

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

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.2605/DEL/2024
(Assessment Year: 2020-21)**

Karamvir Yadav,
1135, Sector 46,
Gurgaon – 122 001 (Haryana).

vs.

Assessing Officer,
NFAC, Delhi.

(PAN : ABIPY5863E)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Ranjan Chopra, CA

REVENUE BY : Shri Kailash Dan Ratnoo, CIT DR

Date of Hearing : 30.04.2025

Date of Order : 09.07.2025

ORDER

PER S.RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. This appeal is filed by the assessee against the order of ld. Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. CIT (A)] dated 29.03.2024 for Assessment Year 2020-21 raising following grounds of appeal :-

“1. That having regard to the facts and circumstances of the case and in law, the order under section 263 of the Income-tax Assessee company, 1961.

2. That having regard to the facts and circumstances of the case and in law, the learned Pr. CIT erred in passing order u/s 263 of the Act, so much so that, the assessment order passed by the Assessing officer do not satisfy the statutory twin conditions prescribed under section 263 of the Act, viz., (i) that the assessment

order is erroneous; and (ii) that the assessment order is prejudicial to the interest of Revenue, which are to be cumulatively satisfied.

3. 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 setting aside the issue of taxability of interest u/s 28 of the Land Acquisition Act granted as part of enhanced compensation, which was duly scrutinized by the Assessing Officer while passing the assessment order under section 143(3) of the Act.

4. That the learned Pr, Commissioner of Income-tax has failed to appreciate that once the learned Assessing Officer on examination of the facts on record and after making all possible enquiries had accepted claim of the appellant then such an order of assessment could not be regarded as erroneous in as much as prejudicial to the interest of revenue merely because the learned Pr. Commissioner of Income-tax had a different opinion and that too, without having established in any manner that, view adopted by the learned Assessing Officer was an impossible or unsustainable view.

5. That the learned Principal Commissioner of Income-tax has failed to appreciate that action u/s 263 of the Act is otherwise too inapplicable on the factual matrix of the facts of the instant case since it is not a case of "lack of enquiry" or "lack of investigation" and therefore the invocation u/s 263 of the Act is not in accordance with law.

6. That furthermore the learned Principal Commissioner of Income-tax has erred in law and in facts of the case by directing AO to enhance addition to the assessed income by Rs.10,81,975/- considering the Additional amount given by Court as interest, without there being any supporting evidence and is therefore not in accordance with law.

7. That finding of the learned Principal Commissioner of Income-Tax holding AO had passed the order dated 19/09/2022 without conducting proper enquiries and verification which should have been made with respect of amended provisions of the Finance Act, 2015 and binding decision of Jurisdictional Hon'ble Punjab & Haryana High Court and Hon'ble Apex Court on the taxability of interest on enhanced compensation is factually incorrect, legally misconceived, contrary to facts on record and wholly untenable.

8. That the learned Pro Commissioner of Income-tax has also failed to appreciate that, u/s 263 of the Act and order of assessment cannot be set-aside to simply to make further enquiries and thereafter pass fresh order of assessment and as such, impugned order is contrary to law and hence, unsustainable.

9. That the order passed u/s 263 of the Income Tax Act, 1961 is against the principles of natural justice.”

2. Brief facts of the case are, during verification of assessment order passed under section 143(3) of the Income-tax Act, 1961 (for short 'the Act'), ld. PCIT observed that the assessee has received an amount of Rs.2,94,34,541/- on account of interest on enhanced compensation under the Land Acquisition Act, 1894. The same amount was claimed as exempt by the assessee, however the same was assessed to an amount of Rs.1,92,59,621/- instead of Rs.2,91,34,541/- by the NFAC, Delhi in the assessment order dated 19.09.2022. He observed that the assessment record revealed that the AO did not conduct proper enquiry on the issue of receipt of land compensation and interest thereon. Ld. PCIT observed that on merits regarding the eligibility of the assessee to not offer the income on interest received on enhanced compensation, which was claimed as exempt in the return, the following issues need to be examined :-

- (i) Whether the interest received on said enhanced compensation is exempt under any specific provisions of Income-tax Act, 1961?
- (ii) Whether the interest received on such enhanced compensation is exempt, has been stated by the jurisdictional High Court of Punjab & Haryana or Supreme Court?
- (iii) Whether the provisions of section 56(2)(viii), 57(iv) read with section 145A are applicable in the case of assessee?
- (iv) Whether the AO is exempt from jurisdictional High Court judgments on any legal issue?
- (v) Whether the interest received on enhanced compensation is taxable as income under the head 'income from other sources'?

(vi) Whether the assessment order which is passed without inquiry and following the valid and applicable judgments of jurisdictional High Court ignoring the statutory provisions and read with Explanation 2 of section 263, can be held as erroneous and prejudicial to the interest of revenue by PCIT u/s 263?

3. Accordingly, Ld. PCIT listed various conditions which are mandatory to claim the exemption u/s 10(37) of the Act at page 3 of his order. Accordingly, notice was issued to the assessee to explain the same. In response, assessee has submitted as under :-

“1. Sir as per your notice for hearing of dated 31.1.2024 you have mentioned that During the assessment proceeding the assessee has intimated that he has received interest on compensation of Rs. 1,92,59,621/- and the assessing officer has accepted the assessee's reply without making independent inquiry and made addition of Rs.96,29,811/- (50% of Rs: 1,92,59,621/-). Whereas, as per 26AS, the assessee has received interest on enhanced compensation to the tune of Rs.2,91,34,541/- under the Land Acquisition Act, 1894. As per Income Tax Act, 1961 interest of Rs.2,91,34,541/- was required to be added in the return of income as the time of finalization of assessment U/S 143(3) r.w.s 144B of the Income Tax Act, 1961 by the NaFac, Delhi, but the AO has taken the interest component at Rs.1,92,59,621/- instead of Rs.2,91,34,541/-.

2. Sir, I want to bring your kind notice that the AO has done correct addition of interest Rs.1,92,59,621/- instead of Rs.2,91,34,541/-. Department of Land Acquisition has wrongly deducted TDS on full compensation amount Rs.2,91,34,541/-. In this amount Hon'ble Court has awarded Rs.98,74,920/- as rate difference of cost + 30% Solatium+ Additional Cost 12%. I am enclosing order copy of Hon'ble Court for your record. This amount was enhanced compensation on compulsory acquisition of agriculture land (additional cost of my agriculture land). But TDS was wrongly deducted on full amount.

3. 10% TDS deduction is applicable on interest amount only not on entire enhanced compensation. TDS would be deducted only on amount of interest comprised in enhanced compensation. But TDS was wrongly deducted on full amount of enhanced compensation.

4. Sir, during the year, I had received Rs.2,91,34,541/- enhanced compensation on compulsory acquisition of agriculture land situated in Jasola

Village, New Delhi u/s 28 of Land Revenue Act. I had received enhanced agriculture land compensation Rs.2,91,34,541/- out of which interest amount was Rs.1,92,59,621/- and enhanced compensation Rs.98,74,920/-. As per section 10(37) of the Income Tax Act, 1961 compulsory acquisition agriculture land enhanced compensation and interest thereon is not taxable in any head of Income and fully exempt. So I had claimed all amount exempted u/s 10(37) of Income Tax Act, 1961 in my ITR filed for the relevant assessment year. I had received enhanced agriculture land compensation and interest u/s 28 of Land Revenue Act. It is a part of enhanced compensation as per various court decision, ITATS, Apex Court and Hon'ble High Courts of many States in India.

5. Sir, I want to say that after submitted many court's decision in this regard, the Assessing Officer has denied to allowed interest as part of enhanced compensation and added 50% of interest amount received on compensation received from collector of compulsory acquisition of agriculture land as the provision of Section 56(2)(viii) and 57(iv) read with sub-section (10) of section 145B of the Income Tax Act, 1961 in my income and taxes on it. I have deposited all tax amount within period of one month and applied u/s 270AA for waive off 100% penalty proceeding u/s 270A(9).

6. Sir, I have submitted all required documents to the good office of the assessing Officer that TDS was wrongly deducted by Office of Compulsory Acquisition Collector which was deducted on the total amount awarded by Hon'ble Court instead of only interest amount. Now I am submitting Hon'ble Court order for your ready reference

7. I request you to drop this notice and oblige me in this regard.”

4. Further vide written submission dated 20.03.2024, assessee has submitted as under :-

“Sub : NOTICE U/S 263 OF INCOME TAX ACT, 1961 IN NAME OF KARAM VIR YADAV ASSESSMENT YEAR 2020-21 PAN ABIPY5863E.

As per notice given by you I am enclosing herewith the following documents as required by you.

2. Sir, as per our discussion, I am enclosing a copy of "THE LAND ACQUISITION ACT, 1894". In this act Section 23 "Maiders to be considered in determining compensation is related to determine compensation. In this section ACT has mentions how to calculate compensation step by step and Section 23, sub section (1-A) has clearly mention that In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub section (1), in respect of such land to the date of award of the

Collector or the date of taking possession of the land, whichever is earlier. So it is a part of compensation not an interest income.

3. In addition to the market value of the land as above provided, the Court shall in every case award a sum of 30% Solatium on such market value, in consideration of the compulsory nature of the acquisition.

Sir, point 1 and 2, both are part of land compensation as per Land Acquisition Act, 1894.

3. In this Act, Section 28 is clearly mentions how to determining the interest on Land Acquisition Compensation amount and also mentions rate of interest and way of calculation of interest.

4. Sir, during the year, I had received Rs.2,91,34,541/- enhanced compensation on compulsory acquisition of agriculture land situated in Jasola Village, New Delhi u/s 28 of Land Revenue Act. I had received enhanced agriculture land compensation Rs.2,91,34,541/- out of which interest amount was Rs.1,92,59,621/- and enhanced compensation Rs.98,74,920/-. As per section 10(37) of the Income Tax Act, 1961 compulsory acquisition agriculture land enhanced compensation and interest thereon is not taxable in any head of Income and fully exempt. So I had claimed all amount exempted u/s 10(37) of Income Tax Act, 1961 in my ITR filed for the relevant assessment year. I had received enhanced agriculture land compensation and interest u/s 28 of Land Revenue Act.

5. Sir, I want to say that after submitted many court's decision in this regard, the AO has denied to allowed interest as part of enhanced compensation and added 50% of interest amount received on compensation received from collector of compulsory acquisition of agriculture land as the provision of Section 56(2)(viii) and 57(iv) read with sub-section (10) of section 145B of the Income Tax Act, 1961 in my income and taxes on it. I have deposited all tax amount within period of one month and applied u/s 270AA for waive off 100% penalty proceeding u/s 270A(9).

6. Sir, I am submitted a copy of the Land Acquisition Act, 1894 for your record.

7. I request you to drop this notice and oblige me in this regard.”

5. After considering the above, ld. PCIT rejected the submissions of the assessee and observed that the judgments relied upon by the assessee has been discussed and which are distinguishable. Ld. PCIT discussed the provisions of section 28 of Land Acquisition Act, 1894, sections 23 and 34 in

his order and discussed various case laws relevant for the present issue in his order and finally held as under :-

“66. After due consideration it is observed that the decisions of Hon'ble jurisdictional High Court of Punjab & Haryana are applicable along with Hon'ble Supreme Court in your case and therefore, interest received is not exempt from taxation. The assessee has received total compensation of Rs.2,91,34,541/- which includes interest on enhanced compensation of Rs.1,92,59,621/-, 59,52,284/- compensation amount, solatium @30% amounting to Rs, 17,85,685/- and additional amount of interest @ 12% of Rs. 21,36,951/-. The assessing officer in his order dated 19.09.2022 has made addition of Rs.96,29,811/- (50% of Rs.1,92,59,621/-) on account of interest on enhanced compensation. The AO has inadvertently not taken into account interest of Rs.21,63,951/- (12% Additional amount) received by the assessee which he has claimed as exempt income. The AO should have made addition of Rs.10,81,975/- (50% of Rs.21,63,951/-) by applying provision of section 2(28A) r.w.s. 56(2)(viii), 57 (iv) and 145A (B) of the Income Tax act, 1961 in the year of receipt.

Accordingly, it is held that interest is liable to be taxed as per provisions of section 2(28A) r.w.s. 56(2)(viii), 57(iv) and 145A(B) of the Income Tax Act, 1961 in the year of receipt. The provisions of 2(28A) r.w.s. 56(2)(viii), 57(iv) r.w.s. 145A(B) of the Income Tax Act, 1961 are very loud and clear to held that interest received on all compensations of land acquisitions are taxable under Income Tax Act, 1961 as income under the Head income from "Other Sources". The interest received on enhanced compensation received on acquisition of agricultural land is not exempt u/s 10(37) of Income Tax Act, 1961. The assessment order of the Assessing Officer is found to be erroneous and prejudicial to the interest of revenue on the above issues.

67. The Commissioner u/s. 263 has been assigned the duty in the interest of justice to review such kinds of erroneous orders which are also prejudicial to the interest of revenue. The order of the Commissioner of Income Tax itself is subject to judicial scrutiny and order of the Assessing Officer made u/s 147 infurtherance to the order u/s 263 is further subject to judicial scrutiny, thereby giving the full opportunity to the assessee to express its views before the appropriate authorities. The Department will not have an opportunity if this wrong order has to be accepted although erroneous and prejudicial to the interest of revenue because the Assessing Officer has expressed his opinion although it may be on wrong assumption of facts and application of law. If this order is not revised or cancelled, the assessee will enjoy the tax benefit by not filing its return truly and correctly as per the law of the jurisdictional High Court.

68. In view of facts and legal position stated above, it is hereby held that assessment order u/s 143(3) read with section 1448 of the Income Tax Act, 1961 vide order dated 19.09.2022 passed in this case for Assessment Year 2020-21 is erroneous in so far as it is prejudicial to the interest of revenue. Consequently, in exercise of the power conferred in the Section 263 of the Income Tax Act, 1961, the said assessment order dated 19.09.2022 is set aside, but only to the extent as

discussed in the order. Accordingly, the Assessing Officer is directed to make addition of Rs.1 0,81 ,9751- (50% of Rs.21 ,63,951/-) by applying provision of section 2(28A) r.w.s. 56(2)(viii), 57(iv) and 145A(B) of the Income Tax Act, 1961. The AO is directed to pass assessment order a fresh and re-compute the assessee's income after making further enquiries as directed in the foregoing paragraphs and after giving due opportunity to the assessee & perusing the necessary evidence.

6. Aggrieved with the above order, assessee is in appeal before us.
7. At the time of hearing, ld. AR of the assessee submitted that the case was selected for limited scrutiny and further he submitted that assessee had received compensation of Rs.2,94,34,541/- and claimed the same as exempt u/s 10(37) of the Act. He submitted that as per the Hon'ble High Court order, assessee has received Rs.98,74,920/- as enhanced compensation and interest of Rs.1,92,59,621/-. He submitted that as per the order passed u/s 263 whereby entire compensation of Rs.2,94,34,451/- is to be taken as interest. In this regard, he submitted that vide letter dated 06.03.2024, which is placed at page 62 of the paper book, it is submitted that actual break up of compensation are as under :-
 - (i) Enhanced compensation of Rs.98,74,920/- received by the assessee;
 - (ii) Compensation of Rs.59,52,284/- are towards enhanced compensation;
 - (iii) Solatium @ 30% awarded which amounts to Rs.17,85,685/- and awarded additional cost @ 12% which amounts to Rs.21,36,951/-.
8. He submitted that the additional cost awarded @ 12% was treated by ld. PCIT as part of interest compensation and he concluded by making an addition of Rs.10,81,975/-. He brought to our notice the Govt. of NCT of Delhi's order dated 13.03.2019 which is placed at page 64 to 72 of the paper

book. He brought to our notice relevant sections 23, 28 and 34 of the Land Acquisition Act. He prayed that the additional cost awarded to the assessee is part of the enhanced compensation u/s 23 of the Act and submitted that AO has rightly completed the assessment by bringing on actual interest received by the assessee, therefore, the order passed by the AO is not erroneous nor prejudicial to the interest of Revenue.

9. On the other hand, ld. DR of the Revenue relied on the detailed findings of the ld. PCIT and brought to our notice detailed findings from paras 13 to 66 of the order.
10. Considered the rival submissions and material placed on record. We observe that during verification of the assessment order, ld. PCIT observed that assessee has received compensation of Rs.2,91,34,541/- and the AO has brought to tax only Rs.1,92,59,621/-. He analysed the compensation in detail in his order from para 13 onwards and he observed that assessee has received compensation, solatium and additional cost @ 12%. After discussing the compensations received by the assessee to the extent of Rs.98,74,920/-, we observe that the compensation and solatium received by the assessee falls within section 23 of the Land Acquisition Act and the additional cost received by the assessee which forms part of interest compensation award to the assessee. Therefore, he came to the conclusion that the additional cost @12% received by the assessee of Rs.21,36,951/- is subject to tax.

Therefore, the AO has not verified the compensation properly and not applied the jurisdictional High Court order in the present case. After considering the findings of the ld. PCIT in detail, we observe that ld. PCIT at para 15 of the order discussed the provisions of section 23(1A) of the Land Acquisition Act and he observed that compensation awarded by the Court is a determination and conclusion on the said rate also includes the payment as per section 23(1A) and solatium u/s 23(2) of the Land Acquisition Act, 1894. The additional rate does not include interest and it is not mandatory. It is left to the discretion of the Court. The provisions of section 28 and 34 are very clearly classified as interest. The provisions of section 23(1A) and section 23(2) do not refer to said amount as interest. After discussing section 23(1A) in detail, ld. PCIT while concluding at para 66 of the order treated the additional cost @ 12% as interest which is chargeable to tax. We observe that section 23(1A) of the Act are as under :-

“[(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation. - In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.”

11. From the above, compensation of additional cost is at the discretion of the Court, the Court may award the additional cost @ 12% to the assessee and it is relevant to note that section 23(1A) falls under compensation and it cannot

be treated as part of interest awarded to the assessee. The above facts were discussed in detail by the ld. PCIT at para 15 of the order. Therefore, ld. PCIT while concluding the above additional cost as additional interest award to the assessee is not proper and it is apparent on record. Since the additional compensation, solatium and additional cost are part and parcel of the compensation awarded to the assessee, which cannot be termed as additional interest awarded to the assessee, therefore, the direction of the ld. PCIT is bad in law and we are inclined to set aside the order passed u/s 263 of the order.

12. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on this 9th day of July, 2025.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 09.07.2025
TS**

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**