proper appreciation of the legal aspects of issues of the present case. Section 10 of the Act deals with the incomes not to be included in the total income. Sub-section (37) to section 10 of the Act provides for deduction from capital gain arising from the transfer of agricultural land. Sub-clause (iii) of section 10(37) of the Act deals with transfer by way of compulsory acquisition. Sub-clause (iv) of section 10(37) of the Act deals with the income arising from the compensation or consideration for transfer. Section 56(2)(viii) of the Act provides that interest received on compensation or enhanced compensation referred to in clause (b) of section 145A of the Act would be chargeable under "income from other sources". Section 57 of the

Act provides for deduction of income chargeable under the head "Income from other sources" and clause (iv) to Section 57 of the Act provides that for income referred to in clause (viii) of sub-section (2) of section 56 of the Act, there would be deduction of fifty per cent. Section 145 of the Act provides for accounting method. Clause (b) of section 145A of the Act provides that interest received on compensation or enhanced compensation shall be deemed to be income for the year in which it is received.

8. Sections 28 and 34 of the Land Acquisition Act dealing with the interest on compensation read as under: -

"28. Collector may be directed to pay interest on excess compensation.— If the sum which, in the opinion of the court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date on which he took possession of the land to the date of payment of such excess into Court."

"34. Payment of interest.— When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per centum per annum from the time of so taking possession until it shall have been so paid or deposited. Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of

compensation or part thereof which has not been paid or deposited before the date of such expiry."

9. Section 28 of the Land Acquisition Act deals with the interest on enhanced compensation awarded by the Collector in consequence to the court order or otherwise. Whereas, Section 34 of the Land Acquisition Act deals with the interest on the delayed payment of compensation or enhanced compensation.

10. Section 10(37) of the Act reads as under: -

"Incomes are not included in total income.

10(37) in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where—

- i. such land is situated in any area referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of section 2;*
- ii. such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;*
- iii. such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India;*
- iv. such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.*

11. The amendment brought into Section 56 of the Act, vide Finance (No.2) Act, 2009 (with effect from 01.10.2010) [clause (viii) of sub-Section 2 to Section 56], relevant for deciding this case is extracted hereunder: -

"56. Income from other sources: -

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the following incomes shall be chargeable to income tax under the head "Income from other sources", namely: --

(viii) income by way of interest received on compensation or on enhanced compensation referred to in [sub-section (1) of Section 145-B]."

12. Section 145B of the Act reads as under:-

"[145B. Taxability of certain income: -

(1) Notwithstanding anything to the contrary contained in Section 145, the interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.

2) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.

(3) The income referred to in sub-clause (xviii) of clause (24) of Section 2 shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.]"

13. The Hon'ble Supreme Court in the case of Ghanshyam HUF (supra) has held that interest on excess compensation under section 28 of the Land Acquisition Act forms part of enhanced compensation under section 45(5)(b) of the Act and, therefore the same is taxable as capital gains under section 45(5) of the Act and not as income from other sources under section 56 of the Act.

Sections 56(2)(viii) and 57(iv) of the Act were amended w.e.f. 01.04.2010. The Hon'ble Supreme Court in the case of Ghanshyam HUF (supra) has held that interest paid on excess amount under section 28 of the Land Acquisition Act depends upon a claim by a person whose land is acquired whereas interest under section 34 of the Land Acquisition Act is for delay in making the payment. The interest under section 28 of the Land Acquisition Act is a part of enhanced value of the land which is not the case in matter of payment of interest under section 34 of the Land Acquisition Act.

14. The issue in this case is whether after insertion of section 56(2)(viii) and 57(iv) of the Act w.e.f 01.04.2010, the assessee can claim that interest received under section 28 of the Land Acquisition Act will part take the character of the compensation and will fall under the head "Capital Gains" and not "income from other sources".

15. The Hon'ble Punjab & Haryana High Court, in the case of Mahender Pal Narang (supra), had held categorically that the interest received on compensation or on enhanced compensation is taxable under the head "Income from other sources" in the year of receipt. Therefore, the tax authorities within the territorial jurisdiction of Punjab & Haryana have to follow this decision being binding in nature. The decision in the case of Mahender Pal Narang (P & H), SLP

dismissal in the case of Mahender Pal Narang relied upon by the Ld. PCIT, in our considered opinion, is binding in the jurisdiction of the Hon'ble Punjab & Haryana High Courts as the AO was situated within the territorial and subjective jurisdiction of that Hon'ble High Court.

16. In the case of Puneet Singh (supra), the Hon'ble of Punjab and Haryana High Court has held as under:-

"19. The cumulative effect of section 145A(b) and section 56(2)(viii) would be that any interest received on compensation or on enhanced compensation shall be taxable under the head "Income from other sources" in the year of receipt.

20. However, by section 27 of the 2009 Act, a new clause (iv) in section 57 has been inserted with effect from April 1, 2010 which lays down that in the case of income of the nature referred to in section 56(2)(viii), a deduction of a sum equal to 50 per cent. of such income would be allowable thereunder and no deduction would be allowed under any other clause of section 57. The said provision reads thus:

"57. Deductions. --The income chargeable under the head 'Income from other sources' shall be computed after making the following deductions, namely: . . .

(iv) in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent. of such income and no deduction shall be allowed under any other clause of this section."

21. The Assessing Officer in I. T. A. No. 132 of 2018 where the assessee had received Rs.11,30,561 as interest income, held that the interest payment received on compensation/enhanced compensation to the tune of

Rs.5,65,280 (50 per cent. of Rs.11,30,561) is taxable as income from other sources as per provisions of sections 56(2)(viii) read with 57(iv) and section 145A(b) of the Act for the assessment year 2010-11. The Commissioner of Income-tax (Appeals) and the Tribunal had upheld the order of the Assessing Officer in that regard.

22. No illegality or perversity could be pointed out by learned counsel for the assessee in the concurrent findings of fact recorded by the authorities below which may warrant interference by this court. No question of law, much less, substantial question of law arises in these appeals.

23. Accordingly, finding no merit in the appeals, the same are hereby dismissed."

17. The word 'record' defined in Section 263 of the Act reads as under:

"record" shall include and shall be deemed always to have included all records relating to any proceeding under this Act available at the time of examination by the Principal [Chief Commissioner or Chief Commissioner or Principal] Commissioner or Commissioner;"

Thus, the record for the purpose of Section 263 of the Act is not limited with the assessment record up to the date of the assessment only. Hence, the plea of the Ld. Counsel that the Ld. PCIT had relied upon the case law subsequent to the assessment is of no relevance.

18. The Hon'ble Punjab and Haryana High Court in the case of Mahender Pal Narang (supra) held that the interest received on compensation or enhanced compensation under the Land Acquisition

Act is to be treated as 'income from other sources' and not under the head 'capital gains'. Central Board of Direct Taxes Circular No. 5 of 2010 was brought to remove the hardships created by the decision of the Supreme Court in Rama Sai (supra) for taxing the income in preceding years, which besides tax will entail interest and penalties under the Act. This Circular has not come to treat the interest as capital receipt.

19. The 2010 amendment was a conscious departure by the legislature from earlier position and said departure holds good law, as on date. There is no question with respect to the vires of the amendment or regarding any ambiguity in the language of the amendment. Interest whether on compensation or on enhanced compensation shall be considered as income from other sources and shall be exigible to Income Tax. The language of section 56(2)(viii) and 57(iv) of the Act is plain, simple and unambiguous. There is no scope of taking outside aid for giving an interpretation to newly inserted sub sections and clauses. The Hon'ble Supreme Court in the case of ITC Ltd. [2004] 7 SCC 591 held as under:

"23. ...These decisions exemplify the general rule of statutory construction that words have to be construed strictly according to their ordinary and natural meaning, particularly when the statute is a fiscal one irrespective of the object with which the provision was introduced. Of course if there is ambiguity in the statutory language,

reference may be made to the legislative intent to resolve the ambiguity. But if the statutory language is unambiguous then that must be given effect to. The legislature is deemed to intend and mean what it says. The need for interpretation arises only when the words used in the statute are, on their own terms ambivalent and do not manifest the intention of the legislature."

20. The argument of the Ld. Counsel is that the issue under reference here is debatable. Hence, the order passed under section 263 of the Act following one view is not legally valid/tenable. One view revolves around the finding of the Hon'ble Supreme Court in the case of GhanshyamHUF (supra) whereas the other one revolves around the finding of the Hon'ble Supreme Court dismissing the SLP in the case of Mahender Pal Narang v. CBDT [2021] 279 Taxman 74& affirming the decision of theHon'ble Punjab and Haryana High Court in the caseof Mahender Pal Narang (supra) and the decision of theHon'ble Delhi High Court in the caseInderjit Singh Sodhi (HUF) [2024] 161 taxmann.com 301.

21. A three-Judges Bench of the Hon'ble Supreme Court in the case of Sham Lal Narula 53 ITR 151 held that the interest under Section 28 of the Land Acquisition Act is analogous to the interest under Section 34 of the Land Acquisition Act and such interest does not form part of the compensation. It is worth to reproduce the relevant part of the said decision as under: -

"9. ---As we have pointed out, earlier, as soon as the Collector has taken possession of the land either before or after the award the title absolutely vests in the Government and thereafter the owner of the land so acquired ceases to have any title or right of possession to the land acquired. Under the award he gets compensation for both the rights. Therefore, the interest awarded under Section 28 of the Act, just like under Section 34 thereof, cannot be a compensation or damages for the loss of the right to retain possession but only compensation payable by the State for keeping back the amount payable to the owner.---"

22. It is evident from the plain reading of the above judgment that the interest received under Section 28 and 34 of the Land Acquisition Act is not compensation received in lieu of compulsory acquisition of land under the Land Acquisition Act. The decision in Sham Lal Narula (supra) was subsequently followed by the Hon'ble Supreme Court in the case of Bikram Singh [(1997) 10 SCC 243], wherein, it was held that interest under Section 28 of the Land Acquisition Act was in the nature of a revenue receipt and hence, the same was considered to be taxable. The relevant paragraphs of the said decision read as under: -

"8. The controversy is no longer res integra. This question was considered elaborately by this Court in Sham Lal Narula (Dr) v. CIT [(1964) 53 ITR 151 : AIR 1964 SC 1878] . Therein, K. Subba Rao, J., as he then was, considered the earlier case-law on the concept of "interest" laid down by the Privy Council and all other cases and had held at p. 158 as under:

"In a case where title passes to the State, the statutory interest provided thereafter can only be regarded either as representing the profit which the owner of the land might have made if he had the use of the money or the loss he suffered because he had not that use. In no sense of the term can it be described as damages or compensation for the owner's right to retain possession, for he has no right to retain possession after possession was taken under Section 16 or Section 17 of the Act. We, therefore, hold that the statutory interest paid under Section 34 of the Act is interest paid for the delayed payment of the compensation amount and, therefore, is a revenue receipt liable to tax under the Income Tax Act."

9. This position of law has been consistently reiterated by this Court in the case of *T.N.K. Govindaraju Chetty v. CIT* [(1967) 66 ITR 465 : AIR 1968 SC 129] , *Rama Bai v. CIT* [1990 Supp SCC 699 : (1990) 181 ITR 400] and *K.S. Krishna Rao v. CIT* [(1990) 181 ITR 408 (SC)]. Thus, by a catena of judicial pronouncements, it is settled law that the interest received on delayed payment of the compensation is a revenue receipt exigible to income tax. It is true that in amending the definition of "interest" in Section 2(28-A), interest was defined to mean interest payable in any manner in respect of any money borrowed or debt incurred including a deposit, claim or other similar right or obligation and includes any service, fee or other charges in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised. It is seen that the word "interest" for the purpose of the Act was interpreted by the inclusive definition. A literal construction may lead to the conclusion that the interest received or payable in any manner in respect of any moneys borrowed or a debt incurred or enumerated analogous transaction would be deemed interest. That was explained by the Board in the circular referred to hereinbefore."

23. In view of the decision of three-Judges Bench of the Hon'ble Supreme Court in the case of Sham Lal Narula (supra), the finding of two-Judges Bench of the Hon'ble Supreme Court in the case of Ghanshyam HUF (supra) does not come to the rescue of the appellant/assessee to claim that the interest received under Section 28 and 34 of the Land Acquisition Act is to be treated as compensation and to be dealt with under "Capital gains". The fact that there is no amendment carried out under section 10(37) of the Act will also not change the position. The argument raised by the Ld. Counsel is not well founded.

24. The decisions of the coordinate benches of the ITAT relied upon by the Ld. Counsel are based upon the reasoning propounded in the case of Ghanshyam HUF (supra). The coordinate benches of the ITAT had not been made aware of an earlier judgment in the case of Sham Lal Narula (supra). Hence, the decisions were in favour of the assesseees and not a good law. Therefore, in view of the decision in the case of Sham Lal Narula (supra), we are of the considered opinion that the decision in the case of Ghanshyam HUF (supra) is not applicable after the substitution of Sections 145A, 145B, 56(2)(Viii) and 57(iv) by Finance (No.2) Act, 2009. In view of the above, it is evident that the interest on compensation or interest on enhanced compensation is chargeable to tax under the head "income

from other sources" from 01.10.2010 onwards. Therefore, the decision of the Hon'ble Supreme Court in the case of Ghanshyam HUF (supra), which was passed in the year 2009, in our considered opinion, is not applicable in the facts of the present case. The case laws relied upon by the Ld. Counsel were held distinguishable on facts and thus these were of no help to the appellant/assessee.

25. We find merit in the argument of the Ld. DR that the assessment order dated 11.02.2021, wherein the decisions of the Hon'ble Jurisdictional High Court/Punjab & Haryana High Court in the cases of Mahender Pal Narang (Supra) and Puneet Singh (Supra) not followed was erroneous and prejudicial to the revenue as per the clause (d) of Explanation 2 to section 263 of the Act.

26. In view of the foregoing discussions, we are of the considered opinion that the order of Ld. PCIT is in accordance with the ratio laid down by Hon'ble Supreme Court in the cases of Sham Lal Narula (supra) and Malabar Industrial Co. Ltd, 243 ITR83 and the Hon'ble High Courts in the cases of Mahender Pal Narang (Supra), Puneet Singh (Supra) and Inderjit Singh Sodhi (HUF) [2024] 161 taxmann.com 301 as the AO's order is not only legally permissible under the provisions of the Act but also against the binding decisions

of Hon'ble Punjab and Haryana High Court in the cases of Mahender Pal Narang (Supra) and Puneet Singh (Supra). Thus, we are of the considered view that the PCIT is fully justified in holding that the order passed by the AO is erroneous and prejudicial to the interest of the Revenue as the assessment order is based on an incorrect appreciation of law.

27. In the light of the aforesaid judicial pronouncements and the concerned amendment, we decline to interfere with the impugned order dated 27.03.2023, passed under section 263 of the Act by the PCIT.

28. Consequently, the appeal stands dismissed.

Order pronounced in open Court on 28th June, 2024.

Sd/-

**(VIKAS AWASTHY)
JUDICIAL MEMBER**

Sd/-

**(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Dated:28/06/2024

Binita, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent/PCIT
3. PCIT
4. CIT(Appeals)
5. CIT-DR

ASSISTANT REGISTRAR
ITAT, NEW DELHI