

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AMRITSAR

VIRTUAL HEARING

BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND
SHRI UDAYANDASGUPTA, JM

आयकर अपीलसं. / ITA No.54/ASR/2025
(निर्धारण वर्ष / **Assessment Year: 2017-18**)

M/s Bhupendra Flour Mills Pvt Ltd. Railway Road Bhatinda, Punjab – 151001	<u>बनम</u> Vs.	ITO Ward - 1(1) Central Revenue Building Civil Lines, Bhatinda Punjab - 151001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AACCB-6192-P		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Sudhir Sehgal (Advocate) - Ld. AR
प्रत्यर्थीकीओरसे/Respondent by	:	Sh. Farhat Khan (CIT) – Ld. DR (Virtual)

सुनवाईकीतारीख/Date of Hearing	:	05-02-2026
घोषणाकीतारीख /Date of Pronouncement	:	20.02.2026

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of an order of learned Commissioner of Income Tax (Appeals)-3, Gurgaon [CIT(A)] dated 25-11-2024 in the matter of an assessment framed by Ld. AO u/s 143(3) on 19-12-2019. In the assessment order, Ld. AO made twin additions of Rs.258.46 Lacs and Rs.233 Lacs which is subject matter of present appeal before us. Having heard rival submissions, the appeal is disposed-off as under.

2. The first addition as made by Ld. AO was for Rs.2,58,46,372/-. The same stem from the fact that the assessee's urban land was acquired by Improvement Trust, Bhatinda in the year 1977. The acquisition Tribunal awarded compensation @Rs.50/- per square yards plus 30% dislocation allowance plus 12% interest per annum u/s 36 of Land Acquisition Act. Against the award, the assessee preferred petition before Hon'ble Punjab & Haryana High Court wherein vide order dated 23-08-2011, the compensation was enhanced to Rs.60/- per square yards along with consequential interest thereon. Pursuant to the judgment of Hon'ble High Court, the assessee receive enhanced compensation and interest of Rs.2,58,46,372/- which was claimed to be exempt by the assessee. However, by relying on various judicial decisions, Ld. AO rejected the claim of the assessee and brought this amount to tax. The Ld. CIT(A) confirmed this addition against which the assessee is in further appeal before us.

3. It is admitted position by Ld. AR that this issue stand covered against the assessee by recent decision of this Tribunal in bunch of appeals titled as **Shri Ajay Kumar & Ors. (ITA Nos.463/Chd/2023 & ors. dated 11-11-2025)** wherein the bench held as under: -

59. The following propositions emerge from a conjoint reading of the relevant statutory provisions of the income tax after its amendment w.e.f 1/4/2010 reproduced hereinabove :

(i) By inserting Section 56(2)(viii) and Section 145B(1) with effect from 1st April 2010, the Legislature introduced a specific charging mechanism mandating that interest received on compensation or enhanced compensation shall be taxable under the head "Income from Other Sources", and that such income shall be brought to tax on receipt basis.

(ii) This amendment marks a substantive legislative departure from the earlier scheme of Section 45(5), wherein the entire compensation, including enhanced compensation,

was treated as part of capital gains. The post-2010 regime thus establishes a distinct head of income and a clear basis of charge for interest on such compensation.

(iii) It is pertinent to note that the opening words of Section 56(2)—“In particular, and without prejudice to the generality of the provisions of sub section (1), the following incomes shall be chargeable to income-tax under the head ‘Income from Other Sources’”—constitute a deeming provision, bringing within its sweep certain categories of income which might not otherwise fall under this head. The inclusion of clause (viii) therein deems interest on compensation or enhanced compensation to be taxable as Income from Other Sources, notwithstanding its earlier characterization under capital gains.

(iv) A conjoint reading of Section 2(24), Section 2(28A), Section 4, Section 10(37), Section 14, Section 45(5), Section 56(2)(viii), Section 145B(1) and Section 194LA of the Act makes it abundantly clear that any income which arises or is deemed to arise or accrue in India is chargeable to tax in the hands of a resident assessee.

(v) The definition of “interest” under Section 2(28A) specifically includes any interest payable in any manner in respect of moneys borrowed or debt incurred, including a deposit, claim, or other similar right or obligation. The expression “claim” is wide enough to encompass the amount of compensation or consideration payable to an assessee, particularly in cases of compulsory acquisition.

(vi) Further, under Section 14 read with Section 56(2)(viii), any income not falling under other specific heads shall be chargeable to tax under the head “Income from Other Sources.” The timing of such taxation, as per Section 145B(1), is on receipt basis.

(vii) Consequently, the definition of “interest” under Section 2(28A) squarely covers interest on enhanced compensation, which—being in the nature of a claim—falls within the charging ambit of Section 4 of the Act.

(viii) Hence, such interest is deemed to be taxable in the hands of the assessee under the specific deeming provision contained in Section 56(2)(viii), read with Section 145B(1), in accordance with the legislative scheme introduced by the Finance Act, 2010.

60. It is trite law that once Parliament enacts a specific charging provision dealing with a particular species of income, characterisation under another statute cannot override such specific provision. The Income-tax Act is a self contained code, and definitions or deeming fiction under another statute (including the Land Acquisition Act) cannot be imported unless expressly incorporated. Reference in this regard may be made to *Scindia Steam Navigation (supra)*, and *Vatika Township (supra)*. Further at the time of passing of the order by Hon'ble Supreme Court in the case of *Ghanshyam (HUF) (supra)*, did not have the benefit of examining the various provisions of law, as mentioned herein above.

61. Equally, the principle is well-settled that a judicial interpretation continues to apply only until the Legislature steps in and amends the law. In *Sedco Forex International Drilling Inc. v. CIT (2005) 279 ITR 310 (SC)*, the Hon'ble Supreme Court held that judicial interpretation stands superseded when the statutory provision is subsequently amended prospectively. It was held asunder:-

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62. Applying these settled principles, it is clear that the ratio of Ghanshyam (HUF) (supra) represents the legal position under the unamended law, whereas with the introduction of Section 56(2)(viii) read with Section 145B(1), the Legislature has provided an explicit statutory mandate governing the tax treatment of interest on enhanced compensation for assessment years from 01.04.2010 onwards. Accordingly, for post-amendment years, interest on enhanced compensation is taxable under Section 56(2)(viii) irrespective of its characterisation under the Land Acquisition Act, and the deeming fiction under Section 28 of the Land Acquisition Act cannot displace the statutory scheme enacted in the Income-tax Act.

63. In view of the above legal position, we hold that the amended provisions apply prospectively from 01.04.2010 and govern the present assessment year. Consequently, the judicial interpretation in Ghanshyam (HUF) (supra) applies only to pre-amendment years and cannot be relied upon to exclude such income from tax under the amended scheme. The authorities below have correctly applied the statutory provisions inserted by the Finance Act, 2010, and the taxability of the impugned receipt under Section 56(2)(viii) stands confirmed. The assessee has placed reliance on the decisions of the Hon'ble Supreme Court in Union of India v. Hari Singh & Ors. (2018) 408 ITR 1 (SC) and Commissioner v. Braham Prakash (SLP (C) Diary No. 22662/2018, SC) to contend that interest awarded under Section 28 of the Land Acquisition Act continues to partake the character of compensation 59 and, therefore, cannot be brought to tax under the head "Income from Other Sources". We have carefully examined these authorities. It is noted that both decisions merely reiterate the principles laid down in CIT v. Ghanshyam (HUF) (2009) 315 ITR 1 (SC), particularly directing the tax authorities to treat interest under Section 28 as part of compensation for the assessment years governed by the pre-amendment law.

Effect of Hari Singh (supra) and Braham Prakash (supra)

64. Importantly, neither Hari Singh (supra) nor Braham Prakash (supra) considered or dealt with the effect of the statutory amendment introduced by the Finance Act, 2010, inserting Section 56(2)(viii) read with Section 145B(1). These judgments were rendered in the context of the legal framework prior to the insertion of the specific charging provision, and are silent on the income tax consequences post-amendment. The Hon'ble Supreme Court in these cases did not examine, interpret, or pronounce upon the effect, scope, or applicability of Section 56(2)(viii).

65. It is a settled principle that a precedent is an authority only for what it explicitly decides, and cannot be extended to situations or statutory regimes which the Court did not consider. [See State of Orissa v. Sudhansu Sekhar Misra (1968) AIR SC 647; Union of India v. Major Bahadur Singh (2006) 1 SCC 368]. In the latter decision it was noted by Hon'ble SC

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Therefore, the reliance placed by the assessee on these decisions to govern the post-amendment regime is misplaced.

66. With the introduction of Section 56(2)(viii) and Section 145B(1), Parliament has enacted a specific charging mechanism to tax interest received on compensation or enhanced compensation as "Income from Other Sources" on receipt basis, thereby legislatively modifying the tax character of such receipts for assessment years commencing 01.04.2010 onwards. Once a direct charging provision exists, the

characterisation of such receipt under the Land Acquisition Act or the judicial interpretation rendered 61 under the erstwhile regime cannot prevail over the express statutory mandate of the Income-tax Act.

67. Accordingly, Hari Singh (supra) and Braham Prakash (supra) are confined to the legal position prevailing prior to the amendment and do not assist the assessee for post-amendment assessment years. The statutory change having altered the tax treatment expressly, reliance on these cases for the present assessment year is untenable.

Dealing With Per-Incuriam Argument

68. The assessee has argued that the decisions of the Hon'ble Delhi High Court and the Hon'ble Punjab & Haryana High Court, which have upheld the post-amendment taxability of interest on enhanced compensation under Section 56(2)(viii), are per incuriam as they did not expressly consider the Hon'ble Supreme Court's rulings in Hari Singh and Braham Prakash. We are unable to accept this contention.

69. At the outset, it is trite law that a lower forum cannot declare a judgment of a High Court per incuriam, much less when such a judgment binds this Tribunal within its territorial jurisdiction. The doctrine of per incuriam is a narrow exception to stare decisis and applies only in exceptional situations where a court ignores a binding statute or binding precedent—not where the later decision arises in a different statutory context or post-amendment framework. As observed in Bajaj Allianz decision of supreme court, the rule of per incuriam cannot be invoked merely because another decision or line of reasoning exists.

70. In the present factual and legal matrix, both Hari Singh and Braham Prakash dealt with the pre-amendment legal regime and reiterated Ghanshyam (HUF) in that context. Neither decision examined nor interpreted the effect of the Finance Act, 2010 inserting Sections 56(2)(viii) and 145B(1). As held by the Hon'ble Supreme Court in Sedco Forex (279 ITR 310), a judicial interpretation governs only until the statute is amended. Therefore, the High 62 Court decisions dealing with the post-amendment regime cannot be said to be per incuriam for not referring to decisions governing a prior legal regime

71. The assessee's reliance on the per incuriam doctrine is also misconceived because a binding High Court judgment cannot be disregarded by the Tribunal on the ground that the Court did not refer to some Supreme Court decision, particularly where the subject judgments (Hari Singh and Braham Prakash) did not adjudicate upon the statutory amendment now in issue. In State of Orissa v. Sudhansu Sekhar Misra AIR 1968 SC 647, the Hon'ble Supreme Court cautioned that a decision is an authority only for what it decides and must be read in the factual and statutory context.

72. Further as observed in Haryana Vidyut Prasaran Nigam Ltd. [2025] 170 taxmann.com 204 (Punjab & Haryana)/[2025] 303 Tax. It was held as under :-

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73. In the case of citvs Thana Electricity Supply Ltd.*1994] 206 ITR 727 (Bombay)/[1993] 112 CTR 356 (Bombay) hon'ble Bombay high court had held as under :-

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74. In the case of Mylan Laboratories Ltd. [2022] 137 taxmann.com 178 (Telangana) it was held as under :-

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75. In view of above decision jurisdictional discipline and hierarchy of courts prohibit the Tribunal from questioning the binding force of a High Court judgment on the ground of alleged oversight.

76. Respectfully following the principle that a Tribunal cannot sit in appeal over, or test for per incuriam, a judgment of the High Court, we hold that the decisions of the Hon'ble High Courts upholding the applicability of Section 56(2)(viii) post-amendment cannot be disregarded. The assessee's argument that such judgments are per incuriam is accordingly rejected.

77. In the light of the above discussion, the common legal ground raised in the lead matter stands decided against the assessee. Consequently, the appeal of the assessee is dismissed. Since the common legal issue has been adjudicated against the assessee, we do not find it necessary to adjudicate upon the individual grounds raised in these sets of appeals, as the same have become academic in nature.

78. In view of the foregoing, all the appeals filed by the assessee are dismissed, and the order passed by the Assessing Officer is hereby restored and upheld.

79. As regards the appeals filed by the Revenue, the same are allowed, and the order of the Assessing Officer is accordingly sustained

The bench, following the decision of Hon'ble Punjab & Haryana High Court in the case of **Mahender Pal Narang (120 Taxmann.com 400)** as well as the decision of Hon'ble Delhi High Court in the case of **Inderjit Singh Sodhi (161 Taxmann.com 301)**, held such interest to be taxable as income from other sources u/s 56(2)(viii). Respectfully, following the same, we confirm the view as taken by lower authorities. At this stage, Ld. AR made a prayer that the assessee is entitled for 50% deduction u/s 57(iv) which provides for such deduction to the assessee. Since this issue of deduction has not been examined by Ld. AO, we direct Ld. AO to examine the issue of applicable deduction u/s 57(iv). The assessee is directed to plead and prove its case forthwith. The grounds so raised stand partly allowed for statistical purposes.

4. The second addition for Rs.233 Lacs represents cash deposited by the assessee during demonetization period. The assessee was subjected to survey on 07-03-2017 wherein Shri Gurdas Garg

(Director) stated that the source of cash deposits was from earlier withdrawals from SBOP, Bhatinda on various dates. The details of cash withdrawals have been tabulated in para-4 of the assessment order. It was also stated that during intervening period, the amount was given as advances / loans to friends. Further, the amount was physically taken from Bhatinda to Delhi for purchase of certain property which did not fructify. However, in the absence of substantiating document and in the absence of books of accounts showing utilization of cash, the said claim was rejected. The Ld. AO rejected the claim that such large amount was kept idle. The amounts were apparently advanced without any securities. During assessment proceedings, the assessee furnished self serving cashbook which runs contrary to the statement made by the director that the withdrawals were utilized for advancing to friend and other persons. The concluding observations of Ld. AO were as under: -

i) The cash withdrawals from SBOP, Bhatinda are from 20.07.2016 to 17.10.2016. The major cash i.e. Rs.1,66,00,000/- was withdrawn from Bank up to 31.08.2016, Rs. 41,00,0000/- was withdrawn from SBOP, Bhatinda from 15.09.2016 to 19.09.2016 and Rs. 22,50,000/- was withdrawn from bank on 17.10.2016. The justification of large cash withdrawal in the month of August, 2016 and Sept. 2016 without any purpose and business activity is not accepted and it cannot be relied that such large amount was kept idle after withdrawal. The assessee has stated that source of cash deposit of Rs.2,33,00,000/- in the bank account No.21000247, UCO Bank Parliament Street, New Delhi out of such withdrawals from SBOP, Bhatinda in the month of July, August and September, 2016. The justification regarding source of cash deposit in the bank account out of large cash withdrawals more than 2-3 months ago without any purpose and kept idle cannot be accepted as observed by the Hon'ble Punjab & Haryana High Court in the case of **Kavita Chandra vs. CIT(A) (2017) 398 ITR 0641**.

(ii) The assessee has stated that money was advanced to a proprietorship concern who has not business relation with the company to whom amount was transferred immediately after depositing the cash during demonetization. This large amount was advanced without any securities. It proves that the transaction is suspicious and the SBN currency

deposited at Delhi was not the same which has been stated withdrawn from bank few month ago at Bhatinda.

(iii) During the assessment proceedings the assessee company furnished a self serving cash book which reflects that the money was withdrawn from banks in the month of July to Sept 2016 and was kept as cash in hand before depositing in Delhi account in month of November during Demonetization. This cash book contradicts the statement made by the director of the assessee during survey that the cash after withdrawal was given as advance/loans to friends and some other persons.

(iv) During survey operation u/s 133A, no cash vouchers, pay-in-slips cash deposited during the period of demonetization was found. No cash book or any kind of books of account were found from where genuineness of transactions be verified.

(v) It was stated in the statement by the Director of the company Sh. Gurdas Garg that money was taken physically to Delhi for purchase of property in cash. During Survey no documentary evidence/loose papers were found w.r.t. to property transaction for which the cash was required. Moreover, the purchase in cash entry payment attracts provisions of section 269ST of the Income Tax Act, 1961 and no prudent company would do such a default knowingly.

(vi) It was stated in the statement by the Director of the Company Sh. Gurdas Garg that money withdrawn was given in the shape of advances to friends and relative in cash during intervening period of cash withdrawal at Bhatinda bank and deposit of the same at Delhi. No interest has been shown to have been received from these person. During Survey no documentary evidence/loose papers have been found w.r.t. to the advance/loans given in cash. Moreover, the advances given in the cash entry payment attracts provisions of Section 269SS and 269T of the Income Tax Act, 1961 and no prudent company would do such a default knowingly.

(vii) The assessee has failed to submit any documentary evidence showing carrying of such large quantity of cash physically in their possession from Bhatinda to Delhi and period for which with place where it was kept without depositing the amount in the bank account. No businessman or wise man will withdraw such huge amount and shall carry to keep or deposit at Delhi. Moreover, the assessee was maintaining bank accounts at Bhatinda and Delhi and there is facility of CBS with bank from where the money can be transferred to other stations and other banks in minutes.

(viii) The bank accounts of the assessee company was dormant. The Assessee Company opened a new account on 21.11.2016 i.e. during demonetization at Delhi and cash was deposited in this account. It does not make any sense that the company which has no business activity would open a fresh account in a place where it does not even have office.

(ix) The bank would have credited interest for four months to the assessee in case the amount had been reserved in the bank. No prudent company would incur such a loss knowingly.

Hence, it is clear that the assessee has deposited the cash in UCO Bank at Delhi earned from the sources not disclosed to the department. Hence, an amount of Rs.2,33,00,000/- is held as unexplained money u/s 69A of the assessee from undisclosed sources and tax will be charged on assessed income as per provision of section 115BBE of the Income Tax 1961.

Finally, the amount of Rs.233 Lacs was added to the income of the assessee as unexplained money u/s 69A. The Ld. CIT(A) confirmed the stand of Ld. AO against which the assessee is in further appeal before us.

5. It emerges that the assessee is a corporate entity and it has duly maintained its financial statements and statutory records. It is undisputed fact that both the bank accounts i.e., account from which withdrawal has been made and the bank account in which deposits have been made form part of assessee's financial statements and duly been accounted for by the assessee. The perusal of SBOP Bank account statement would show that prior to demonetization period, the assessee had made cash withdrawals of Rs.232.50 Lacs which has also been tabulated by Ld. AO at para-4 of the assessment order. During demonetization period, the said amount has been re-deposited by the assessee in the newly opened bank account at Delhi. However, the fact remain that there is no other source of income for the assessee. Unless, any other utilization of cash has been established with concrete evidences, it could not be presumed that the withdrawals were utilized elsewhere and the deposits were made out of undisclosed sources. In survey statement also, the stand was always that the deposits were sourced out of earlier withdrawals. The Hon'ble Punjab & Haryana High Court in the case of **Shiv Charan Dass vs. CIT (126 ITR 263)** held that in the absence of any evidences to the effect that the cash was utilized by the assessee in any other manner, the department was not justified in rejecting the claim of the

assessee and make addition of income from undisclosed sources. The onus is on department to show that the explanation of the assessee should not be accepted. The other decisions of Tribunal as referred to by Ld. AR in the written submissions also support the same view. It is also trite law that no addition could be made merely on the basis of presumptions and assumptions. Unless any other utilization of cash was established by revenue, in our considered opinion, the claim of the assessee is to be accepted and it was to be presumed that the deposits were out of earlier withdrawals only. Therefore, this addition stands deleted. The assessee succeeds in its grounds of appeal.

6. The appeal stands partly allowed in terms of out above order.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(UDAYAN DAS GUPTA)
JUDICIAL MEMBER

Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 20.02.2026

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR