आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।

IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER And SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 156/RJT/2025
(Assessment Year: 2016-17)

Babubhai Kanjibhai Sakariya Plot No. 82 Satyam Park, Amarnagar Road, Jetpur,(Rajkot-Gujarat) -360370	**Vs.**	ITO, Wd 1(2)(1), Rajkot Aaykar Bhavan, Race Course Ring Road, Rajkot 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: **AGNPS7407C**		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओरसे/Assessee by : Shri Rajendra Singhal, Ld. AR
राजस्वकी ओर से/Revenue by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing : 09/10/2025
घोषणा की तारीख/Date of Pronouncement : 06/11/2025

आदेश/ORDER

Per, Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2016-17, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 11/02/2025, which in turn arises out of an order passed by the Assessing Officer dated 21/12/2018 u/s 143(3) of the Income Tax Act, 1961.

2. Grounds of appeal raised by the assessee, are as follows;

"1. The order passed by the Id. Commissioner of Income-tax, 1 National Faceless Appeal Center (NFAC) is bad in law and invalid.

2. The Ld. CIT(A) erred on facts as also in law in upholding the addition of Rs. 94,81,129/- made for interest granted by the Competent Court as per sec. 28 of the Land Acquisition Act, 1894, as enhanced compensation.

3. The Ld. CIT(A) erred on facts as also in law in upholding the protective addition of Rs. 71,10,846/-made in hands of the appellant, as substantive addition, for interest pertaining to other co-owners

4. The Ld. CIT(A) erred on facts as also in law in upholding the addition, relying upon decision of the Hon'ble Punjab High Court in case of Delhi High Court in the case of PCIT Vs Inderjit Singh Sodhi (HUF) ITA No. 769 OF 2023 [2024] 161 taxmann.com 301 (Delhi), ignoring judgment of the Hon'ble Jurisdictional High Court of Gujarat in case of pertaining to other co-owners.

5. The Ld. CIT(A) erred on facts as also in law in upholding the addition, relying upon decision of the Hon'ble Punjab High Court in case of Delhi High Court in the case of PCIT Vs Inderjit Singh Sodhi (HUF) ITA No. 769 OF 2023 [2024] 161 taxmann.com 301 (Delhi).

6. The Ld. CIT(A) erred on facts as also in law in upholding the addition, ignoring judgment of the Hon'ble Jurisdictional High Court of Gujarat in case of Movaliya Bhikhubhai Balabhai vs. ITO 388 ITR 343 (Guj), duly affirmed by the Hon'ble Supreme Court along with case of UOI v. Hari Singh and Others [2018] 91 taxmann.com 20."

3. The facts necessary for disposal of the appeal are stated in brief. The assessee, before us, is an individual and has e-filed return of income for the year under consideration declaring income at Rs.Nil/- and shown current year loss at Rs.9,42,965/-. The return of income of the assessee was processed u/s.143(1) of the Act accepting the returned income. Later on, the assessee`s case was selected for scrutiny through CASS for Limited scrutiny

and a notice u/s.143(2) of the Act, was issued on 13.07.2017 and duly served upon the assessee. The notice u/s 142(1) of the Act dated 25.07.2018 was also issued calling for various details, which was duly served upon the assessee. On verification of ITS Data, it was noticed by the assessing officer that assessee has been paid Rs.1,92,52,808/-u/s. 194A of the Act. From the data for the assessment year (A.Y.) 2016-17, it was observed by the assessing officer that assessee had received interest on enhanced compensation paid for compulsory acquisition of agricultural land, at Rs.1,89,62,258/-, Further, from the computation of income, it was noticed by the assessing officer that assessee had claimed TDS at Rs. 19,25,281/- on receipt of Rs. 1,92,52,808/-. Therefore, the assessing officer issued a show cause notice to the assessee stating that why not amount of interest on enhanced compensation paid for compulsory acquisition of agricultural land, at Rs. 1,89,62,258 /- should not be treated as receipts in assessee`s hands and it should be taxable under the head income from other sources.

4. In compliances thereto, the assessee, submitted its reply, along with documentary evidences, before the assessing officer, vide reply dated 03.12.2018. The assessee submitted before the assessing officer that the receipt of Rs. 1,89,51,049/- is towards interest u/s.28 of Land Acquisition Act, 1894 on enhanced compensation on compulsory acquisition of rural agricultural land by government. The land so acquired by the government was originally owned by assessee`s father Late Shri Kanjibhai Kababhai. The assessee along with his other family members viz: (i)Smt. Ujiben Kanjibhai Sakariya, (ii)Shri Jerambhai Kanjibhai Sakariya, and (iii)Shri Mansukhbhai Kanjibhai Sakariya and assessee himself (iv)Babubhai

Kanjibhai Sakariya, were possessing the same in capacity of his legal heirs and each having share of 25% shares and therefore assessee`s share in interest so received will be of Rs.47,37,762/-. Due to wrongly quoting of only assessee`s PAN number by the office of Land Acquisition Officer, the entire interest amount of Rs.1,89,51,049/- and entire TDS thereon of Rs. 18,95,105/- was being shown in assessee`s ITS data. Since the entire TDS of Rs.18,95,105/- is being shown in assessee`s PAN and 26AS, therefore, the assessee had claimed the same in his Return of income.The land so acquired by government is agricultural land situated in rural area and hence it is not a capital asset as defined under section 2(14) of the Income Tax Act, 1961.Further it is settled position that interest on enhanced compensation received u/s.28 of the Land Acquisition Act, 1894 forms part of enhanced compensation/consideration for land as it is an accretion in the value of land. This has been held by Supreme Court in case of CIT v. Ghanshyam (2009) 182 Taxman 368 (SC).Therefore, interest received of Rs.47,37,762/- is consideration for compulsory acquisition of land itself, and being rural agricultural land it is not a capital asset, and accordingly the same is not chargeable to tax under the head income from capital gains or under any other head of income. Taking the rationale of the High Court of Gujrat in the case of Movaliva Bhikhubhai Balabhai v. ITO CA No.17944 of 2015, order dated 31.03.2016, wherein it was held that interest on compensation/enhanced compensation under section 28 of the Land Acquisition Act, 1894 forms part of compensation/consideration and not interest as contemplated u/s. 56(2)(viii) of the Income Tax Act, 1961, therefore, interest of Rs.47,37,762/- will also not be chargeable to tax under the head income from other sources.

5. However, the assessing officer rejected the above contention of the assessee and observed that the entire interest receipt is deemed to be the income of the assessee as the assessee has claimed the same as his prepaid taxes. Secondly, these very interests which have been distributed amongst other land holders, is coming back to the assessee as GIFT. Hence, it is clear that the share of the assessee in the interest and compensation thereof, is 100%. Accordingly, the share of the interest receipt belonging to other three persons on which the assessee has claimed full TDS as his prepaid taxes, is treated in the hands of the assessee on protective basis. The assessment of the remaining three persons was being reopened to assess it in their hands on substantive basis. Therefore, 25% share of assessee of Rs.23,70,283/-, was added on substantive basis and 75% share of other co-owners was added in the hands of assessee on protective basis, as the assessee had claimed credit of entire TDS- so protective addition was made in the hands of the assessee to the tune of Rs.71,10,846/-, thus, the total addition comes in the hands of the assessee at Rs.94,81,129/- (Rs.71,10,846 + Rs.23,70,283).

6. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before ld.CIT(A), who has confirmed the additions made by the assessing officer. The ld. CIT(A) noticed that assessee has claimed credit for the entire TDS amounting to Rs. 18,96,225/-, which substantiates that the corresponding income is solely attributable to him. Furthermore, as observed from the AO's order, the assessee had initially distributed the interest income on compensation among other individuals and subsequently received the same back as a gift. In view of these facts, the AO has rightly added the entire interest income on compensation in the assessee`s hands.

Therefore, ld.CIT(A) noted that the AO has fairly granted a deduction of 50% of the interest u/s 57(iv) of the Act. The AO has therefore been fair in taxing the sum of only Rs 94,81,129/- as income in the hands of the assessee and this way, the ld CIT(A) upheld the addition made by the assessing officer.

7. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

8. Learned Counsel for the assessee invited our attention to the order dated 27.08.2025 passed by the Hon'ble ITAT, Rajkot in assessee's own brother case/group case, in the case of Mansukhbhai Kanjibhai Sakariya, in ITA 318/Rjt/2024 for Assessment Year-2016-17 on this same identical and similar facts, wherein the Hon'ble Tribunal held that compensation on account of sale of agricultural land and interest on enhanced compensation received u/s. 28 of the Land Acquisition Act, 1984, is part of the compensation for land as it is accretion in the value of the land, therefore, interest on enhanced compensation on compulsory acquisition of rural agricultural land is exempt from tax. The Ld. Counsel for the assessee, therefore, relied on the decision of the Hon'ble ITAT, Rajkot in assessee own group case in ITA 318/Rjt/2024 for AY 2016-17 order dated 27.08.2025 (supra) wherein the Tribunal held as follows:

> *"13.We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of the applicable legal position.We note that Hon'ble Gujarat High Court in the case of Movaliya Bhikhubhai Balabhai Vs. ITO, SCA No.17944 of 2015 dated 31.3.2016 stated that the interest received for enhanced compensation is part of the compensation and this judgment has been delivered by the jurisdictional High Court of Gujarat, after the amendment*

made in section 145B and section 56 (2) (viii) of the Income Tax Act. We note that the ld.Pr.CIT has heavily relied on the judgment of Hon'ble Punjab & Haryana High Court in the case of Manjeet Singh (HUF) Vs. UOI, CWP No.15506 of 2013 dated 29.1.2016 wherein the Hon'ble Punjab & Haryana High Court held that interest received on enhanced compensation is a revenue receipt and it is taxable in the hands of the assessee under section 56 of the Act, under "income from other sources" in the year of receipt. However, we note that jurisdictional High Court in the case of Movaliya Bhikhubhai Balabhai Vs. ITO(supra) clearly stated that the compensation and interest received on enhanced compensation has character of compensation and it does not fall within the expression "interest" as contemplated in section 145B r.w.s. 56(2) (viii) of the Act. We note that before this Bench, jurisdictional High Court's decision in the case of Movaliya Bhikhubhai Balabhai Vs. ITO(supra) would be applicable, as it is a judgment of jurisdictional High Court of Gujarat. However, the judgment relied on by the ld.Pr.CIT in the case of Manjeet Singh (HUF) Vs. UOI (supra) is related to Hon'ble Punjab & Haryana High Court, which is not a jurisdictional High Court, for us. Therefore, judicial discipline mandates that we suppose to follow the judgment of the jurisdictional High Court. Thus, we note that the judgement of jurisdictional High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai Vs. ITO [2016] 70 taxmann.com 45 (Gujarat),(supra) Is clearly applicable to us, wherein following ratio was laid down by the Hon`ble Court:

"6. The facts as emerging from the record are that the petitioner's agricultural lands came to be acquired underthe provisions of the Act of 1894 for the public purpose of the Ozat-2 Irrigation Scheme. The award passed by the Collector came to be challenged by the petitioner before the learned Principal Senior Civil Judge,Junagadh (hereinafter referred to as the "Reference Court"), who by an order dated 20th March, 2011 award additional compensation of Rs. 5,01,846/- in favour of the petitioner together with other statutory benefits. Pursuant to such award, the second respondent calculated the amount payable to the petitioner and in terms of the statement showing the amount of compensation to be deposited in the court, computed an amount of Rs.20,74,157/- as payable to the petitioner by way of interest under section 28 of the Act of 1894. In support of such statement, the second respondent has also issued a communication dated 12th October, 2015 certifying that the interest shown in Columns No. 13 and 14 indicates the interest under section 28 of the Act of 1894. It may be noted that Column No. 15 is comprised of the total amount of interest under Columns No. 13 and 14of the above statement. Undisputedly, therefore, the amount of interest from which the income tax is sought to be deducted at source, is interest payable under section 28 of the Act of 1894.

7. At this juncture, reference may be made to the decision of the Supreme Court in the case of Ghanshyam(HUF) (supra) wherein, the court has examined the provisions of the Land Acquisition Act, 1894 as well asthe provisions of section 45 of the I.T. Act and the intention behind insertion of sub-section (5) of section

45.The court noted that subsection (5) of section 45 was inserted to provide for taxation of additional compensation in the year of receipt instead of in the year of transfer of the capital asset. The court considered the provisions of sections 23(1), 23(1-A) and section 23(2) of the Act as well as section 28 and section 34 ofthe Act of 1894 and observed that section 23(1-A) was introduced in the 1894 Act to mitigate the hard ship caused to the owner of the land who is deprived of its enjoyment by taking possession from him and using it for public purpose, because of the considerable delay and offering payment thereof. To obviate such hardship,section 23(1-A) was introduced and the legislature envisaged that the owner is entitled to 12% per annum additional amount on the market value for a period commencing on or from the date of publication of the notification under section 4(1) of the 1894 Act up to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier. The court held that the additional amount payable undersection 23(1-A) of the 1894 Act is neither interest nor solatium. It is an additional compensation designed to compensate the owner of the land for the rise in price during the pendency of the land acquisition proceedings. It is a measure to offset the effect of inflation and the continuous rise in the value of properties. Therefore, the amount payable under section 23(1-A) of the Act is an additional compensation in respect to the acquisition and has to be reckoned as part of the market value of the land. The court further held that the award of interest under section 28 of the 1894 Act is discretionary. Section 28 applies when the amount originally awarded has been paid or deposited and when the court awards excess amount. In such cases, interest on that excess alone is payable. Section 28 empowers the court to award interest on the excess amount of compensation awarded by it over the amount awarded by the Collector. The compensation awarded by the court includes the additional compensation awarded under section 23(1-A) and the solatium under section 23(2) of the said Act.This award of interest is not mandatory but is left to the discretion of the court. It was further held that section28 is applicable only in respect of the excess amount which is determined by the court after a reference undersection 18 of the 1894 Act. Section 28 does not apply to cases of undue delay in making award for compensation. The court observed that interest is different from compensation. However, interest paid on the excess amount under section 28 of the 1894 Act depends upon a claim made by a person whose land is acquired whereas interest under section 34 is for the delay in making payment. This vital difference needs to be kept in mind in deciding the 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 the enhanced value of the land which is not the case in the matter of payment of interest under section 34. The court, thereafter, specifically considered the question as towhether additional amount under section 23(1-A), 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 compensation under section 45(5) of the 1961 Act and the court held thus: —"47. The issue to be decided before us-what is the

meaning of the words "enhanced compensation/consideration" in Section 45(5)(b) of the 1961 Act? Will it cover "interest"? These questions also bring in the concept of the year of taxability.48. It is to answer the above questions that we have analysed the provisions of Sections 23, 23(1-A),23(2), 28 and 34 of the 1894 Act.49. As discussed hereinabove, Section 23(1-A) provides for additional amount. It takes care of the increase in the value at the rate of 12% per annum. Similarly, under Section 23(2) of the 1894 Act there is a provision for solatium which also represents part of the enhanced compensation. Similarly, Section 28 empowers the court in its discretion to award interest on the excess amount of compensation over and above what is awarded by the Collector. It includes additional amount under Section 23(1-A) and solatium under Section 23(2) of the said Act. Section 28 of the 1894 Act applies only in respect of the excess amount determined by the court after reference under Section18 of the 1894 Act. It depends upon the claim, unlike interest under Section 34 which depends onun due delay in making the award.50. It is true that "interest" is not compensation. It is equally true that Section 45(5) of the 1961 Act refers to compensation. But as discussed hereinabove, we have to go by the provisions of the 1894Act which awards "interest" both as an accretion in the value of the lands acquired and interest for undue delay. 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(1-A) and solatium under Section 23(2) of the 1961 Act forms part of enhanced compensation under Section 45(5)(b)of the 1961 Act. "Thus, the court has held that interest under section 28 of the Act of 1894 is an accretion to compensation and forms part of the compensation and, therefore, exigible to tax under section 45(5) of the Act. Such decision was, therefore, rendered in favour of the revenue.

8. The above referred decision in the case of Ghanshyam (HUF) (supra) came to be followed by the Supreme Court in the case of CIT v. Govindbhai Mamaiya [2014] 52 taxmann.com 270/367 ITR 498/[2015] 229Taxman 138, wherein the court after referring to the above decision in the case of Ghanshyam (HUF) (supra)held that it is clear that whereas interest under section 34 of the Act of 1894 is not treated as a part of income subject to tax, the interest earned under section 28, which is on enhanced compensation, is treated as anaccretion to the value and, therefore, part of the enhanced compensation or consideration making it exigible to tax under section 45(5) of the Income Tax Act.

9. Thus, the Supreme Court in the case of Ghanshyam (HUF) (supra) has held that the interest under section28 of the Act of 1894 unlike interest under section 34 is an accretion to the value and hence, it is a part of the enhanced compensation or consideration which is not the case with interest under section 34 of the 1894 Act. Therefore, interest under section 28 of the Act of 1894 would form part of the enhanced compensation and would be exigible to capital gains under section 45(5) of the I.T. Act. In other words, in case of a transaction which is otherwise exigible to capital gains tax under section 45 of the I.T. Act, the

interest received undersection 28 of the Act of 1894 being an accretion to the value, would form part of the compensation and would be exigible to tax under section 45(5) of the I.T. Act, whereas the interest received under section 34 of the Act of 1894 would be "interest" within the meaning of such expression as envisaged under section 145A of the I.T. Act and would be deemed to be the income of the year under consideration, chargeable to tax as income from other sources under section 56 of the I.T. Act.

10. In the facts of the present case, it is an admitted position that the interest on which the tax is sought to be deducted at source under section 194A of the Act is interest under section 28 of the Act of 1894 and not undersection 34 thereof. As noted hereinabove, the petitioner's application for a certificate under section 197 of theI.T. Act for no deduction of tax at source has been rejected on the ground that the interest amount received under section 28 of the Act of 1894 is taxable as per the provisions of section 57(iv) read with section 56(2)(viii) and section 145A(b) of the I.T. Act. Section 145A of the I.T. bears the heading "Method of accounting in certain cases". Section 145A(b) provides that notwithstanding anything to the contrary contained in section145, interest received by an assessee on compensation or on enhanced compensation, as the case may be, shallbe deemed to be the income of the year in which it is received. Clause (viii) of sub-section (2) of section 56 of the I.T. Act provides for income by way of interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A which is chargeable as income from other sources. The first respondent Income Tax Officer seeks to tax the interest received by the petitioner under section 28 of the Act of 1894 as income from other sources under section 56(2)(viii) read with section 145A(b) of the I.T. Act. In the opinion of this court, in the light of the law laid down by the Supreme Court in the case of Ghanshyam (HUF) (supra), the interest received under section 28 of the Act of 1894 would not fall within the ambit of the expression "interest" as envisaged under section 145A(b) of the I.T. Act, inasmuch as, the Supreme Court in the above decision has held that interest under section 28 of the Act of 1894 is not in the nature of interest but is an accretion to the compensation and, therefore, forms part of the compensation. At this stage it may be quote the following part of the decision of the Supreme Court in Ghanshyam (HUF)'s case (supra):"54. Section 45(5) read as a whole [including clause (c)] not only deals with reworking as urged on behalf of the assessee but also with the change in the full value of the consideration (computation)and since the enhanced compensation/consideration (including interest under Section 28 of the1894 Act) becomes payable/paid under the 1894 Act at different stages, the receipt of suchenhanced compensation/consideration is to be taxed in the year of receipt subject to adjustment, if any, under Section 155(16) of the 1961 Act, later on. Hence, the year in which enhanced compensation is received is the year of taxability. Consequently, even in cases where pending appeal, the court/tribunal/authority before which appeal is pending, permits the claimant to withdraw against security or otherwise the enhanced compensation (which is in dispute), the same is liable

to be taxed under Section 45(5) of the 1961 Act. This is the scheme of Section 45(5) and Section 155(16) of the 1961 Act. We may clarify that even before the insertion of Section 45(5)(c)and Section 155(16) w.e.f. 1-4-2004, the receipt of enhanced compensation under Section 45(5)(b)was taxable in the year of receipt which is only reinforced by insertion of clause (c) because the right to receive payment under the 1894 Act is not in doubt.55. It is important to note that compensation, including enhanced compensation/consideration under the1894 Act, is based on the full value of property as on the date of notification under Section 4 of that Act. When the court/tribunal directs payment of enhanced compensation under Section 23(1-A), or Section 23(2) or under Section 28 of the 1894 Act it is on the basis that award of the Collector or the court, under reference, has not compensated the owner for the full value of the property as on date of notification. "Thus, it is clear that the Supreme Court after considering the scheme of section 45(5) of the I.T. Act has categorically held that payment made under section 28 of the Act of 1894 is enhanced compensation, as a necessary corollary, therefore, the contention that payment made under section 28 of the Act of 1894 is interest as envisaged under section 145A of the I.T. Act and has to be treated as income from other sources, deserves to be rejected.

11. It has been vehemently contended on behalf of the first respondent that the above decision has been rendered prior to the substitution of section 145A of the I.T. Act by Finance (No. 2) Act, 2009 with effect from 1st April, 2010, and hence, would have no applicability to the facts of the present case. The scope and effect of the substitution (with effect from 1st April, 2010) of section 145A, as also amendment made in section 56(2) by Act 33 of 2009 have been elaborated in the following portion of the departmental circular No. 5/2010, dated 3.6.2010, as follows: "Rationalizing the provisions for taxation of interest received on delayed compensation or on enhancedcompensation.-46.1 The existing provisions of Income Tax Act, 1961, provide that income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Further the Hon'ble Supreme Court in the case of Smt. Rama Bai v. CIT (1990) 84 CTR (SC) 164 :(1990) 181 ITR 400 (SC) 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.46.2 With a view to mitigate the hardship, section 145A is amended to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it was received, irrespective of the method of accounting followed by theassessee.46.3 Further, clause (viii) is inserted in sub-section (2) of the section 56 so as to provide that income byway of interest received on compensation or 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.46.4 Applicability. - This amendment has been made applicable with effect from 1st April, 2010, and it will accordingly apply in relation to assessment year 2010-11 and subsequent

assessment years. "Thus, the substitution of section 145A by Finance (No. 2) Act, 2009 was not in connection with the decision of the Supreme Court in Ghanshyam (HUF)'s case (supra) but was brought in to mitigate the hardship caused to the assessee on account of the decision of the Supreme Court in Rama Bai v. CIT [1990] 181 ITR400/[1991] 54 Taxman 496 whereby it was held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. Therefore, when one reads the words "interest received on compensation or enhanced compensation" in section 145A of the I.T. Act, the same have to be construed inthe manner interpreted by the Supreme Court in Ghanshyam (HUF)'s case (supra).

12. On behalf of the first respondent, reliance has been placed upon decisions of different High Courts taking a different view. This court is not in agreement with the view adopted by the other High Courts which are not consistent with the law laid down in the case of Ghanshyam (HUF) (supra). In Manjet Singh (HUF) KartaManjeet Singh's case (supra), the Punjab and Haryana High Court has chosen to place reliance upon various decisions of the Supreme Court rendered during the period 1964 to 1997 and has chosen to brush aside the subsequent decision of the Supreme Court in Ghanshyam (HUF)'s case (supra) which is directly on the issue by observing that the assessee cannot derive any benefit from the observations made by the Supreme Court as quoted therein. In Hari Kishan's case (supra), the Punjab and Haryana High Court has placed reliance upon its earlier decision in the case of Manjet Singh (HUF) Karta Manjeet Singh (supra). In Bir Singh (HUF)'s case(supra), the Punjab and Haryana High Court has held that under the scheme of the 1894 Act, interest undersection 34 is part of compensation while interest under section 28 is not the interest which partakes the character of compensation and is treated differently. In the opinion of this court, the above view of the Punjab and Haryana High Court is contrary to what has been held in the decision of the Supreme Court in Ghanshyam (HUF)'s case (supra) wherein it has been held that interest under section 28 unlike interest undersection 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. This court is in agreement with the view adopted by the Punjab and Haryana High Court in Jagmal Singh's case (supra), which has been extensively referred to in paragraph 4.1 above. The decision of the Delhi High Court in Sharda Kochhar's case (supra), having been rendered in the context of a different controversy would have no applicability to the facts of the present case.

13. The upshot of the above discussion is that since interest under section 28 of the Act of 1894, partakes the character of compensation, it does not fall within the ambit of the expression "interest" as contemplated in section 145A of the I.T. Act. The first respondent - Income Tax Officer was, therefore, not justified in refusing to grant a certificate under section 197 of the I.T. Act to the petitioner for non-deduction of tax at source, in as much as, the petitioner is not liable to pay any

tax under the head "income from other sources" on the interest paid to it under section 28 of the Act of 1894.

14. The petitioner had earlier challenged the communication dated 9th February, 2015 whereby its application for a certificate under section 197 of the I.T. Act had been rejected, and subsequently, tax on the interest payable under section 28 of the Act of 1894 has already been deducted at source. Consequently, the challenge to the above communication has become infructuous and hence, the prayer clause came to be modified. However, since the amount paid under section 28 of the Act of 1894 forms part of the compensation and not interest, the second respondent was not justified in deducting tax at source under section 194A of the I.T. Actin respect of such amount. The petitioner is, therefore, entitled to refund of the amount wrongly deducted under section 194A of the I.T. Act.

15. For the foregoing reasons, the petition succeeds and is accordingly allowed. The second respondent having wrongly deducted an amount of Rs. 2,07,416/- by way of tax deducted at source out of the amount of Rs. 20,74,157/- payable to the petitioner under section 28 of the Act of 1894 and having deposited the same with the income-tax authorities, taking a cue from the decision of the Punjab and Haryana High Court in Jagmal Singh's case (supra), the first respondent is directed to forthwith deposit such amount with the Reference Court, which shall thereafter disburse such amount to the petitioner herein. Rule is made absolute accordingly with costs.

14. So far as facts are concerned we note that during the assessment proceedings, the assessing officer has made enough inquiries, as we have noted above, the assessing officer issued notice under section 142(1) of the Act, dated 16.02.2022, which is placed at PB Page no.18.Therefore, respectfully following the judgment of the Hon'ble jurisdictional High Court in the case of Movaliya Bhikhubhai Balabhai Vs. ITO(supra), we note that there is no any case of lack of inquiry on the part of the assessing officer, and the assessing officer has passed order as per the judgement of jurisdictional High Court cited (supra).Besides, the original compensation and enhanced compensation and interest thereon have already been suffered taxation in the hands of one of the co-owners, therefore, there is no loss to the revenue. Now, to tax such compensation/ enhanced compensation, and interest thereon, in the hands of other co-owner, would be tantamount to double taxation. Therefore, the order passed by the assessing officer is sustainable in the eyes of law.

15. We note that the assessee had filed return of income, declaring total income of Rs. 10,26,350/-. The assessee is earning share in profit, interest and remuneration from a partnership firm, Parmeshwar Impex, capital gain and income from other sources. Besides during the year, assessee received 25% share in enhanced compensation, totalling to Rs. 2,69,41,878/-, on compulsory acquisition of ancestral agricultural land of his family. The above compensation of Rs. 2,69,41,878/- was inclusive of interest of Rs. 1,89,62,258/-, granted u/s. 28 of the Land Acquisition Act. 1884 (the LA Act).As

submitted by ld Counsel for the assessee that the enhanced compensation, was received in respect of their ancestral agricultural land, which is fully satisfying the prescribed conditions to be an agricultural land in terms of section 2(14)(iii) of the Act, and thereby the land is not a capital asset. The Collector had made payment of entire enhanced compensation with interest to his brother Shri Babubhai K Sakariya. An assessment has been made in case of Shri Babubhai, the relevant land was held as an agricultural land, not a capital asset as per section 2(14) of the Act. However, the interest awarded as per section 28 of the Act, has been considered as chargeable to tax u/s 56(2)(viii) of the Act. Substantial addition for 25% share in interest and protective addition for 75% share in interest has been made in hands of Babubhai. Accordingly, information was given to the assessing officer of remaining co-owners, directing to reject claim of exempt interest income, making a substantial addition for 25% share in interest awarded in hands of respective coowners. A notice u/s 148 of the Act has been issued, reopening the assessment. In re-assessment proceedings, the assessing officer had made necessary inquiry and verification in respect of interest awarded by the Court with enhanced compensation. In response, the assessee had furnished all the information related to the transaction under consideration. It was requested that his share in the interest awarded as per section 28 of the Act, might be considered as part of full value of consideration received on compulsory acquisition of agricultural land, relying upon the judgments of the Hon'ble Supreme Court in case of CIT vs. Ghanshyam (HUF) (2009) 315 ITR 1, the Hon'ble Gujarat High Court in case of Movaliya Bhikhubhai Balabhai v. ITO (2016) 388 ITR 343 and the Hon'ble ITAT, Ahmedabad in case of Mukeshkumar K. Patel in ITA No. 246/AHD/2015 dated 26.09.2017. After examination of the facts and evidences, as collected and the binding law as settled by the Hon'ble Supreme Court, Jurisdictional Gujarat High Court and the Jurisdictional Bench of the Hon'ble ITAT (supra), the assessing officer had held that the interest awarded as per section 28 of the Act, is part of full value of consideration received on compulsory acquisition of agricultural land, hence, the provisions of section 56(2) (viii) r.w.s. 145B of the Act are not applicable in the case.

16.Subsequently, the Ld. Pr. CIT-1, has issued a notice u/s. 263 of the Act, alleging that the assessing officer has not properly verified/ examined the facts of the case and the issue under consideration. However, we note that assessing officer had made all necessary inquiry and verification in respect of the interest under consideration and taken a judicious judgment relying upon the binding law as settled by the Hon'ble Supreme Court, Jurisdictional Gujarat High Court and the Jurisdictional Bench of the Hon'ble ITAT (supra). The assessing officer has taken a plausible view, duly supported by the law settled by the Judicial pronouncements, holding that the interest awarded as per section 28 of the Act, is part of full value of consideration received on compulsory acquisition of agricultural land, hence, the provisions of section 56(2)(viii) r.w.s. 145B of the Act are not applicable. Hence, the order is neither erroneous as provided in Explanation 2 to section 263 of the Income-tax Act, nor the order is prejudice to interest of the Revenue.

17.We note that the sole reason, as coming out from the order u/s. 263 of the Act is that the assessment should have been made, relying upon order of the Hon'ble Punjab and

Haryana High Court in the case of Manjeet Singh (HUF) Karta Manjeet Singh vs. Union of India (CWP No. 15506 of 2013) (65 Taxman.com 160)(2016) on 29/01/2016. We note that the Hon'ble Principal Senior Civil Court has directed to pay the interest u/s. 28 of the land acquisition (LA) Act along with enhanced compensation and solatium. The ratio settled by the Hon'ble Gujarat High Court in the case of Movaliya Bhikhubhai Balabhai v. ITO (Supra) is squarely applicable to the facts of the present case. The said judgment was not accepted by the Department, but the SLP filed by the Department but the SLP of the Department has been decided against the revenue by the Hon'ble Supreme Court in a speaking and detailed judgment dated 15.09.2017 along with other cases and reported as case inUnion of India vs. Hari Singh [2018] 91 taxmann.com 20 (SC). Under the circumstances, the ratio upheld by the Hon'ble Supreme Court has become law of the land and binding upon all the authorities. We note that ld.PCIT relied on the judgement ofHon'ble Punjab and Haryana High Court in the case of Manjeet Singh (HUF) Karta Manjeet Singh vs. Union of India (CWP No. 15506 of 2013) (65 Taxman.com 160)(2016) on 29/01/2016, which is not the judgement of jurisdictional High Court, therefore does not have binding force. As per the Doctrine of Stare Decisis and Doctrine of Precedent, all lower Courts, Tribunals and authorities, exercising judicial or quasi-Judicial functions, are duty bound by the decisions of the High Court within whose territorial jurisdiction they function. The Doctrine of Stare decisis is a whole some doctrine which gives certainty to law and guides the people to mould their affairs in future. The Hon'ble Supreme Court in Sakhi vs. Union of India AIR 2004 SC 3566 as observed and recorded in Para 23 that:

> *"Stare decisis is a well-known doctrine in legal jurisprudence. The Doctrine of Stare decisis, meaning to stand by decided cases, rests upon the principle that law by which men are governed should be fixed, define and known, and that, when the law is declared by Court of competent jurisdiction authorised to construe it."*

Further, the Doctrine of Stare Decisis is applicable in case under Income Tax Act, 1961, also as held in CIT vs. Thana Electricity Supply Ltd. (1994) 206 ITR 727 (Bom.) and Consolidated Pneumatic Tool Co. (India) Ltd. vs. CIT (1994) 209 ITR 277 (Bom.).We note that Ld. Pr. CIT has passed impugned order u/s. 263 of the Act, relying upon order of the Hon'ble Punjab and Haryana High Court in the case of Manjeet Singh (HUF) vs. Union of India (Supra). However, with due respect, the above cited decision of the Hon'ble Punjab and Haryana High Court is not binding on the Authorities, falling under jurisdiction of the Hon'ble Gujarat High Court.Therefore, assessing officer was right in following the judgement of the jurisdictional High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai (supra). Therefore, we note that the Hon'ble Supreme Court has laid down law through judgment in case of Malabar Industrial Co. Ltd. vs. CIT (2000) 243 ITR 83, wherein it was held as under:

> *"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 with which the Commissioner does not agree, it*

cannot be treated as an erroneous order prejudicial to the interest of the Revenue unless the view taken by the Income Tax Officer is unsustainable in law."

Our view is further fortified from the judgement of the Hon'ble Punjab & Haryana High Court in the case of CIT v. Indo German Fabs in IT Appeal No. 248 of 2012, dated 24-12-2014, where in, it was held as follows:

"Section 263 of the Act confers power to examine an assessment order so as to ascertain whether it is erroneous and prejudicial to the interest of the revenue but does not confer jurisdiction upon the CIT to substitute his opinion for the opinion of the Assessing Officer. The words prejudicial and erroneous have to be read in conjunction and therefore, it is not each and every error in an assessment that invites exercise of powers under Section 263 of the Act, but only orders that are erroneous and prejudicial to the interest of the revenue.

18.Therefore, we note that when the Assessing Officer has taken a legally plausible view, duly supported by judicial precedents, then, the Ld. Pr. CIT is precluded from taking recourse to revisionary proceedings u/s. 263 of the Act. He cannot thrust his view to substitute view taken by the assessing officer, unless such view taken by the assessing officer is wholly unsustainable in law. Since in the assessee`s case, the view taken by the assessing officer is a plausible view; legally sustainable, therefore, in our view the Ld. Pr. CIT has erred in invoking revisionary jurisdiction u/s 263 of the Act, hence, we quash the order passed by the learned PCIT under section 263 of the Act.

19.In the result, appeal filed by the assessee is allowed."

9. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

10. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials brought on record. We note that the interest on enhanced compensation received by the assessee is squarely covered in favour of the assessee by the decision of

assessee own group case in Manshukhbhai Kanjibhai Sakariya (supra) and it is also covered by the judgement of the Jurisdictional of High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai v. ITO(supra) wherein the Hon'ble High Court after analysis of various cases held as follows:

> *"12. On behalf of the first respondent, reliance has been placed upon decisions of different High Courts taking a different view. This court is not in agreement with the view adopted by the other High Courts which are not consistent with the law laid down in the case of Ghanshyam (HUF) (supra). In Manjet Singh (HUF) v. Union of India (supra), the Punjab and Haryana High Court has chosen to place reliance upon various decisions of the Supreme Court rendered during the period 1964 to 1997 and has chosen to brush aside the subsequent decision of the Supreme Court in Ghanshyam (HUF) (supra) which is directly on the issue by observing that the assessee cannot derive any benefit from the observations made by the Supreme Court as quoted therein. In Hari Kishan v. Union of India (supra), the Punjab and Haryana High Court has placed reliance upon its earlier decision in the case of Manjet Singh (supra). In The Commissioner of Income-tax, Faridabad v. Bir Singh (HUF), Ballabgarh (supra), the Punjab and Haryana High Court has held that under the scheme of the 1894 Act, interest under section 34 is part of compensation while interest under section 28 is not the interest which partakes the character of compensation and is treated differently. In the opinion of this court, the above view of the Punjab and Haryana High Court is contrary to what has been held in the decision of the Supreme Court in Ghanshyam (HUF) (supra) wherein it has been held that 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. This court is in D agreement with the view adopted by the Punjab and Haryana High Court in Jagmal Singh v. State of Haryana (supra), which has been extensively referred to in paragraph 4.1 above. The decision of the Delhi High Court in Commissioner of Income-tax v. Sharda Kochhar (supra), having been rendered in the context of a different controversy would have no applicability to the facts of the present case.*
>
> *13. The upshot of the above discussion is that since interest under section 28 of the Act of 1894, partakes the character of compensation, it does not fall within the ambit of Income Tax Officer was, the expression "interest" as contemplated in section 145A of the I.T. Act. The first respondent therefore, not justified in refusing to grant a certificate under section 197 of the I.T. Act to the petitioner for non-deduction of tax at source, inasmuch as, the petitioner is not liable to pay any tax under the head "income from other sources" on the interest paid to it under section 28 of the Act of 1894.*

14. The its had earlier challenged The petitioner communication dated 9th February, 2015 whereby application for a certificate under section 197 of the I.T. Act had been rejected, and subsequently, tax on the interest payable under section 28 of the Act of 1894 has already been deducted at source. Consequently, the challenge to the above communication has become infructuous and hence, the prayer clause came to be modified. However, since the amount paid under section 28 of the Act of 1894 forms part of the compensation and not interest, the second respondent was not justified in deducting tax at source under section 194A of the I.T. Act in respect of such amount. The petitioner is, therefore, entitled to refund of the amount wrongly deducted under section 194A of the I.T. Act.

15. For the foregoing reasons, the petition succeeds and is accordingly allowed. The second respondent having wrongly deducted an amount of Rs.2,07,416/- by way of tax deducted at source out of the amount of Rs.20,74,157/- payable to the petitioner under section 28 of the Act of 1894 and having deposited the same with the income-tax authorities, taking a cue from the decision of the Punjab and Haryana High Court in Jagmal Singh v. State of Haryana (supra), the first respondent is directed to forthwith deposit such amount with the Reference Court, which shall thereafter disburse such amount to the petitioner herein. Rule is made absolute accordingly with costs."

11. Therefore, we find that it is abundantly clear from the judgement of the jurisdictional High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai(supra) that since interest under section 28 of the Land Acquisition Act, 1894, partakes the character of compensation, it does not fall within the ambit of Income Tax Officer, the expression "interest" as contemplated in section 145A of the I.T. Act and the assessee is not liable to pay any tax under the head "income from other sources" on the interest paid to the assessee under section 28 of the Act of 1894. Therefore, respectfully following the above binding precedent, of the jurisdictional High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai(supra) and respectfully following the binding decision of the Coordinate Bench in assessee's own family members/group case in the case of Mansukhbhai Kanjibhai

Sakariya(supra), we delete the addition made by the assessing officer, and allow the appeal of the assessee.

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

Order pronounced in the open court on 06-11-2025.

Sd/-	**Sd/-**
(Dinesh Mohan Sinha)	**(Dr. Arjun Lal Saini)**
Judicial Member	**Accountant Member**

Rajkot //**True Copy**//
दिनांक/ Date: 06/11/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot