

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 1017/DEL/2024 [A.Y. 2017-18]

Shri Om Prakash
House No. 83, Machhgar
Ballabgarh, Faridabad

Vs.

The P.C.I.T
Faridabad

PAN - BSJPP 3718A

(Applicant)

(Respondent)

Assessee By : None

Department By : Shri Sanjeev Kaushal, CIT-DR

Date of Hearing : 10.03.2025

Date of Pronouncement : 25.03.2025

ORDER

PER NAVEEN CHANDRA, A.M.:-

This appeal by the assessee is preferred against the order of the ld.
PCIT, Faridabad dated 22.01.2024 for A.Y 2017-18.

2. The assessee has raised the following grounds of appeal:

"1.That the Ld. Principal Commissioner of Income Tax, Faridabad has erred in issuing notice and passing order u/s 263 of the Income Tax Act, 1961 setting aside the assessment order U/s 147 r.w.s. 144B of the Act dated 25.03 2022 passed by the Ld. A.O.

2) That the Ld. PCIT has also erred to state that assessment framed and order passed u/s 147 by the Ld. A.O is erroneous and prejudicial to the interest of revenue.

3) That having regards to the facts and circumstances of the case, proceeding initiated U/s 263 of the act is void-ab-initio because when two possible views are available and the issue is debatable then initiation of revision is not permissible U/s 263. Reliance is placed on the judgement of the Hon'ble Supreme Court in the case of PCIT Vs Yes Bank Ltd. (2017) 99 CCH 0445 and the Hon'ble Delhi High Court in the case of CIT vs. Hindustan Coca Cola Beverages P Ltd. (2011) 331 ITR 192. The Hon'ble ITAT Delhi has also followed the judgement of the Delhi High Court in Pawan Kumar vs PCIT, Rohtak dated 24.01.2024 (ITA. No. 1655/Del./2023).

4) That having regard to the facts and circumstances of the case and in law, the Ld. PCIT erred in exercising jurisdiction under section 263 of the Act in respect of taxability of interest u/s 28 of the Land Acquisition Act by not following the decisions of the Hon'ble Supreme Court in the below-mentioned cases wherein it was held that the interest U/s 28 of the Land Acquisition Act, 1894 received by the assessee, is a part of the enhanced compensation and hence exempt U/s 10(37) of the Income Tax Act:

CIT v. Ghanshyam (HUF) [2009] 182 Taxman 368/315 ITR 1(SC):

UOI v. Hari Singh [2018] 91 taxmann.com 20 (SC).

5) That having regards to the facts and circumstances of the case, the Ld. Pr. Commissioner of Income Tax was not justified on facts and in law in not following the judgement of the Hon'ble ITAT Delhi in the case of Land Acquisition Office, Gurgaon Vs. DCIT(TDS), Gurgaon dated 22.03.2022 (ITA Nos. 39, 40 and 41/Del/2021) [ITAT Delhi] where it is held that no TDS is liable is to be deducted on the amount of interest received U/s 28 of the Land Acquisition Act, 1894 as it is a part of compensation for compulsory acquisition of agricultural land of the assessee.

6) That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.

It is therefore prayed that the impugned addition should be deleted or such other suitable relief be allowed which the Hon'ble bench may deem fit."

3. Briefly stated, the facts of the case are that the assessee is an individual and had not filed his return of income for AY 2017-18. The case of the assessee was reopened u/s 147 on the basis of information that the assessee had received Rs 1,08,51,111/- as interest on enhancement of compensation on compulsory acquisition during the year which he had claimed exempt income 10(37) of the I T Act. The Assessing Officer in the proceedings u/s 147 accepted the assessee's claim of the same being exempt from taxation on the basis of judgment of the Hon'ble Supreme Court in the case of **Ghanshyam Das HUF** 315 ITR 1.

4. Thereafter, setting aside the assessment order, the PCIT initiated proceedings u/s 263 of the Act stating that the Assessing Officer did not conduct proper enquiry whether the assessee fulfills the various conditions and legal ingredients of these provisions and whether the interest received on enhanced compensation also falls under section 10(37) or it is taxable as income under the head 'income from other sources'. The CIT found that the AO has simply accepted the return without any inquiry, legal discussion, examination, verification and

investigation on the issue of receipt of land compensation and interest thereon. The PCIT further noted that the assessee never came forward with any explanation before him despite being given several opportunities.

5. Aggrieved, the assessee is in appeal before us against the action of the PCIT.

6. None appeared on behalf of the assessee nor any adjournment was sought. The record however shows that the assessee had filed a written submission on record hence with the assistance of the Id DR we decided to proceed to adjudicate on the issue at hand.

7. In its written submission the assessee stated that the interest received was interest on enhanced compensation granted u/s 28 of the Land Acquisition Act, 1894 on compulsory acquisition of agricultural land hence it partakes the character of enhanced compensation and both the amount are exempt u/s 10(37) of the Act. The assessee further stated that the AO relied upon the decision of the Hon'ble Supreme Court in the case of *Ghanshyam Das HUF* [supra] where the Hon'ble Apex Court decided that interest u/s 28 on enhanced compensation unlike interest u/s 34 on compensation is an accretion to the value of land hence it is

part of enhanced compensation or consideration which is not the case with interest u/s 34 of the Land Acquisition Act, 1894

8. The assessee has submitted that where the AO has passed the assessment order on the basis of judgement of the Hon'ble SC in the case of CIT Vs. Ghanshyam then the assessment order is valid and the order U/s 263 of the PCIT is not sustainable and relied on the following decision:

- Pawan Kumar V. Pr. CIT dated 24.01.2024 [2024] 159 taxmann.com 61 (ITAT, Delhi - Bench F) [Page no 01 to 08 of Paper book]
- Gulshan Kumar v. Pr. CIT dated 13.02.2024 [2024] 159 taxmann.com 715 (ITAT, Delhi-Bench B) (Page no 09 to 16 of Paper book)
- Jai Prakash V. Pr. CIT dated 15.04.2024 [2024] 161 taxmann.com 735 (ITAT, Delhi-Bench C) [Page no 17 to 24 of Paper book]

In all the above judgements, the ITAT Delhi has clearly mentioned that :

"It may be mentioned that the Hon'ble Supreme Court has affirmed its view taken in Ghanshyam HUF's case and the decision of Gujrat High Court in Movaliya's case in its decision in Hari Singh's case (supra). The decision of the Hon'ble Supreme Court in Hari Singh's case (supra) was not brought to the notice of Hon'ble P& H High Court while rendering decision in Mahender Pal Narang's case (supra). Hon'ble P&H High Court has thus rendered the decision in Mahender Pal Narang's case in its peculiar facts and circumstances."

9. It is also submitted that there is no requirement to deduct TDS U/s 194A on Interest paid U/s 28 of the Land Acquisition Act, 1894 as the interest is exempt U/s 10(37) and relied on the following:

- LAO, Gurgaon Vs DCIT(TDS) ITA No. 39, 40 & 41/Del/2021 dated 22.03.2022
- LAO, Hissar Vs. ITO (TDS) ITA No. 419/Del/2019 dated 16.05.2023

10. The assessee further submits that the interest paid U/s 28 of the Land Acquisition Act, 1894 is in the nature of the compensation and not the Interest which is taxable under the head Income from the Other Sources under Section 56 of the Act. Hence, there is no liability to deduct tax on such amount placing reliance on the judgement of the Hon'ble Supreme Court in the case of CIT vs. Ghanshyam Dass HUF (2009) 315 ITR 1 wherein it held that:

“33. Interest under Section 28 unlike interest under Section 34 is an accretion to the value, hence it is a part of enhanced compensation or consideration which is not the case with interest under Section 34 of the 1894 Act.”

11. The assessee also placed reliance on another judgement of the Hon'ble Supreme Court in the case of ***Union of India Vs Hari Singh*** [2018] 91 taxmann.com 20 (SC) and the Hon'ble Gujarat High Court in the case of ***ChampabhaiHarsurbhai vs M R Pandya (Shrimali)*** - Gujarat Water... dated 05.08.2021 which held that there is no liability to deduct tax on

interest paid on enhanced compensation of compulsory acquisition of agricultural land of farmers.

12. The assessee stated that the initiation of revision u/s 263 is not permissible if the issue is debatable. The issue of taxability of interest received by the assessee under section 28 of Land Acquisition Act can at best be said to be a debatable issue on which two views are possible placing reliance on the judgement of the Hon'ble Supreme Court in the case of *PCIT Vs Yes Bank Ltd.* (2017) 99 CCH 0445 in which it is clearly held that when two possible views are available and the issue is debatable then initiation of revision is not permissible u/s 263. The assessee also relied on the Hon'ble Delhi High Court in *CIT v. Hindustan Coca Cola Beverages P Ltd.* (2011) 331 1TR 192 (Del.) to reiterate that when two views are possible and the AO accepts one of the views, the Ld. PCIT cannot assume revisional jurisdiction.

13. Per contra, the ld. DR relied upon the order of the PCIT. The ld DR submitted that the PCIT has very eloquently demonstrated that the AO did not carry out any inquiry both on facts as well as law with regard to taxation of the receipt in question and therefore the assumption of jurisdiction u/s 263 is legally valid. The Ld. DR argued that the

assessment order dated 25.03.2022, 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) was not followed and hence was erroneous and prejudicial to the revenue as per the clause (d) of Explanation 2 to [section 263](#) of the Act.

14. We have heard the rival submissions and have perused the relevant material on record. In the present case it is not in dispute that the assessee received interest u/s 28 of the Land Acquisition Act, 1984 during the year on enhanced compensation for acquisition of land. The issues for adjudication is whether the interest received under section 28 of the Land Acquisition Act on enhanced compensation for acquisition of land, is exempt u/s 10(37) or will be exigible to tax under the "income from other sources" in view of amendment w.e.f 01.04.2010 in the provisions of section 56(2)(viii) and 57(iv) of the Act. Dependent on the taxability of the amount in question is another issue i.e., whether the PCIT has assumed the jurisdiction u/s 263 validly.

15. Before proceeding further, we find it appropriate to deal with the various provisions of the laws that comes under play in the present controversy. The two sections that deals with the interest on

compensation in the Land Acquisition Act, 1894 are section 34 and section 28. The section 34 of the Land Acquisition Act provides for payment of interest on delayed payment of compensation and Section 28 of the Land Acquisition Act provides for the interest on enhanced compensation awarded by the Court. The sections 28 and 34 of the Land Acquisition Act 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."

16. The taxability of interest on delayed payment of compensation u/s 34 of LAA was not under dispute. The controversy raised is with regard to the taxability of the interest received on enhanced compensation u/s 28 of LAA. This issue of taxability of interest received on enhanced compensation u/s 28 of LAA came up for consideration, way back in 1964, by a three judge bench of the Hon'ble Supreme Court in the case of *Sham Lal Narula (Dr.) v. CIT* [(1964) [53 ITR 151](#)]. The hon'ble Court considered the interest under Section 28 of the Act of 1894 to be analogous to the interest under Section 34 of the Act, and held that the same did not form part of compensation. The relevant extract of the said decision is culled out 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.---"

17. The decision in *Sham Lal Narula* (supra) was subsequently followed by the Hon'ble Supreme Court in the case of *Bikram Singh v. Land Acquisition Collector* [(1997) 10 SCC 243], wherein, it was held that interest under Section 28 of the Act of 1894 was in the nature of a revenue receipt and hence, the same was considered to be taxable. This position of law has been consistently reiterated by the Supreme 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* [[\[1990\] 84 CTR 144/181 ITR 408/\[1991\] 54 Taxman 339 \(SC\)](#)].

18. It was in 2009 that the Hon'ble Supreme Court in the case of *Ghanshyam HUF* (supra) grappled with issue“whether additional amount under section 23(1A), solatium under section 23(2), interest paid on excess compensation under section 28 and interest under section 34 of the 1894 Act, could be treated as part of the compensation under **section 45(5) of the 1961 Act?**”The Hon'ble Court answered in affirmative that the “interest under Section 28 unlike interest under Section 34 is an accretion to the value, hence it is a part of enhanced compensation or

consideration which is not the case with interest under Section 34 of the 1894 Act. So also additional amount under Section 23(1A) and solatium under Section 23(2) of the 1961 Act forms part of enhanced compensation under **Section 45(5)(b) of the 1961 Act**".

19. We are of the considered opinion that the decision of *Ghanshyam HUF* holds that the interest on enhanced compensation under section 28 of the Land Acquisition Act are accretion to the value of land for it to become taxable as capital gains u/s 45(5)(b) of the Act. The said decision however does not state that the interest on enhanced compensation under section 28 of the Land Acquisition Act is exempt u/s 10(37) of the Income Tax Act. We are further of the view that in this case, the Hon'ble Supreme Court had no occasion to deal with the issue of taxability of interest received under section 28 of LAA as 'income from other sources' especially after the amended provision of section 56(2)(viii) and 145B(1) of the I T Act with effect from 01.04.2010.

20. It was in 2010, to align the law with the legislative intent, the Parliament brought in an amendment into clause (viii) of sub-Section 2 to Section 56 of the Act, vide Finance (No.2) Act, 2009 (with effect from 01.04.2010) and section 145B(1) of the Income Tax Act to bring the

interest on compensation or on enhanced compensation as taxable as 'income from other sources'. The relevant provisions for deciding this case are 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]."

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.]

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.*

21. From the study of law as it exists today, we are of the considered view that the legal position as deliberated by the assessee has undergone a sea change in the present with the amendment brought in the statute in section 56 and 145B of the Act. The Punjab and Haryana High Court in the case of ***Mahender Pal Narang***[2021] 415 ITR 215(P & H) which is the jurisdictional High Court for the instant assessee and the Delhi High Court in the case of ***Inderjit Singh Sodhi (HUF)*** reported in [2024] 423 ITR 13 (Delhi), have deliberated on the issue at hand. It was held by both the Punjab and Haryana High Court and the Delhi High Court that the decision of the Hon'ble Supreme Court in the case of ***CIT Vs. Ghanshyam Dass HUF***(supra) pertained to the law which existed prior to the amendment in section 56(2)(viii) and 145B(1) of the Income Tax Act.

22. The Hon'ble Delhi High Court in the case of Principal Commissioner of Income-tax 10 v. ***Inderjit Singh Sodhi (HUF)*** reported in [2024] 423 ITR 13 (Delhi), deliberated at length on the issue at hand as follows:

"22. However, vide Finance (No.2) Act, 2009 (with effect from 01.10.2010), Clause (viii) of sub-Section 2 to Section 56 of the Act was inserted and the same is extracted hereunder as:-

"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].]"

23. For the sake of clarity, Section 145-B of the Act is reproduced as under:-

"[145-B. 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.]"

24. A conjoint reading of the aforementioned provisions i.e., 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 shall be chargeable to tax under the head 'income from other sources'. Therefore, since the position with respect to the imposition of tax on interest on compensation or enhanced compensation, as it exists today, came into being only in the year 2010, the conclusions

drawn from the decision in *Ghanshyam (supra)*, which was passed in the year 2009, are unsustainable in the facts of the present case.

25. Further, much reliance has been 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 Act of 1894 is exigible to tax on receipt basis. However, a deeper analysis of the decision in *GovindbhaiMamaiya (supra)* would show that it does not deal with any issue pertaining to the change in the taxability, put in place through the concerned amendment of 2010. Therefore, the said decision lacks any applicability in the facts and circumstances of the present case.

26. Notably, a three-Judges Bench of the Hon'ble Supreme Court in the case of *Sham Lal Narula (Dr.) v. CIT [(1964) 53 ITR 151]*, while considering the interest under Section 28 of the Act of 1894 to be analogous to the interest under Section 34 of the Act, took the view that the same did not form part of compensation. The relevant extract of the said decision is culled out 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.

---"[Emphasis supplied]

27. The decision in *Sham Lal Narula (supra)* was subsequently followed by the Hon'ble Supreme Court in the case of *Bikram Singh v. Land Acquisition Collector [(1997) 10 SCC 243]*, wherein, it was held that interest under Section 28 of the Act of 1894 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 [[\[1990\] 84 CTR 144/181 ITR 408/\[1991\] 54 Taxman 339 \(SC\)](#)] . 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."

[Emphasis supplied]

28. In the case of *Puneet Singh (supra)*, the High Court of Punjab and Haryana, while enunciating the effect of Section 145A(b) and Section 56(2)(viii) of the Act, 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 arise in these appeals.

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

[Emphasis supplied]

29. Considering the foregoing discussion, we affirm the concurrent findings of the AO and CIT(A) and find that the view taken by the ITAT is unsustainable, as the same is based on an incorrect appreciation of law. 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."

23. Similarly, the Hon'ble Punjab & Haryana High Court, in the case of **Mahender Pal Narang**[2021] 415 ITR 13(P & H) and **Puneet Singh** (2019) 415 ITR 215(P&H), had categorically held that the interest received on compensation or on enhanced compensation is taxable under the head "Income from other sources" in the year of receipt. The decision of **Puneet Singh** (supra) has been quoted with approval by the Delhi High Court in the case of **Inderjit Sodhi**(supra). As noted above, the decision in the case of **Mahender Pal Narang** and **Puneet Singh** is binding in the

case of the assessee as he is assessed in the territorial and subjective jurisdiction of the Hon'ble Punjab & Haryana High Court.

24. In recent case of **Veena Shah** in ITA No.1222/Del/2023 for A.Y. 2018-19, the ITAT Delhi Bench dealt with the issue of order u/s 263 on identical issue of taxability of interest received on enhanced compensation. The PCIT assumed jurisdiction u/s 263 to set aside the case to AO to determine the taxability of interest on enhanced compensation as per the provision of section 56(2)(viii) and 145B(1) of the income Tax Act and held as follows:

*"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*****.*

*24.*****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".******

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.

25. As held in the case of **Veena Shah**(supra), we are also of the considered view that the assessee's reliance on the ITAT cases that relied **Ghanshyam HUF** (supra) does not help the assessee's case as they never considered the decision of the Supreme Court's earlier three bench judgment in the case of **Sham Lal Narula** (supra) and its interpretation by the Hon'ble Delhi and Punjab & Haryana High Court in the cases discussed above.

26. From the perusal of the facts and circumstances of the case and the position of law as on date, we are of the considered view that the language in section 56(2)(viii) and 145B(1) are plain, simple and unambiguous and that the correct legal position is that the interest of Rs. 1,08,51,111/- received during the year on enhanced compensation under section 28 of the Land Acquisition Act, 1894 is exigible to tax u/s 56(2)(viii) r.w.s 145B(1). The assessee's claim of the same as exempt u/s10(37) of the Act is unsustainable as the provisions of section 10(37) deals with 'compensation' only and not "interest on compensation or enhanced compensation".

27. We are further of the considered view that the argument of the Ld. DR that the AO's order dated 25.03.2022, which ignored 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), becomes erroneous and prejudicial to the revenue as per the clause (d) of Explanation 2 to [section 263](#) of the Act, needs to be endorsed.

28. Respectfully following the High Court's decisions of Punjab & Haryana and Delhi as cited above, we are of the considered opinion that the AO's

order is not legally compliant and is clothed with flawed appreciation of law. The AO has not made any inquiry into the legal position regarding taxability of the said receipt. We further hold that the PCIT has correctly held that the AO order is erroneous and prejudicial as it has defied the binding decisions of Hon'ble Punjab and Haryana High Court in the cases of [Mahender Pal Narang](#) (Supra) and Puneet Singh (Supra). We further hold that the Ld. PCIT was within his legal competence and has validly assumed jurisdiction u/s 263 to order re-computation of the interest on enhanced compensation in accordance with section 2(28A) r.w.s. 56(2)(viii) and 145B(1) and allowing deduction u/s 57(iv). We also find that the order of the 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.

29. In the light of the aforesaid judicial pronouncements and the concerned amendment in law, we decline to interfere with the impugned order dated 22.01.2024, passed by the PCIT under [section 263](#) of the Act holding that the order passed by the AO is erroneous and prejudicial to

the interest of the Revenue. Grounds raised by the assessee are, accordingly, dismissed.

30. In the result, the appeal of the assessee in ITA No. 1017/DEL/2024 is dismissed.

The order is pronounced in the open court on 25.03.2025.

Sd/-
[MADHUMITA ROY]
JUDICIAL MEMBER

Sd/-
[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 25th MARCH, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order...</i>	
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the fair Tribunal Order is placed before the Other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial</i>	
11.	<i>The date on which the file goes to the Assistant Registrar for endorsement of the order</i>	
12.	<i>Date of Despatch of the Order</i>	