

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**ITA No. 1208/Del/2023  
निर्धारणवर्ष/Assessment Year: 2018-19**

BALJIT KAUR, 726, Sector-13, U.E., Karnal, Haryana.	<u>बनाम</u> <b>Vs.</b>	PCIT, Office of the Principal Commissioner of Income Tax, Rohtak, Haryana.
PAN No.AIPPK7073E		
<b>अपीलार्थी Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

&

**ITA No. 4073/Del/2024  
निर्धारणवर्ष/Assessment Year: 2018-19**

BALJIT KAUR, H.No.142-B, MODEL TOWN EXTENSION, LUDHIANA, PUNJAB.	<u>बनाम</u> <b>Vs.</b>	DCIT, AAYKAR BHAWAN, SECTOR-12, KARNAL, HARYANA.
PAN No.AIPPK7073E		
<b>अपीलार्थी Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

Assessee by	Shri Shaantanu Jain, Adv. & Shri Gurjeet Singh, CA
Revenue by	Shri Jitender Singh, CIT DR

सुनवाईकीतारीख/ Date of hearing:	26.05.2025
उद्घोषणाकीतारीख/ Pronouncement on	29.05.2025

**आदेश / O R D E R**

**PER C.N. PRASAD, J.M.**

These two appeals are filed by the assessee against the order passed by the Ld. PCIT, Rohtak dated 20.03.2023 passed u/s 263 of the Act and appeal against the order of the Ld. CIT(Appeals), NFAC, Delhi dated 08.07.2024 for the AY 2018-19. First we take up the appeal of the assessee which was filed against the order of the Ld. CIT(Appeals) who pass the order u/s 263 of the Act.

2. Ld. Counsel for the assessee referring to the order passed by the Ld. PCIT submitted that the assessment order passed by the Assessing Officer on 02.02.2021 u/s 143(3) for the AY 2018-19 was held to be erroneous so far as it is prejudicial to the interest of the Revenue in terms of Explanation 2 of section 263 and the assessment order was set aside with a direction to pass a fresh order in accordance with law. The Ld. Counsel submits that the assessment order passed by the AO was held to be erroneous for the reason that the AO failed to consider the decision of Jurisdictional High Court in the case of Mahendra Pal Narang Vs. CBDT, on the taxability of interest on additional compensation received by the assessee under the Land Acquisition Act.

3. The Ld. Counsel further referring to page 11 & 12 of the Paper Book submitted that in the course of assessment proceedings the Assessing Officer issued notice u/s 142(1) dated 26.10.2020 along with Annexure, wherein the AO required the assessee to furnish bank statement highlighting the amounts received from Government by way of compensation, how the amount is accounted for in the ITR, if claimed exempt to provide reason and under which section the exemption was claimed. Ld. Counsel for the assessee referring to page 14 of the Paper Book submits that the assessee has furnished reply to the said notice giving the details of compensation received and stated that the interest on compensation received is exempt u/s 10(37) in view of the decisions of the Hon'ble Supreme Court in the case of Ghanshyam Dass 315 ITR 1 and Union of India Vs. Hari Singh & Others, Civil Appeal No.1501/2017 dated 15.09.2017. Ld. Counsel further referring to page 21 of the Paper Book submitted that the AO once again issued notice dated 28.12.2020 requiring the assessee to justify the claim of exemption claimed u/s 10(37) in respect of interest on compensation received by the assessee. Referring to page 22 of the Paper Book the Ld. Counsel submits that assessee had replied once again that the interest received on enhanced compensation was exempt u/s 10(37) in view of the decisions of the Hon'ble Supreme Court in the case of

Ghanshyam Dass & Others and Hari Singh & Others. Ld. Counsel further referring to page 26 of the Paper Book which is the show-cause notice dated 26.01.2021 once again the third time the AO required the assessee to provide the requisite documents in support of her claim u/s 10(37) of the Act. The assessee once again replied vide letter dated 30.01.2021 which is placed at page 30 of the Paper Book explaining the claim made by the assessee and how it is exempt. Ld. Counsel for the assessee submitted that considering the submissions of the assessee the AO completed the assessment accepting the claim of the assessee.

4. Ld. Counsel for the assessee further referring to the following decisions submitted that on identical facts the Tribunal held that the order passed by the PCIT u/s 263 of the Act in setting aside the assessments was held to be not erroneous and prejudicial to the interest of the Revenue: -

1. *“Hon'ble ITAT Bench F, Delhi in the case of Shri Rishi Batra vs Pr CIT in ITA NO. 1503/D/2023 vide order dt. 27.12.2024.*
2. *Hon'ble ITAT Bench C, Delhi in the case of Jai Singh Karwal vs Pr CIT in ITA NO. 1963/D/2024 vide order dt. 12.11.2024.*
3. *Hon'ble ITAT Bench C, Delhi in the case of Jai Parkash vs Pr CIT in ITA NO. 1675/D/2023 vide order dt. 15.04.2024*
4. *Hon'ble ITAT Bench A, Delhi in the case of Babu Lal vs ITO in ITA NO. 2741/D/2024 vide order dt. 08.01.2025*

5. *Hon'ble ITAT Bench F, Delhi in the case of Pawan Kumar vs Pr CIT in ITA NO. 1655/D/2024 vide order dt. 24.01.2024*
6. *Hon'ble ITAT Bench G, Delhi in the case of Sanjay Kumar Sharma vs Pr CIT in ITA NO. 357/D/2023 vide order dt. 24.01.2024.”*

5. On the other hand, the Ld. DR submits that issue is squarely covered by the decision of the Jurisdictional High Court in the case of Mahendra Pal Narang Vs. CBDT and therefore there is no scope for taking different views in this case. Ld. DR submitted that there are no two views possible and therefore the assessment order was rightly held to be erroneous and prejudicial to the interest of the Revenue for not considering the decision of the Jurisdictional High Court by the AO while completing the assessment.

6. Heard rival submissions, perused the orders of the authorities below. The Ld. PCIT passed order u/s 263 of the Act holding that the assessment order passed u/s 143(3) dated 02.02.2021 was erroneous and prejudicial to the interest of the Revenue for the reason that the AO failed to conduct necessary enquiries and to consider the judgment of the Jurisdictional High Court in the case of Mahendra Pal Narang Vs. CBDT with regard to the exemption claimed u/s 10(37) in respect of the interest received by the assessee on additional compensation under Land Acquisition Act.

7. We find that identical issue came up for consideration in the case of Shri Rishi Batra Vs. PCIT, Rohtak in ITA No.1503/Del/2023 dated 27.12.2024, wherein the Tribunal held as under: -

*“6. We have heard the parties and perused the materials available on record.*

*7. Ld. counsel for the assessee submitted that the question as to whether receipt of interest related to the additional compensation granted under Land Acquisition Act is a part of exempt income under Section 10(37) of the Act or not is a debatable issue, the Assessing officer while framing the assessment under Section 143(3) of the Act has taken the plausible view, which cannot be held erroneous while exercise power under Section 263 of the Act by the PCIT. The Ld. AR relying on the several Judicial pronouncements, sought for allowing the appeal. He relied upon the followings judgments:*

*i-Gulshan Kumar v PCIT Rohtak ITA No. i676/Del/2023 ii- Pawan Kumar v. PCIT Rohtak ITA No.i655/Del/2023 iii-Jeewanlal (1929) Ltd. v. Additional Commissioner of Income Tax and ors [1977] 108 ITR 407(Cal) iv- M/s Ashi Plywood Industries Hyderabad v ACIT Circle -3 Hyderabad 1041/H/2014 v- Jai Singh Karwal vs PCIT Rohtak ITA No,i963/Del/24 vi- Jai Prakash vs PCIT Rohtak ITA No. 1675/Del/ 2023 vii- [2022] 145 taxmann. Com 590(Calcutta) 6 ITA i503/Del/2023.*

*8. Per contra, the Ld Department's Representative submitted that the contention of the assessee has wrongly accepted by the A.O. and interest received under Section 28 of the Land Acquisition Act was wrongly allowed as exempted under Section 10(37) of the Act. The Judgments relied upon by the assessee have been rendered in respect of assessment year prior to introduction of section 56(2) (viii), 57(iv) and i45A(b) by Finance Act 2009 w.e.f 01-4-2010. He has submitted that the appeal of the assessee deserves to be dismissed.*

9. *The case of the assessee was selected for Complete Scrutiny on the issue of income from other sources and refund claim. The assessee has filed the reply and relied the following citation of the argument before Assessing Officer:*

*CIT vs Ghanshyam Dass HUF (2009) 315 ITR*

10. *After considering the reply submitted by the assessee, the Ld. Assessing Officer, was not made any addition.*

11. *Thus, it is observed that in this case the A.O. has already examined the issue of enhanced compensation and interest received under the Land 7ITA i503/Del/2023 Acquisition Act. In the instant case the A.O. has conducted the enquiry and adopted one of the two views which was plausible. In the case of Jai Singh Karwal vs PCIT Rohtak ITA No. 1963 /Del/2024 the Coordinate Bench held that:*

*"10. Further, the Hon'ble Supreme Court in the case of Pr. CIT vs. Canara Bank Securities Ltd., S.L.P.(C) No. 25651 of 2019, vide order dated 14th October, 2019 dismissed the Department's appeal affirming the view taken by the Bombay High Court in ITA No. 1761 of 2016, dated February 11, 2019, wherein the High Court held that the question whether the income should be taxed as business income or has arisen from other source was a debatable issue and the Assessing Officer had taken the plausible view that it was a business income after due enquiries and therefore it is not open for the Commissioner to take such an order in revision. Even in the present case, whether the receipt of interest related to the additional compensation granted under Land Acquisition Act, 1894 is a part of exempt u/s 10 (37) of the Act or not is a debatable issue, therefore, following the ratio laid down by the Hon'ble Supreme Court in Malabar Industrial Co. Ltd. vs. Commissioner of Income Tax (supra) and other decisions mentioned above, we are of the considered opinion that the impugned order of the Ld. PCIT is found to be erroneous, accordingly, order impugned of the Ld. PCIT is hereby quashed".*

12. *The power of revision can be exercised where no enquiry, as required under the law is done. Admittedly the assessing asked the assessee to furnish the necessary details from time to time which were 8 ITA i503/Del/2023 duly furnished by the assessee and after considering the same the Assessing officer has completed the assessment.*

13. *We find that the Hon'ble Delhi High Court in the case of CIT vs Sunbeam Auto reported in 332 ITR i6yhas held that the Assessing officer in the assessment order is not required to give detailed reason in respect of each and every item of deduction etc. Whether there was application of mind before allowing the expenditure in question has to be seen. If there was any inquiry, even inadequate, that would not by itself give occasion to the CIT to pass orders u/s 263 of the Act, merely because he has different opinion in the matter.*

14. *Considering the facts of the case in hand, in the light of the judicial decision discussed above, we set aside the revisional order of the PCIT dated 27-03-2023.*

8. In the case of J. Singh Karwal Vs. PCIT, Rohtak in ITA No.1963/Del/2024 the Tribunal held as under: -

*“7. We have heard both the parties and perused the material available on record. The case of the Assessee was reopened on the ground that the Assessee has received interest on compensation of Rs.16,21,153/- being 50% share of the Assessee. A notice u/s 148 was issued to the Assessee on 28/03/2021. The Assessee filed ITR on 29/04/2021 declaring income of Rs.2,04,970/-. Subsequently, show cause cum- notice u/s 142(1) of the Act has been issued on 21/03/2022 and the Assessee filed reply dated on 28/03/2022 wherein the Assessee mentioned as under: -*

*"Interest received u/s 28 of Land Acquisition Act and in all the Judgments it has been held that interest received u/s 28 of Land Acquisition Act is part of compensation and is totally exempt under 10(37) of*

*Income Tax Act in case of compulsory acquisition of agricultural land."*

*The Assessee has also relied on following citation in support of the argument before the A.O. Jai Singh Karwal, Vs. PCIT*

- a) CIT Vs Ghanshyam HUF (2009) 315 ITR 0001*
- b) C.I.T. vs. Govindbhai Mamaiya (2014) 367 ITR 0498 (SC)*
- c) State of Punjab vs. Amarjit Singh (2011) 4 SCC 734*
- d) Commissioner of Income Tax Vs. Chet Ram HUF Civil Appeal No.13053/2017 dated. Sept. 12,2017*
- e) Union of India and Ors Vs Hari Singh and Others Civil Appeal No. 15041 of 2017 Dt. 15.09.2017*
- f) Income Tax Officer-TDS2, Rajkot Vs Muktanandgiri Maheshgiri Civil Appeal No. 27333 of 2017 Dt. 10.11.2017.*

*8. After considering the reply given by the Assessee, the Ld. A.O. satisfied that the amount so received under the Land Acquisition Act, 1894 is not deserves to be brought to tax.*

*9. Thus, it is observed that, in the above assessment proceedings initiated u/s 147/148 of the Act, the A.O. has already examined the issue of interest received by the Assessee on the enhanced compensation under the Land Acquisition Act. Therefore, it is not a case wherein the Assessing Officer failed to conduct enquiry, rather it is the case where the Assessing Officer has conducted an enquiry and adopted one of the two views which was plausible view. The question would be as to whether in such circumstances, 'the power u/s 263 of the Act would be invoked by the PCIT or not?'. The above said question is no longer res- integra and the said issue is well settled in several decisions. In the case Jai Singh Karwal, Vs. PCIT of Malabar Industrial Co. Ltd. vs. Commissioner of Income Tax, (2000) 243 ITR 83 (SC), the Hon'ble Supreme Court held as under :-*

*"The phrase "prejudicial to the interests of the Revenue" has to be read in conjunction with an erroneous order passed by the Assessing Officer. Every loss of revenue as a consequence of an order of the Assessing Officer cannot be treated as prejudicial to the interests of the Revenue. For example, when an Income-tax Officer adopted one of the courses permissible in law and it has resulted in loss of Revenue; or where two views are possible and the Income-tax Officer has taken one view 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 Income-tax Officer is unsustainable in law."*

10. Further, the Hon'ble Supreme Court in the case of Pr. CIT vs. Canara Bank Securities Ltd., S.L.P.(C) No. 25651 of 2019, vide order dated 14th October, 2019 dismissed the Department's appeal affirming the view taken by the Bombay High Court in ITA No.1761 of 2016, dated February 11, 2019 wherein the High Court held that the question whether the income should be taxed as business income or has arisen Jai Singh Karwal, Vs. PCIT from other source was a debatable issue and the Assessing Officer had taken the plausible view that it was a business income after due enquiries and therefore it is not open for the Commissioner to take such an order in revision. Even in the present case, whether the receipt of interest related to the additional compensation granted under Land Acquisition Act, 1894 is a Part of exempt u/s 10(37) of the Act or not is a debatable issue, therefore, following the ratio laid down by the Hon'ble Supreme Court in Malabar Industrial Ltd. vs. Commissioner of Income Tax (supra) and other decisions mentioned above, we are of considered opinion that the impugned order of the Ld. PCIT is found to be erroneous, accordingly, order impugned of the Ld. PCIT is hereby quashed.

11. In the result, appeal filed by the Assessee is allowed. Order pronounced in open Court on 12<sup>th</sup> November, 2024."

9. In the case of J. Parkash Vs. PCIT, Rohtak in ITA No.1675/Del/2023 dated 15.04.2024 the Tribunal held as under:

*“7. We have heard the rival contentions and perused the material available on record and also gone through the orders of the authorities below.*

*7.1 We find plausible reasons in the contention of the Ld. AR that that the issue under consideration is no longer res integra, in as much as that identical issue arises into the case of other individuals namely Gulshan Kumar S/o Mohari Ram, wherein exactly similar and identical order has been passed by the Ld. PCIT, Rohtak u/s. 263 of the Act and our Coordinate Bench in ITA No. 1676/Del/2023 (AY 2018-19)- Gulshan Kumar vs. Pr. CIT, Rohtak vide order dated 13.02.2024 has decided the issue in favour of assessee, a copy of which has been placed on record. In order to impart completeness, we may hereinafter, refer to the relevant discussions in Tribunal order dated 13.2.2024 for AY 2018-19 :-*

*“10. We have considered the submission of the parties and perused the records. The facts are not in dispute. In our opinion in the light of evidence available on records, it cannot be alleged as done by the Ld. PCIT that it is a case of no enquiry' or 'lack of enquiry'. No doubt that the Ld. AO did not discuss elaborately in the assessment order but that alone cannot make the order erroneous as held by the Hon 'ble Delhi High Court in CIT V. Sunbeam Auto Ltd. (2011) 332 ITR 167 (Del) and Hon'ble Rajasthan High Court in CIT vs. Ganpat Ram Bisnoi 296 ITR 292 (Raj.). An incorrect assumption of facts or an incorrect application of law will satisfy the requirement of the order being erroneous as held by the Hon'ble Supreme Court in Malabar Industrial Co. Ltd. Vs. CIT 243 ITR 83 (SC). None of these elements exist in the case at hand.*

*11. Perusal of the order of the Ld. PCIT shows that he assumed the revisionary power under section 263 of the Act mainly on the ground that the Ld. AO failed to do the necessary inquiry about the taxability of the interest on enhanced compensation and passed the order not in accordance with the binding decision of Hon 'ble P&H High Court in Mahender Pal Narang vs. CBDT (2021) 279 Taxman 74 (SC) against which SLP stands dismissed by the Hon'ble Supreme Court. This is not so. During assessment proceedings in response to notice under*

section 143(2) and 142(1) of the Act. with reference to specific query on receipt of interest under section 28 of Land Acquisition Act, the assessee explained that interest received under section 28 of the Land Acquisition Act has been held to be part of compensation by Apex Court in the case of CIT vs. Ghanshyam HUF reported as (2009) 315 ITR 1, the same being exempt under section 10(37) of the Act has not been included in the total income of the assessee while filing return of income. The Ld. AO accepted the explanation of the assessee.

12. The issue of amended provisions of section 56(2)(viii) by the Finance Act 2009 and the decision of Hon'ble P&H High Court in Mahender PaL Narang's case was raised by the Ld. PCIT in notice under section 263 on the basis of the proposal submitted by the Ld Successor AO Before the Ld. PCIT the assessee explained that the amended provisions were not in connection with the decision of Hon 'ble Supreme Court in Ghanshyam HUF'S case but to make simple the taxation of interest income as earlier it was taxable on accrual/cash basis on the basis of accounting principles as held by the decision of Hon'ble Supreme Court in Rama Bai vs. CIT (1990) 181 ITR 400. It was also explained that insertion of section 145A, 145B, 56(2)(viii) and 57(iv) by the Finance (No.2) Act. 2009g did not change the character of interest under section 28 of the Land Acquisition Act from capital receipt forming part of enhanced compensation as envisaged in section 45(5) of the Act to revenue receipt' chargeable to tax as income from other sources. It was also explained to the Ld. PCIT that after analysing the provisions of section 28 and 34 of Land Acquisition Act the Hon'ble Supreme Court held in the case of Ghanshyam HUF that interest is different from compensation. However, interest paid on the excess amount under section 28 depends upon a claim by a person whose land is acquired whereas interest under section 34 is for delay in making payment. This vital difference needs to be kept in mind in deciding this matter. Interest under section 28 is part of the amount of compensation whereas interest under section 34 is only for delay in making payment after the

*compensation amount is determined. Interest under section 28 is a part of enhanced value of the land which is not the case in the matter of payment of interest under section 34. It is thus evident that the view taken by the Ld. AO that interest under section 28 of Land Acquisition Act received by the assessee is exempt under section 10(37) of the Act is not contrary to law.*

13. *We notice that in CBDT Circular No. 5 dated 03.06.2010 reported in (2010) 324 ITR (St.) 293, it is stated that the Hon'ble Supreme Court in the case of Rama Bai Vs. CIT (Supra) has held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. This has caused undue hardship to the taxpayers. With a view to mitigate the hardship section 145A has been substituted and clause (vii) in sub-section (2) of section 56 has been inserted by the Finance (No.2) Act, 2009 so as to provide that the interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A shall be assessed as income from other sources in the year in which it is received. It is thus evident that the amended provisions of section 56(viii) of the Act r.w. section 145A were brought on the statute to nullify the effect of Hon'ble Supreme Court's ruling in the case of Ramna Bai and not Ghanshyam HUF. Moreover, the decision in Ghanshyam HUF was pronounced in July, 2016 and the Finance Bill proposing amendment to section 56 was laid in February 2016. So the intention of the legislature could never be the overruling of the ratio laid down in Ghanshyam HUF case. The issue in Rama Bai case involved the taxability in the year of receipt. The facts and questions for determination in Rama Bai's Case were different from those of Ghanshyam HUF's case. The position in Ghanshyam HUF's case has been affirmed by the Hon ble Supreme Court in UOI VSHari Singh (2013) 91 taxmann.com 20 (SC).*

14. *We have gone through the decision of the Hon'ble P & H High Court in the case of Mahender Pal Narang (supra). In that case the land of the assessee was acquired in AY 2007-08 and 2008-09. The enhanced Compensation was received on 21.03.2016. In his return filed for AY 2016-17 he treated the interest received*

under section 28 of the 1894 Act as income from other sources and claimed deduction for 50% as per section 57(iv) of the 1961 Act. The return was processed under section 143(1) of the Act. An application under section 264 was made claiming that by mistake the assessee treated the interest income as income from other Sources whereas the same is part of enhanced compensation. The revisional authority rejected the application under section 264 on 30.1.2019. It was in this factual matrix that the assessee filed writ petition before the Hon'ble P & H High Court. The question for consideration was "whether after the insertion of section 56(2)(vii) and 57 (iv) of the Act w.e.f. 01.04.2010, can the assessee claim that interest received under section 28 of the Land Acquisition Act, 1894 will partake the Character of the compensation and would fall under the head "capital gain and not income from other sources" ? It was argued by the assessee that there is no amendment in section 10(37) and by insertion of sections 56(2)[viii) and 57(iv), the nature of interest under section 28 of the compensation and decisions of the Hon'ble Supreme Court in the case of 1894 Act will remain that of Ghanshyam (HUF) and the decision of Hon ble Gujrat High Court in Movaliya Bhikhubhai Balabhai vs. ITO TDSS (2016) 388 ITR 343 were relied upon.

15. It may be mentioned that the Hon 'ble Supreme Court has affirmed its view taken in Ghanshyam HUs 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. Accordingly, the opinion of the Ld. PCIT that the Ld. AO should have passed the assessment in accordance with the amended law and binding decision in Mahender Pal Narang's case (supra) overlooking the decision of Hon'ble Supreme Court in Ghanshyam's HUF's case is not sustainable. Reliance by the Ld PCIT on the decision in Mahender Pal Narang's case is misplaced Needless to emphasis that in

*V.M. Salgaocar and Bros Pvt. Ltd. vs. CIT 243 ITR 383 (SC), the Hon 'ble Supreme Court has held that an order dismissing the SLP at the threshold without detailed reasons does not constitute any declaration of law or a binding precedent. Therefore, overemphasising the fact of dismissal of SLP in limine by the Hon 'ble Supreme Court in Mahender Pal's case by the Revenue is not of any legal assistance to it.*

16. *Since the order of the Ld. AO is based on the decision of the Hon'ble Supreme Court in Ghanshyam HUF (Supra) on the issue of taxability of interest received by the assessee under section 28 of Land Acquisition Act. it can at best be said to be a debatable issue on which two views are possible and the Ld. AO accepts one of the views. In this view of the matter too, the Ld. PCIT cannot assume revisional jurisdiction held by the Hon 'ble Delhi High Court in CIT Vs. Hindustan Coca 'Cola Beverages P Ltd. (2011) 331 ITR 192 (Del.)*

17. *Accordingly, on the facts and in the circumstances of the case as set out above, we hold that the order of the Ld. PCT is not sustainable. Accordingly, we allow the appeal of the assessee and quash the impugned order of the Ld. PCIT.*

18. *In the result, appeal of the assessee is allowed."*

*7.2. We further find that the facts and circumstances are exactly similar and identical in the instant case as well. The Revenue has not pointed any change into facts and circumstances of the present case. We therefore, respectfully following binding precedent (Supra), hereby allow the appeal of the assessee by quashing the impugned order of the Ld. PCIT, Rohtak dated 27.3.2023 in terms of the aforesaid decision of the Coordinate Bench dated 13.2.2024 passed in the case of Gulshan Kumar vs. Pr. CIT, Rohtak in ITA No. 1676/Del/2023 (AY 2018-19)."*

10. Similar view has been taken by the Tribunal in the case of Pawan Kumar Vs. PCIT, Rohtak in ITA No.1655/Del/2023 dated

24.01.2024, Sanjay Kumar Sharma Vs. PCIT, Faridabad in ITA N.357/Del/2023 dated 24.01.2024.

11. Therefore, since the AO completed the assessment taking note of the replies filed by the assessee, and the decision of the Hon'ble Supreme Court in the case of Ghanshyam (HUF) and Union of India Vs. Hari Singh & Others. Since the assessment order of the AO is based on these decisions on the issue of taxability of interest received by the assessee u/s 28 of Land Acquisition Act, it can at best be said to be a debatable issue on which two views are possible and the Ld. Assessing Officer accepted one of the views. In the circumstances, the Ld. PCIT cannot assume revisional jurisdiction as held by the Jurisdictional High Court in the case of CIT Vs. Hindustan Coca Cola Beverages Pvt. Ltd. (331 ITR 192). Thus, respectfully following the above decisions, which are squarely applicable to the facts of the assessee's case, we hold that the order passed by the Ld. PCIT u/s 263 of the Act is not sustainable. Accordingly the grounds raised by the assessee are allowed and the impugned order of the Ld. PCIT u/s 263 is hereby quashed.

12. Now we take up the appeal of the assessee in ITA No.4073. This appeal arises consequent to the assessment order passed by the AO giving effect to the order of the Ld. PCIT u/s 263 of the Act.

Since we have quashed the order of the PCIT passed u/s 263 of the Act, consequential proceedings including the assessment shall fail. Therefore, the order passed by the AO u/s 143(3) r.w.s. 263 consequent to the order passed by the PCIT u/s 263 is hereby set aside.

13. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open court on 29/05/2025

**Sd/-  
(S RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER**

Dated: 29.05.2025

*\*Kavita Arora, Sr. P.S.*

Copy forwarded to:

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

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**